



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 2/4/2004, by Patrick Welch

**SYNOPSIS AS INTRODUCED:**

35 ILCS 5/1410 new

Amends the Income Tax Act. Provides that a start-up business may apply to the Department of Revenue for a deferment of taxable income for the first 3 years that the business is in operation. Requires the taxpayer business to pay the deferred amounts in 5 equal annual installments in the 5 tax years after the 3-year deferment period. Requires the Department to approve the application if certain requirements have been met. Authorizes the Department to promulgate rules necessary for the administration of the deferment program. Effective January 1, 2005.

LRB093 20314 MKM 46082 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning taxes.

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 adding  
5 Section 1410 as follows:

6 (35 ILCS 5/1410 new)

7 Sec. 1410. Start-up business tax deferment.

8 (a) In this Section:

9 "Commercial domicile" means the principal place from which  
10 the trade or business of the taxpayer is directed or managed.

11 "Start-up business" does not include any of the following:

12 (1) an existing business locating in this State from  
13 another state or from another location in this State.

14 (2) a newly created subsidiary that is the result of  
15 the merger of 2 or more businesses.

16 (3) a previously existing business that has been  
17 dissolved and reincorporated.

18 (4) an existing business operating under a different  
19 name and located in a different location.

20 (5) a newly created partnership owned by 2 or more of  
21 the same partners as an existing business and engaging in  
22 similar business activity as the existing business.

23 (6) A business entity that reorganizes or experiences a  
24 change in either the legal or trade name of the business.

25 (7) A joint venture.

26 "Venture capital moneys" means an equity investment from an  
27 individual or a private seed and venture capital fund whose  
28 only business is investing in seed and venture capital  
29 opportunities. "Venture capital moneys" does not mean a loan or  
30 other non-equity financing from a person, financial  
31 institution, or other entity.

32 (b) In order to qualify under this Section for a deferment

1 of taxable income and the tax to be imposed on it, a taxpayer  
2 must meet all of the following criteria:

3 (1) the taxpayer is a business that is a wholly new  
4 start-up business beginning operations during the first  
5 tax year for which the deferment of taxable income is  
6 claimed;

7 (2) the business has its commercial domicile in the  
8 State;

9 (3) the operations of the business are at least 25%  
10 funded by venture capital moneys; and

11 (4) the taxpayer does not have any delinquent taxes or  
12 other debt outstanding and owed to the State.

13 (c) A taxpayer who meets the criteria in subsection (b) may  
14 submit a request to the Department of Revenue for the deferment  
15 of taxable income for the first 3 tax years that the taxpayer  
16 business is in operation. If a deferment is approved by the  
17 Department, the taxpayer shall pay taxes on the deferred  
18 taxable income in 5 equal installments during the 5 tax years  
19 following the 3 years of taxable income deferment. The  
20 provisions of Article 11 of this Act shall apply if the  
21 taxpayer refuses or neglects to pay the taxes owed on the  
22 deferred taxable income in the manner provided in this Section.  
23 A taxpayer receiving a deferment shall file a return for each  
24 tax year in which a deferment is approved. If the taxpayer has  
25 a net loss during a tax year during the 3-year period in which  
26 taxable income is deferred, the loss may be applied to any  
27 deferred taxable income during that period.

28 (d) Upon a determination that the criteria in subsection  
29 (b) have been met, the Department shall approve a request for  
30 deferment of taxable income.

31 (e) For purposes of assessing penalty and interest, the tax  
32 on any deferred taxable income is not due and payable until the  
33 tax years in which the annual installments, as provided in  
34 subsection (c), are due and payable.

35 (f) The Department shall promulgate rules necessary for the  
36 administration of this Section.

1           Section 99. Effective date. This Act takes effect January  
2    1, 2005.