



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2566

by Rep. Anne Stava-Murray

SYNOPSIS AS INTRODUCED:

35 ILCS 5/201.1 new
35 ILCS 5/901

from Ch. 120, par. 9-901

Amends the Illinois Income Tax Act. Provides that in addition to any tax that may be imposed under Section 201, income from passive investments is subject to an annual surcharge of 0.5%, where the total dollar value of passive investments producing the income equals \$2,000,000 or more. Provides that all revenue realized from these provisions shall be deposited into the Common School Fund. Defines "passive activity income".

LRB101 10618 HLH 55724 b

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Income Tax Act is amended by
5 changing Section 901 and by adding Section 201.1 as follows:

6 (35 ILCS 5/201.1 new)

7 Sec. 201.1. Passive income surcharge.

8 (a) In addition to any tax that may be imposed under
9 Section 201, income from passive investments is subject to an
10 annual surcharge of 0.5%, where the total dollar value of
11 passive investments producing the income equals \$2,000,000 or
12 more.

13 (b) For purposes of this Section, "income from passive
14 investments" means income from investments, dividends,
15 interest, and capital gains and includes securities, bonds,
16 mutual funds, investment trusts, and other investments not
17 involving regular business activity, together with royalties
18 received from property held for investment. "Income from
19 passive investments" does not include income earned through
20 regular business activity.

21 (35 ILCS 5/901) (from Ch. 120, par. 9-901)

22 Sec. 901. Collection authority.

1 (a) In general. The Department shall collect the taxes
2 imposed by this Act. The Department shall collect certified
3 past due child support amounts under Section 2505-650 of the
4 Department of Revenue Law of the Civil Administrative Code of
5 Illinois. Except as provided in subsections (b), (c), (e), (f),
6 (g), and (h) of this Section, money collected pursuant to
7 subsections (a) and (b) of Section 201 of this Act shall be
8 paid into the General Revenue Fund in the State treasury; money
9 collected pursuant to subsections (c) and (d) of Section 201 of
10 this Act shall be paid into the Personal Property Tax
11 Replacement Fund, a special fund in the State Treasury; and
12 money collected under Section 2505-650 of the Department of
13 Revenue Law of the Civil Administrative Code of Illinois shall
14 be paid into the Child Support Enforcement Trust Fund, a
15 special fund outside the State Treasury, or to the State
16 Disbursement Unit established under Section 10-26 of the
17 Illinois Public Aid Code, as directed by the Department of
18 Healthcare and Family Services.

19 (b) Local Government Distributive Fund. Beginning August
20 1, 1969, and continuing through June 30, 1994, the Treasurer
21 shall transfer each month from the General Revenue Fund to a
22 special fund in the State treasury, to be known as the "Local
23 Government Distributive Fund", an amount equal to 1/12 of the
24 net revenue realized from the tax imposed by subsections (a)
25 and (b) of Section 201 of this Act during the preceding month.
26 Beginning July 1, 1994, and continuing through June 30, 1995,

1 the Treasurer shall transfer each month from the General
2 Revenue Fund to the Local Government Distributive Fund an
3 amount equal to 1/11 of the net revenue realized from the tax
4 imposed by subsections (a) and (b) of Section 201 of this Act
5 during the preceding month. Beginning July 1, 1995 and
6 continuing through January 31, 2011, the Treasurer shall
7 transfer each month from the General Revenue Fund to the Local
8 Government Distributive Fund an amount equal to the net of (i)
9 1/10 of the net revenue realized from the tax imposed by
10 subsections (a) and (b) of Section 201 of the Illinois Income
11 Tax Act during the preceding month (ii) minus, beginning July
12 1, 2003 and ending June 30, 2004, \$6,666,666, and beginning
13 July 1, 2004, zero. Beginning February 1, 2011, and continuing
14 through January 31, 2015, the Treasurer shall transfer each
15 month from the General Revenue Fund to the Local Government
16 Distributive Fund an amount equal to the sum of (i) 6% (10% of
17 the ratio of the 3% individual income tax rate prior to 2011 to
18 the 5% individual income tax rate after 2010) of the net
19 revenue realized from the tax imposed by subsections (a) and
20 (b) of Section 201 of this Act upon individuals, trusts, and
21 estates during the preceding month and (ii) 6.86% (10% of the
22 ratio of the 4.8% corporate income tax rate prior to 2011 to
23 the 7% corporate income tax rate after 2010) of the net revenue
24 realized from the tax imposed by subsections (a) and (b) of
25 Section 201 of this Act upon corporations during the preceding
26 month. Beginning February 1, 2015 and continuing through July

