

HB3475



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3475

Introduced 2/22/2021, by Rep. Delia C. Ramirez

SYNOPSIS AS INTRODUCED:

New Act

Creates the Extremely High Wealth Mark-to-Market Tax Act. Contains provisions concerning gains or losses of assets for individual taxpayers with net assets worth \$50,000,000 or more. Effective immediately.

LRB102 14998 HLH 20353 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 1. Short title. This Act may be cited as the
5 Extremely High Wealth Mark-to-Market Tax Act.

6 Section 5. Tax imposed; tax years beginning on or after
7 January 1, 2020 and beginning prior to January 1, 2021.

8 (a) Notwithstanding any other provision of law, resident
9 individual taxpayers with net assets worth \$50,000,000 or more
10 on December 31, 2020, shall recognize gain or loss as if each
11 asset owned by the individual taxpayer were sold for its fair
12 market value on that date. Any resulting net gains from these
13 deemed sales, up to the phase-in cap amount, shall be included
14 in the taxpayer's income for tax years beginning on or after
15 January 1, 2020 and beginning prior to January 1, 2021. Proper
16 adjustment shall be made in the amount of any gain or loss
17 subsequently realized for gains or losses taken into account
18 under this subsection. At the taxpayer's option, the tax
19 payable as a result of this Section shall either be payable in
20 one installment or else shall be payable annually in 10 equal
21 installments beginning in the year of the effective date of
22 this Act and with all such installment payments commencing
23 after the initial installment payment also being subject to an

1 annual nondeductible deferral charge of 7.5% annually. For
2 resident individual taxpayers who would recognize net gains as
3 a result of this Section except for the operation of this
4 sentence, if the taxpayer can show that any portion of such
5 gains was accumulated prior to the taxpayer becoming a
6 resident individual of Illinois, and if the taxpayer can also
7 show that such portion of such gains was previously taxed by
8 any prior state or jurisdiction in which the taxpayer was a
9 resident prior to becoming a resident individual of Illinois,
10 then credit shall be provided in the amount of any such tax on
11 such gains paid to any such prior states or jurisdictions in
12 which the taxpayer was a resident prior to becoming a resident
13 individual of Illinois. Any credits so provided by this
14 subsection, however, shall not exceed the lesser of the total
15 tax owed under this Section on such gains and the tax imposed
16 on such gains by such other prior states or jurisdictions in
17 which the taxpayer was a resident prior to becoming a resident
18 individual of Illinois.

19 (b) For tax years included in this Section, whether an
20 individual is a resident individual for purposes of this Act
21 shall be determined using the pursuant to the criteria in the
22 Illinois Income Tax Act.

23 Section 10. Tax imposed; subsequent years. For taxable
24 years beginning on or after January 1, 2021, resident
25 individual taxpayers with net assets that are worth

1 \$50,000,000 or more at the end of the last day of any tax year
2 shall recognize gains or losses as if each asset owned by such
3 taxpayer on such date were sold for its fair market value on
4 such date, but with adjustment made for tax paid on gain in
5 previous years. Any resulting net gains from these deemed
6 sales, up to the phase-in cap amount, shall be included in the
7 taxpayer's income for such taxable year. Proper adjustment
8 shall be made in the amount of any gain or loss subsequently
9 realized for gain or loss taken into account under the this
10 Section. To the extent that the losses of a taxpayer exceed
11 such taxpayer's gains, such net losses shall not be recognized
12 in such taxable year and shall instead carry forward
13 indefinitely. For resident individual taxpayers who would
14 recognize net gains as a result of this section except for the
15 operation of this sentence, but who were not resident
16 individuals for all of the preceding five tax years, solely
17 for purposes of deemed sales pursuant to this section, the tax
18 basis of each asset owned on the last day of the last tax year
19 before the resident individual became an Illinois resident
20 shall be the fair market value of the asset as of that day.

21 Section 15. Phase-in cap amount. For each date on which
22 gains or losses are recognized as a result of this Act, the
23 phase-in cap amount shall be equal to a quarter of the worth of
24 a taxpayer's net assets in excess of \$50,000,000 on such date.

