



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB0967

Introduced 1/25/2013, by Rep. Daniel V. Beiser

SYNOPSIS AS INTRODUCED:

35 ILCS 5/211
35 ILCS 10/5-45

Amends the Illinois Income Tax Act and the Economic Development for a Growing Economy Tax Credit Act. Provides that the amount of any credit awarded under the Economic Development for a Growing Economy Tax Credit Act may exceed the tax liability for the year the credit is computed. Provides that excess credit amounts may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year or refunded to the Taxpayer (instead of carried forward only). Effective immediately.

LRB098 02808 HLH 32816 b

FISCAL NOTE ACT
MAY APPLY

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 211 as follows:

6 (35 ILCS 5/211)

7 Sec. 211. Economic Development for a Growing Economy Tax
8 Credit. For tax years beginning on or after January 1, 1999, a
9 Taxpayer who has entered into an Agreement under the Economic
10 Development for a Growing Economy Tax Credit Act is entitled to
11 a credit against the taxes imposed under subsections (a) and
12 (b) of Section 201 of this Act in an amount to be determined in
13 the Agreement. If the Taxpayer is a partnership or Subchapter S
14 corporation, the credit shall be allowed to the partners or
15 shareholders in accordance with the determination of income and
16 distributive share of income under Sections 702 and 704 and
17 subchapter S of the Internal Revenue Code. The Department, in
18 cooperation with the Department of Commerce and Economic
19 Opportunity, shall prescribe rules to enforce and administer
20 the provisions of this Section. This Section is exempt from the
21 provisions of Section 250 of this Act.

22 The credit shall be subject to the conditions set forth in
23 the Agreement and the following limitations:

1 (1) The tax credit shall not exceed the Incremental
2 Income Tax (as defined in Section 5-5 of the Economic
3 Development for a Growing Economy Tax Credit Act) with
4 respect to the project.

5 (2) The amount of the credit allowed during the tax
6 year plus the sum of all amounts allowed in prior years
7 shall not exceed 100% of the aggregate amount expended by
8 the Taxpayer during all prior tax years on approved costs
9 defined by Agreement.

10 (3) The amount of the credit shall be determined on an
11 annual basis. Except as applied in a carryover year
12 pursuant to Section 211(4) of this Act, the credit may not
13 be applied against any State income tax liability in more
14 than 10 taxable years; provided, however, that (i) an
15 eligible business certified by the Department of Commerce
16 and Economic Opportunity under the Corporate Headquarters
17 Relocation Act may not apply the credit against any of its
18 State income tax liability in more than 15 taxable years
19 and (ii) credits allowed to that eligible business are
20 subject to the conditions and requirements set forth in
21 Sections 5-35 and 5-45 of the Economic Development for a
22 Growing Economy Tax Credit Act.

23 (4) If the amount of the credit exceeds the tax
24 liability for the year the credit is computed, whether it
25 exceeds the original liability or the liability as later
26 amended, the Taxpayer may elect to have the excess credit

1 ~~(i) The credit may not exceed the amount of taxes imposed~~
2 ~~pursuant to subsections (a) and (b) of Section 201 of this~~
3 ~~Act. Any credit that is unused in the year the credit is~~
4 ~~computed may be~~ carried forward and applied to the tax
5 liability of the 5 taxable years following the excess
6 credit year or (ii) refunded the Taxpayer. If the credit is
7 carried forward, the excess ~~The~~ credit shall be applied to
8 the earliest year for which there is a tax liability. If
9 there are credits from more than one tax year that are
10 available to offset a liability, the earlier credit shall
11 be applied first.

12 (5) No credit shall be allowed with respect to any
13 Agreement for any taxable year ending after the
14 Noncompliance Date. Upon receiving notification by the
15 Department of Commerce and Economic Opportunity of the
16 noncompliance of a Taxpayer with an Agreement, the
17 Department shall notify the Taxpayer that no credit is
18 allowed with respect to that Agreement for any taxable year
19 ending after the Noncompliance Date, as stated in such
20 notification. If any credit has been allowed with respect
21 to an Agreement for a taxable year ending after the
22 Noncompliance Date for that Agreement, any refund paid to
23 the Taxpayer for that taxable year shall, to the extent of
24 that credit allowed, be an erroneous refund within the
25 meaning of Section 912 of this Act.

26 (6) For purposes of this Section, the terms

1 "Agreement", "Incremental Income Tax", and "Noncompliance
2 Date" have the same meaning as when used in the Economic
3 Development for a Growing Economy Tax Credit Act.
4 (Source: P.A. 94-793, eff. 5-19-06.)

5 Section 10. The Economic Development for a Growing Economy
6 Tax Credit Act is amended by changing Section 5-45 as follows:

7 (35 ILCS 10/5-45)

8 Sec. 5-45. Amount and duration of the credit.

9 (a) The Department shall determine the amount and duration
10 of the credit awarded under this Act. The duration of the
11 credit may not exceed 10 taxable years. The credit may be
12 stated as a percentage of the Incremental Income Tax
13 attributable to the applicant's project and may include a fixed
14 dollar limitation. The credit may be carried forward or
15 refunded to the Taxpayer as provided in item (4) of Section 211
16 of the Illinois Income Tax Act.

17 (b) Notwithstanding subsection (a), and except as the
18 credit may be applied in a carryover year pursuant to Section
19 211(4) of the Illinois Income Tax Act, the credit may be
20 applied against the State income tax liability in more than 10
21 taxable years but not in more than 15 taxable years for an
22 eligible business that (i) qualifies under this Act and the
23 Corporate Headquarters Relocation Act and has in fact
24 undertaken a qualifying project within the time frame specified

1 by the Department of Commerce and Economic Opportunity under
2 that Act, and (ii) applies against its State income tax
3 liability, during the entire 15-year period, no more than 60%
4 of the maximum credit per year that would otherwise be
5 available under this Act.

6 (Source: P.A. 94-793, eff. 5-19-06.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.