1 31, 2017, the Treasurer shall transfer each month from the
2 General Revenue Fund to the Local Government Distributive Fund
3 an amount equal to the sum of (i) 8% (10% of the ratio of the 3%
4 individual income tax rate prior to 2011 to the 3.75%
5 individual income tax rate after 2014) of the net revenue
6 realized from the tax imposed by subsections (a) and (b) of
7 Section 201 of this Act upon individuals, trusts, and estates
8 during the preceding month and (ii) 9.14% (10% of the ratio of
9 the 4.8% corporate income tax rate prior to 2011 to the 5.25%
10 corporate income tax rate after 2014) of the net revenue
11 realized from the tax imposed by subsections (a) and (b) of
12 Section 201 of this Act upon corporations during the preceding
13 month. Beginning August 1, 2017, the Treasurer shall transfer
14 each month from the General Revenue Fund to the Local
15 Government Distributive Fund an amount equal to the sum of (i)
16 6.06% (10% of the ratio of the 3% individual income tax rate
17 prior to 2011 to the 4.95% individual income tax rate after
18 July 1, 2017) of the net revenue realized from the tax imposed
19 by subsections (a) and (b) of Section 201 of this Act upon
20 individuals, trusts, and estates during the preceding month and
21 (ii) 6.85% (10% of the ratio of the 4.8% corporate income tax
22 rate prior to 2011 to the 7% corporate income tax rate after
23 July 1, 2017) of the net revenue realized from the tax imposed
24 by subsections (a) and (b) of Section 201 of this Act upon
25 corporations during the preceding month. Net revenue realized
26 for a month shall be defined as the revenue from the tax

1 imposed by subsections (a) and (b) of Section 201 of this Act
2 which is deposited in the General Revenue Fund, the Education
3 Assistance Fund, the Income Tax Surcharge Local Government
4 Distributive Fund, the Fund for the Advancement of Education,
5 and the Commitment to Human Services Fund during the month
6 minus the amount paid out of the General Revenue Fund in State
7 warrants during that same month as refunds to taxpayers for
8 overpayment of liability under the tax imposed by subsections
9 (a) and (b) of Section 201 of this Act.

10 Notwithstanding any provision of law to the contrary,
11 beginning on July 6, 2017 (the effective date of Public Act
12 100-23), those amounts required under this subsection (b) to be
13 transferred by the Treasurer into the Local Government
14 Distributive Fund from the General Revenue Fund shall be
15 directly deposited into the Local Government Distributive Fund
16 as the revenue is realized from the tax imposed by subsections
17 (a) and (b) of Section 201 of this Act.

18 For State fiscal year 2018 only, notwithstanding any
19 provision of law to the contrary, the total amount of revenue
20 and deposits under this Section attributable to revenues
21 realized during State fiscal year 2018 shall be reduced by 10%.

22 For State fiscal year 2019 only, notwithstanding any
23 provision of law to the contrary, the total amount of revenue
24 and deposits under this Section attributable to revenues
25 realized during State fiscal year 2019 shall be reduced by 5%.

26 (c) Deposits Into Income Tax Refund Fund.

