# 102ND GENERAL ASSEMBLY

# State of Illinois

# 2021 and 2022

## SB2052

Introduced 2/26/2021, by Sen. Omar Aquino

## SYNOPSIS AS INTRODUCED:

New Act
35 ILCS 5/205 from Ch. 120, par. 2-205
35 ILCS 5/232 new

Creates the Endow Illinois Tax Credit Act and amends the Illinois Income Tax Act. Requires the Department of Revenue to authorize an income tax credit to taxpayers who provide an endowment gift to a permanent endowment fund. Sets forth procedures and criteria for authorizing the credits. Provides that the aggregate amount of all credits that the Department of Revenue may authorize may not exceed $10,000,000 in 2022, $25,000,000 in 2023, or $50,000,000 in 2024 and each calendar year thereafter. Provides conditions for eligibility. Requires the Department of Revenue to make an annual report concerning the credits. Provides that the credit may be carried forward for 5 years. Exempts the credit from the Act's sunset provisions. Further amends the Illinois Income Tax Act to provide that provisions concerning the unrelated business taxable income of an exempt organization apply for taxable years beginning on or after January 1, 2021 (currently, January 1, 2019). Effective immediately.

LRB102 11526 HLH 16860 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

AN ACT concerning revenue.

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

Section 1. Short title. This Act may be cited as the Endow Illinois Tax Credit Act.

Section 5. Definitions. For the purposes of this Act:

"Department" means the Department of Revenue.

"Endowment gift" means an irrevocable contribution to a permanent endowment fund held by a qualified community foundation.

"Permanent endowment fund" means a fund that (i) is held by a qualified community foundation to provide benefit to charitable causes in the State, (ii) is intended to exist in perpetuity, and (iii) has an annual spending rate based on the foundation spending policy, but not to exceed 7%.

"Qualified community foundation" means a community foundation or similar publicly-supported organization described in Section 170 (b)(1)(A)(vi) of the Internal Revenue Code of 1986 that is organized or operating in this State and that substantially complies with the national standards for U.S. community foundations that are established by the National Council on Foundations, as determined by the Department.

Section 10. Tax credit awards.

(a) The Department shall authorize an income tax credit to taxpayers who provide an endowment gift to a permanent endowment fund. The amount of the credit that may be authorized to a taxpayer by the Department under this Act is an amount equal to 50% of the endowment gift. A taxpayer that is a business entity is not eligible to receive a credit under this Act for the taxable year if the taxpayer's gross business receipts exceed $10,000,000 for taxable years ending in 2022, $25,000,000 for taxable years ending in 2023, or $50,000,000 for taxable years ending in 2024 or thereafter.

(b) The aggregate amount of all credits that the Department may authorize under this Act may not exceed $10,000,000 in 2022, $25,000,000 in 2023, or $50,000,000 in 2024 and each calendar year thereafter. The aggregate amount of all credits that the Department may authorize to any single taxpayer in a calendar year may not exceed 5% of the aggregate amount of all credits authorized by the Department in that calendar year. The aggregate amount of all credits that the Department may authorize in any calendar year based on endowment gifts to any specific community foundation may not exceed 25% of aggregate credits authorized for that year.

(c) If the Department receives applications for tax credit in excess of the amount available, then the applications must be prioritized by the date that the Department received them.

If the number of applications exceeds the amount of annual tax credits available, then the Department must establish a wait list for the next year's allocation of tax credits, and applications must first be funded in the order listed on that wait list.

Section 15. Applications for tax credits.

(a) The Department shall develop and make available a standardized application pertaining to the allocation of tax credits under this Act.

(b) Of the annual amount available for tax credits, 10% must be reserved for those endowment gifts of $30,000 or less. If the entire 10% that is reserved for permanent endowment gifts totalling $30,000 or less is not allocated, then the remaining amount is available in the following years for endowment gifts of $30,000 or less.

(c) The Department must accept applications and authorize credits in an ongoing basis. The Department must make public, by June 1 and by December 1 of each year, the total number of requests for tax credits and the total amount of requested tax credits that have been submitted and awarded.

Section 20. Annual report. By January 31 of each year, the Department must submit an annual report to the Governor and the General Assembly concerning the activities conduced under this Act during the previous calendar year. The report must include a detailed listing of tax credits authorized under this Act by the Department.

Section 90. The Illinois Income Tax Act is amended by changing Section 205 and by adding Section 232 as follows:

(35 ILCS 5/205) (from Ch. 120, par. 2-205)

Sec. 205. Exempt organizations.