1 Section 20. Net worth calculation. For the purposes of
2 determining whether a resident individual taxpayer has net
3 assets worth \$50,000,000 or more, the term "assets" shall
4 include all of the following, but only to the extent allowable
5 under the Illinois Constitution, the United States
6 Constitution, and any other governing federal law: all owned
7 real or personal, tangible or intangible, property, wherever
8 situated that is: (1) owned by the taxpayer; (2) owned by the
9 taxpayer's spouse, minor children, or any trust or estate of
10 which the taxpayer is a beneficiary; (3) contributed by the
11 taxpayer, or the taxpayer's spouse, minor children, or any
12 trust or estate of which the taxpayer is a beneficiary, to any
13 private foundation, donor advised fund, and any other entity
14 described in section 501(c) or section 527 of the Internal
15 Revenue Code of which the taxpayer, or the taxpayer's spouse,
16 minor children, or any trust or estate of which the taxpayer is
17 a beneficiary, is a substantial contributor (as such term is
18 defined in Section 4958(c)(3)(B)(i) of the Internal Revenue
19 Code); and (4) without duplication, all gifts and donations
20 made within the past 5 years by the taxpayer, or the taxpayer's
21 spouse, minor children, or any trust or estate of which the
22 taxpayer is a beneficiary, as if such gifts and donations were
23 still owned by the taxpayer. For the purpose of this section,
24 "net assets" shall include the fair market value of assets
25 less the fair market value of liabilities of the taxpayer and,
26 in appropriate cases as determined by the Department of

1 Revenue, liabilities of such other persons described in the
2 definition of assets.

3 Section 25. Fair market value.

4 (a) The fair market value of each asset owned by the
5 taxpayer shall be the price at which such asset would change
6 hands between a willing buyer and a willing seller, neither
7 being under any compulsion to buy or to sell, and both having
8 reasonable knowledge of relevant facts. The value of a
9 particular asset shall not be the price that a forced sale of
10 the property would produce. Further, the fair market value of
11 an asset shall not be the sale price in a market other than
12 that in which such item is most commonly sold to the public,
13 taking into account the location of the item wherever
14 appropriate. In the case of an asset which is generally
15 obtained by the public in the retail market, the fair market
16 value of such an asset shall be the price at which such item or
17 a comparable item would be sold at retail.

18 (b) For purposes of this Section, any feature of an asset,
19 such as a poison pill, that was added with the intent, and has
20 the effect, of reducing the value of the asset shall be
21 disregarded, and no valuation or other discount shall be taken
22 into account if it would have the effect of reducing the value
23 of a pro rata economic interest in an asset below the pro rata
24 portion of the value of the entire asset.

1 Section 30. Administration.

2 (a) The Department of Revenue shall amend or create tax
3 forms as necessary for the reporting of gains by assets.
4 Assets shall be listed with (i) a description of the asset,
5 (ii) the asset category, (iii) the year the asset was
6 acquired, (iv) the adjusted Illinois basis of the asset as of
7 December 31 of the tax year, (v) the fair market value of the
8 asset as of December 31 of the tax year, and (vi) the amount of
9 gain that would be taxable under this Act, unless the
10 Department shall determine that one or more categories is not
11 appropriate for a particular type of asset.

12 (b) Asset categories separately listed shall include, but
13 not be limited to, the following:

- 14 (1) stock held in any publicly traded corporation;
15 (2) stock held in any private traded C corporation;
16 (3) stock held in any S corporation;
17 (4) interests in any private equity or hedge fund
18 organized as a partnership;
19 (5) interests in any other partnerships;
20 (6) interests in any other noncorporate businesses;
21 (7) bonds and interest bearing savings accounts, cash
22 and deposits;
23 (8) interests in mutual funds or index funds;
24 (9) put and call options;
25 (10) futures contracts;
26 (11) financial assets held offshore reported on IRS

1 tax form 8938;
2 (12) real property;
3 (13) art and collectibles;
4 (14) pension funds;
5 (15) other assets;
6 (16) debts and liabilities; and
7 (17) assets not owned by the taxpayer but which count
8 toward the \$50,000,000 threshold pursuant to Section 20.

9 (c) The Department shall specifically request the filing
10 of such forms by any resident individual expected to have net
11 assets in excess of \$50,000,000. Such taxpayers shall include,
12 but not be limited to, taxpayers with an adjusted gross income
13 summed over the previous 10 years in excess of \$30,000,000.

14 Section 35. Mark-to-market in other states. In the event
15 that any resident individual taxpayer becomes an Illinois
16 resident subsequent to paying tax to another state as a result
17 of recognizing gain or loss pursuant to any mark-to-market or
18 deemed-realization regime of that other state, proper
19 adjustment shall be made in the amount of any gain or loss
20 subsequently realized for gain or loss taken into account
21 under such mark-to-market or deemed-realization regime of that
22 other state for purposes of computing gain or loss under
23 Sections 5 or 10 of this Act.

24 Section 40. Collection. The Department of Revenue shall

1 collect the mark-to-market taxes imposed by this Act. Money
2 collected, after deducting amounts necessary for
3 administration and enforcement by the Department, shall be
4 paid into the General Revenue Fund in the State treasury.

5 Section 45. Rules. The Department of Revenue shall adopt
6 rules necessary or appropriate to carry out the purposes of
7 this Act, including rules to prevent the use of year-end
8 transfers, related parties, or other arrangements to avoid its
9 provisions.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.