1 (1) Beginning on January 1, 1989 and thereafter, the
2 Department shall deposit a percentage of the amounts
3 collected pursuant to subsections (a) and (b)(1), (2), and
4 (3) of Section 201 of this Act into a fund in the State
5 treasury known as the Income Tax Refund Fund. The
6 Department shall deposit 6% of such amounts during the
7 period beginning January 1, 1989 and ending on June 30,
8 1989. Beginning with State fiscal year 1990 and for each
9 fiscal year thereafter, the percentage deposited into the
10 Income Tax Refund Fund during a fiscal year shall be the
11 Annual Percentage. For fiscal years 1999 through 2001, the
12 Annual Percentage shall be 7.1%. For fiscal year 2003, the
13 Annual Percentage shall be 8%. For fiscal year 2004, the
14 Annual Percentage shall be 11.7%. Upon the effective date
15 of Public Act 93-839 (July 30, 2004), the Annual Percentage
16 shall be 10% for fiscal year 2005. For fiscal year 2006,
17 the Annual Percentage shall be 9.75%. For fiscal year 2007,
18 the Annual Percentage shall be 9.75%. For fiscal year 2008,
19 the Annual Percentage shall be 7.75%. For fiscal year 2009,
20 the Annual Percentage shall be 9.75%. For fiscal year 2010,
21 the Annual Percentage shall be 9.75%. For fiscal year 2011,
22 the Annual Percentage shall be 8.75%. For fiscal year 2012,
23 the Annual Percentage shall be 8.75%. For fiscal year 2013,
24 the Annual Percentage shall be 9.75%. For fiscal year 2014,
25 the Annual Percentage shall be 9.5%. For fiscal year 2015,
26 the Annual Percentage shall be 10%. For fiscal year 2018,

1 the Annual Percentage shall be 9.8%. For fiscal year 2019,
2 the Annual Percentage shall be 9.7%. For all other fiscal
3 years, the Annual Percentage shall be calculated as a
4 fraction, the numerator of which shall be the amount of
5 refunds approved for payment by the Department during the
6 preceding fiscal year as a result of overpayment of tax
7 liability under subsections (a) and (b) (1), (2), and (3) of
8 Section 201 of this Act plus the amount of such refunds
9 remaining approved but unpaid at the end of the preceding
10 fiscal year, minus the amounts transferred into the Income
11 Tax Refund Fund from the Tobacco Settlement Recovery Fund,
12 and the denominator of which shall be the amounts which
13 will be collected pursuant to subsections (a) and (b) (1),
14 (2), and (3) of Section 201 of this Act during the
15 preceding fiscal year; except that in State fiscal year
16 2002, the Annual Percentage shall in no event exceed 7.6%.
17 The Director of Revenue shall certify the Annual Percentage
18 to the Comptroller on the last business day of the fiscal
19 year immediately preceding the fiscal year for which it is
20 to be effective.

21 (2) Beginning on January 1, 1989 and thereafter, the
22 Department shall deposit a percentage of the amounts
23 collected pursuant to subsections (a) and (b) (6), (7), and
24 (8), (c) and (d) of Section 201 of this Act into a fund in
25 the State treasury known as the Income Tax Refund Fund. The
26 Department shall deposit 18% of such amounts during the

1 period beginning January 1, 1989 and ending on June 30,
2 1989. Beginning with State fiscal year 1990 and for each
3 fiscal year thereafter, the percentage deposited into the
4 Income Tax Refund Fund during a fiscal year shall be the
5 Annual Percentage. For fiscal years 1999, 2000, and 2001,
6 the Annual Percentage shall be 19%. For fiscal year 2003,
7 the Annual Percentage shall be 27%. For fiscal year 2004,
8 the Annual Percentage shall be 32%. Upon the effective date
9 of Public Act 93-839 (July 30, 2004), the Annual Percentage
10 shall be 24% for fiscal year 2005. For fiscal year 2006,
11 the Annual Percentage shall be 20%. For fiscal year 2007,
12 the Annual Percentage shall be 17.5%. For fiscal year 2008,
13 the Annual Percentage shall be 15.5%. For fiscal year 2009,
14 the Annual Percentage shall be 17.5%. For fiscal year 2010,
15 the Annual Percentage shall be 17.5%. For fiscal year 2011,
16 the Annual Percentage shall be 17.5%. For fiscal year 2012,
17 the Annual Percentage shall be 17.5%. For fiscal year 2013,
18 the Annual Percentage shall be 14%. For fiscal year 2014,
19 the Annual Percentage shall be 13.4%. For fiscal year 2015,
20 the Annual Percentage shall be 14%. For fiscal year 2018,
21 the Annual Percentage shall be 17.5%. For fiscal year 2019,
22 the Annual Percentage shall be 15.5%. For all other fiscal
23 years, the Annual Percentage shall be calculated as a
24 fraction, the numerator of which shall be the amount of
25 refunds approved for payment by the Department during the
26 preceding fiscal year as a result of overpayment of tax