(a) Charitable, etc. organizations. For tax years beginning before January 1, 2022 ~~January 1, 2019~~, the base income of an organization which is exempt from the federal income tax by reason of the Internal Revenue Code shall not be determined under section 203 of this Act, but shall be its unrelated business taxable income as determined under section 512 of the Internal Revenue Code, without any deduction for the tax imposed by this Act. The standard exemption provided by section 204 of this Act shall not be allowed in determining the net income of an organization to which this subsection applies.

For tax years beginning on or after January 1, 2022 ~~January 1, 2019~~, the base income of an organization which is exempt from the federal income tax by reason of the Internal Revenue Code shall not be determined under Section 203 of this Act, but shall be its unrelated business taxable income as determined under Section 512 of the Internal Revenue Code, without regard to Section 512(a)(7) of the Internal Revenue

Code and without any deduction for the tax imposed by this Act. The standard exemption provided by Section 204 of this Act shall not be allowed in determining the net income of an organization to which this subsection applies. This exclusion is exempt from the provisions of Section 250.

(b) Partnerships. A partnership as such shall not be subject to the tax imposed by subsection 201 (a) and (b) of this Act, but shall be subject to the replacement tax imposed by subsection 201 (c) and (d) of this Act and shall compute its base income as described in subsection (d) of Section 203 of this Act. For taxable years ending on or after December 31, 2004, an investment partnership, as defined in Section 1501(a)(11.5) of this Act, shall not be subject to the tax imposed by subsections (c) and (d) of Section 201 of this Act. A partnership shall file such returns and other information at such time and in such manner as may be required under Article 5 of this Act. The partners in a partnership shall be liable for the replacement tax imposed by subsection 201 (c) and (d) of this Act on such partnership, to the extent such tax is not paid by the partnership, as provided under the laws of Illinois governing the liability of partners for the obligations of a partnership. Persons carrying on business as partners shall be liable for the tax imposed by subsection 201 (a) and (b) of this Act only in their separate or individual capacities.

(c) Subchapter S corporations. A Subchapter S corporation shall not be subject to the tax imposed by subsection 201 (a) and (b) of this Act but shall be subject to the replacement tax imposed by subsection 201 (c) and (d) of this Act and shall file such returns and other information at such time and in such manner as may be required under Article 5 of this Act.

(d) Combat zone, terrorist attack, and certain other deaths. An individual relieved from the federal income tax for any taxable year by reason of section 692 of the Internal Revenue Code shall not be subject to the tax imposed by this Act for such taxable year.

(e) Certain trusts. A common trust fund described in Section 584 of the Internal Revenue Code, and any other trust to the extent that the grantor is treated as the owner thereof under sections 671 through 678 of the Internal Revenue Code shall not be subject to the tax imposed by this Act.

(f) Certain business activities. A person not otherwise subject to the tax imposed by this Act shall not become subject to the tax imposed by this Act by reason of:

(1) that person's ownership of tangible personal property located at the premises of a printer in this State with which the person has contracted for printing, or

(2) activities of the person's employees or agents located solely at the premises of a printer and related to quality control, distribution, or printing services performed by a printer in the State with which the person

has contracted for printing.

(g) A nonprofit risk organization that holds a certificate of authority under Article VIID of the Illinois Insurance Code is exempt from the tax imposed under this Act with respect to its activities or operations in furtherance of the powers conferred upon it under that Article VIID of the Illinois Insurance Code.

(Source: P.A. 101-545, eff. 8-23-19.)

(35 ILCS 5/232 new)

Sec. 232. The Endow Illinois tax credit.

(a) For taxable years ending on or after December 31, 2022, each taxpayer for whom a tax credit has been authorized by the Department of Revenue under the Endow Illinois Tax Credit Act, is entitled to a credit against the tax imposed under subsections (a) and (b) of Section 201 in an amount equal to the amount authorized under that Act.

(b) For partners, shareholders of Subchapter S corporations, and members of limited liability companies, if the liability company is treated as a partnership for purposes of federal and State income taxation, there is allowed a credit under this Section to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code.

(c) The credit may not be carried back and may not reduce the taxpayer's liability to less than zero. If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The tax credit shall be applied to the earliest year for which there is a tax liability. If there are credits for more than one year that are available to offset a liability, the earlier credit shall be applied first.

(d) This Section is exempt from the provisions of Section 250.

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