

**SB0013**



**97TH GENERAL ASSEMBLY**

**State of Illinois**

**2011 and 2012**

**SB0013**

Introduced 1/27/2011, by Sen. Linda Holmes

**SYNOPSIS AS INTRODUCED:**

35 ILCS 10/5-15

Amends the Economic Development for a Growing Economy Tax Credit Act. Removes a requirement that only certain manufacturing companies may elect to claim the credit against their withholding tax obligations. Effective immediately.

LRB097 06650 HLH 46736 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 Economic Development for a Growing Economy  
5 Tax Credit Act is amended by changing Section 5-15 as follows:

6 (35 ILCS 10/5-15)

7 Sec. 5-15. Tax Credit Awards. Subject to the conditions set  
8 forth in this Act, a Taxpayer is entitled to a Credit against  
9 or, as described in subsection (g) of this Section, a payment  
10 towards taxes imposed pursuant to subsections (a) and (b) of  
11 Section 201 of the Illinois Income Tax Act that may be imposed  
12 on the Taxpayer for a taxable year beginning on or after  
13 January 1, 1999, if the Taxpayer is awarded a Credit by the  
14 Department under this Act for that taxable year.

15 (a) The Department shall make Credit awards under this Act  
16 to foster job creation and retention in Illinois.

17 (b) A person that proposes a project to create new jobs in  
18 Illinois must enter into an Agreement with the Department for  
19 the Credit under this Act.

20 (c) The Credit shall be claimed for the taxable years  
21 specified in the Agreement.

22 (d) The Credit shall not exceed the Incremental Income Tax  
23 attributable to the project that is the subject of the

1 Agreement.

2 (e) Nothing herein shall prohibit a Tax Credit Award to an  
3 Applicant that uses a PEO if all other award criteria are  
4 satisfied.

5 (f) In lieu of the Credit allowed under this Act against  
6 the taxes imposed pursuant to subsections (a) and (b) of  
7 Section 201 of the Illinois Income Tax Act for any taxable year  
8 ending on or after December 31, 2009, the Taxpayer may elect to  
9 claim the Credit against its obligation to pay over withholding  
10 under Section 704A of the Illinois Income Tax Act.

11 (1) The election under this subsection (f) may be made  
12 only by a Taxpayer that ~~(i) is primarily engaged in one of~~  
13 ~~the following business activities: motor vehicle metal~~  
14 ~~stamping, automobile manufacturing, automobile and light~~  
15 ~~duty motor vehicle manufacturing, motor vehicle~~  
16 ~~manufacturing, light truck and utility vehicle~~  
17 ~~manufacturing, heavy duty truck manufacturing, or motor~~  
18 ~~vehicle body manufacturing and (ii) meets the following~~  
19 criteria:

20 (A) the Taxpayer (i) had an Illinois net loss or an  
21 Illinois net loss deduction under Section 207 of the  
22 Illinois Income Tax Act for the taxable year in which  
23 the Credit is awarded, (ii) ~~employed a minimum of 1,000~~  
24 ~~full-time employees in this State during the taxable~~  
25 ~~year in which the Credit is awarded, (iii) has an~~  
26 Agreement under this Act on December 14, 2009 (the

1 effective date of Public Act 96-834), and (iii) ~~(iv)~~ is  
2 in compliance with all provisions of that Agreement;

3 (B) the Taxpayer (i) had an Illinois net loss or an  
4 Illinois net loss deduction under Section 207 of the  
5 Illinois Income Tax Act for the taxable year in which  
6 the Credit is awarded and (ii) ~~, (ii) employed a~~  
7 ~~minimum of 1,000 full-time employees in this State~~  
8 ~~during the taxable year in which the Credit is awarded,~~  
9 ~~and (iii) has applied for an Agreement by July 1, 2011,~~  
10 ~~or within 30 days after the effective date of this~~  
11 ~~amendatory Act of the 97th General Assembly, whichever~~  
12 ~~is later within 365 days after December 14, 2009 (the~~  
13 ~~effective date of Public Act 96-834); or~~

14 (C) the Taxpayer (i) had an Illinois net operating  
15 loss carryforward under Section 207 of the Illinois  
16 Income Tax Act in a taxable year ending during calendar  
17 year 2008, (ii) has applied for an Agreement within 150  
18 days after the effective date of this amendatory Act of  
19 the 96th General Assembly, (iii) creates at least 400  
20 new jobs in Illinois, (iv) retains at least 2,000 jobs  
21 in Illinois that would have been at risk of relocation  
22 out of Illinois over a 10-year period, and (v) makes a  
23 capital investment of at least \$75,000,000.

24 (2) An election under this subsection shall allow the  
25 credit to be taken against payments otherwise due under  
26 Section 704A of the Illinois Income Tax Act during the

1 first calendar year beginning after the end of the taxable  
2 year in which the credit is awarded under this Act.

3 (3) The election shall be made in the form and manner  
4 required by the Illinois Department of Revenue and, once  
5 made, shall be irrevocable.

6 (4) If a Taxpayer who meets the requirements of  
7 subparagraph (A) of paragraph (1) of this subsection (f)  
8 elects to claim the Credit against its withholdings as  
9 provided in this subsection (f), then, on and after the  
10 date of the election, the terms of the Agreement between  
11 the Taxpayer and the Department may not be further amended  
12 during the term of the Agreement.

13 (g) A pass-through entity that has been awarded a credit  
14 under this Act, its shareholders, or its partners may treat  
15 some or all of the credit awarded pursuant to this Act as a tax  
16 payment for purposes of the Illinois Income Tax Act. The term  
17 "tax payment" means a payment as described in Article 6 or  
18 Article 8 of the Illinois Income Tax Act or a composite payment  
19 made by a pass-through entity on behalf of any of its  
20 shareholders or partners to satisfy such shareholders' or  
21 partners' taxes imposed pursuant to subsections (a) and (b) of  
22 Section 201 of the Illinois Income Tax Act. In no event shall  
23 the amount of the award credited pursuant to this Act exceed  
24 the Illinois income tax liability of the pass-through entity or  
25 its shareholders or partners for the taxable year.

26 (Source: P.A. 95-375, eff. 8-23-07; 96-834, eff. 12-14-09;

1 96-836, eff. 12-16-09; 96-905, eff. 6-4-10; 96-1000, eff.  
2 7-2-10.)

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