1 liability under subsections (a) and (b) (6), (7), and (8),
2 (c) and (d) of Section 201 of this Act plus the amount of
3 such refunds remaining approved but unpaid at the end of
4 the preceding fiscal year, and the denominator of which
5 shall be the amounts which will be collected pursuant to
6 subsections (a) and (b) (6), (7), and (8), (c) and (d) of
7 Section 201 of this Act during the preceding fiscal year;
8 except that in State fiscal year 2002, the Annual
9 Percentage shall in no event exceed 23%. The Director of
10 Revenue shall certify the Annual Percentage to the
11 Comptroller on the last business day of the fiscal year
12 immediately preceding the fiscal year for which it is to be
13 effective.

14 (3) The Comptroller shall order transferred and the
15 Treasurer shall transfer from the Tobacco Settlement
16 Recovery Fund to the Income Tax Refund Fund (i) \$35,000,000
17 in January, 2001, (ii) \$35,000,000 in January, 2002, and
18 (iii) \$35,000,000 in January, 2003.

19 (d) Expenditures from Income Tax Refund Fund.

20 (1) Beginning January 1, 1989, money in the Income Tax
21 Refund Fund shall be expended exclusively for the purpose
22 of paying refunds resulting from overpayment of tax
23 liability under Section 201 of this Act and for making
24 transfers pursuant to this subsection (d).

25 (2) The Director shall order payment of refunds
26 resulting from overpayment of tax liability under Section

1 201 of this Act from the Income Tax Refund Fund only to the
2 extent that amounts collected pursuant to Section 201 of
3 this Act and transfers pursuant to this subsection (d) and
4 item (3) of subsection (c) have been deposited and retained
5 in the Fund.

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

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

1 the amount collected pursuant to subsections (c) and (d) of
2 Section 201 of this Act deposited into the Income Tax
3 Refund Fund during the fiscal year.

4 (4.5) As soon as possible after the end of fiscal year
5 1999 and of each fiscal year thereafter, the Director shall
6 order transferred and the State Treasurer and State
7 Comptroller shall transfer from the Income Tax Refund Fund
8 to the General Revenue Fund any surplus remaining in the
9 Income Tax Refund Fund as of the end of such fiscal year;
10 excluding for fiscal years 2000, 2001, and 2002 amounts
11 attributable to transfers under item (3) of subsection (c)
12 less refunds resulting from the earned income tax credit.

13 (5) This Act shall constitute an irrevocable and
14 continuing appropriation from the Income Tax Refund Fund
15 for the purpose of paying refunds upon the order of the
16 Director in accordance with the provisions of this Section.

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

1 Department shall deposit 3.0% into the Income Tax Surcharge
2 Local Government Distributive Fund in the State Treasury.
3 Beginning February 1, 1993 and continuing through June 30,
4 1993, of the amounts collected pursuant to subsections (a) and
5 (b) of Section 201 of the Illinois Income Tax Act, minus
6 deposits into the Income Tax Refund Fund, the Department shall
7 deposit 4.4% into the Income Tax Surcharge Local Government
8 Distributive Fund in the State Treasury. Beginning July 1,
9 1993, and continuing through June 30, 1994, of the amounts
10 collected under subsections (a) and (b) of Section 201 of this
11 Act, minus deposits into the Income Tax Refund Fund, the
12 Department shall deposit 1.475% into the Income Tax Surcharge
13 Local Government Distributive Fund in the State Treasury.

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

21 (1) beginning February 1, 2015, and prior to February
22 1, 2025, 1/30; and

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

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

1 subsection (f) on or after the effective date of the reduction.

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

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

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

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

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

1 (i) All revenue realized under Section 201.1 shall be
2 deposited into the Common School Fund.

3 (Source: P.A. 99-78, eff. 7-20-15; 100-22, eff. 7-6-17; 100-23,
4 eff. 7-6-17; 100-587, eff. 6-4-18; 100-621, eff. 7-20-18;
5 100-863, eff. 8-14-18; 100-1171, eff. 1-4-19; revised 1-8-19.)