

SB0402



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB0402

Introduced 2/8/2011, by Sen. John J. Cullerton

SYNOPSIS AS INTRODUCED:

35 ILCS 5/201

from Ch. 120, par. 2-201

Amends the Illinois Income Tax Act. Makes a technical change in a Section concerning the tax imposed.

LRB097 04142 HLH 44181 b

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 Illinois Income Tax Act is amended by
5 changing Section 201 as follows:

6 (35 ILCS 5/201) (from Ch. 120, par. 2-201)

7 Sec. 201. Tax Imposed.

8 (a) In general. A tax measured by net income is hereby
9 imposed on every individual, corporation, trust and ~~and~~ estate
10 for each taxable year ending after July 31, 1969 on the
11 privilege of earning or receiving income in or as a resident of
12 this State. Such tax shall be in addition to all other
13 occupation or privilege taxes imposed by this State or by any
14 municipal corporation or political subdivision thereof.

15 (b) Rates. The tax imposed by subsection (a) of this
16 Section shall be determined as follows, except as adjusted by
17 subsection (d-1):

18 (1) In the case of an individual, trust or estate, for
19 taxable years ending prior to July 1, 1989, an amount equal
20 to 2 1/2% of the taxpayer's net income for the taxable
21 year.

22 (2) In the case of an individual, trust or estate, for
23 taxable years beginning prior to July 1, 1989 and ending

1 after June 30, 1989, an amount equal to the sum of (i) 2
2 1/2% of the taxpayer's net income for the period prior to
3 July 1, 1989, as calculated under Section 202.3, and (ii)
4 3% of the taxpayer's net income for the period after June
5 30, 1989, as calculated under Section 202.3.

6 (3) In the case of an individual, trust or estate, for
7 taxable years beginning after June 30, 1989, an amount
8 equal to 3% of the taxpayer's net income for the taxable
9 year.

10 (4) (Blank).

11 (5) (Blank).

12 (6) In the case of a corporation, for taxable years
13 ending prior to July 1, 1989, an amount equal to 4% of the
14 taxpayer's net income for the taxable year.

15 (7) In the case of a corporation, for taxable years
16 beginning prior to July 1, 1989 and ending after June 30,
17 1989, an amount equal to the sum of (i) 4% of the
18 taxpayer's net income for the period prior to July 1, 1989,
19 as calculated under Section 202.3, and (ii) 4.8% of the
20 taxpayer's net income for the period after June 30, 1989,
21 as calculated under Section 202.3.

22 (8) In the case of a corporation, for taxable years
23 beginning after June 30, 1989, an amount equal to 4.8% of
24 the taxpayer's net income for the taxable year.

25 (c) Personal Property Tax Replacement Income Tax.
26 Beginning on July 1, 1979 and thereafter, in addition to such

1 income tax, there is also hereby imposed the Personal Property
2 Tax Replacement Income Tax measured by net income on every
3 corporation (including Subchapter S corporations), partnership
4 and trust, for each taxable year ending after June 30, 1979.
5 Such taxes are imposed on the privilege of earning or receiving
6 income in or as a resident of this State. The Personal Property
7 Tax Replacement Income Tax shall be in addition to the income
8 tax imposed by subsections (a) and (b) of this Section and in
9 addition to all other occupation or privilege taxes imposed by
10 this State or by any municipal corporation or political
11 subdivision thereof.

12 (d) Additional Personal Property Tax Replacement Income
13 Tax Rates. The personal property tax replacement income tax
14 imposed by this subsection and subsection (c) of this Section
15 in the case of a corporation, other than a Subchapter S
16 corporation and except as adjusted by subsection (d-1), shall
17 be an additional amount equal to 2.85% of such taxpayer's net
18 income for the taxable year, except that beginning on January
19 1, 1981, and thereafter, the rate of 2.85% specified in this
20 subsection shall be reduced to 2.5%, and in the case of a
21 partnership, trust or a Subchapter S corporation shall be an
22 additional amount equal to 1.5% of such taxpayer's net income
23 for the taxable year.

24 (d-1) Rate reduction for certain foreign insurers. In the
25 case of a foreign insurer, as defined by Section 35A-5 of the
26 Illinois Insurance Code, whose state or country of domicile

1 imposes on insurers domiciled in Illinois a retaliatory tax
2 (excluding any insurer whose premiums from reinsurance assumed
3 are 50% or more of its total insurance premiums as determined
4 under paragraph (2) of subsection (b) of Section 304, except
5 that for purposes of this determination premiums from
6 reinsurance do not include premiums from inter-affiliate
7 reinsurance arrangements), beginning with taxable years ending
8 on or after December 31, 1999, the sum of the rates of tax
9 imposed by subsections (b) and (d) shall be reduced (but not
10 increased) to the rate at which the total amount of tax imposed
11 under this Act, net of all credits allowed under this Act,
12 shall equal (i) the total amount of tax that would be imposed
13 on the foreign insurer's net income allocable to Illinois for
14 the taxable year by such foreign insurer's state or country of
15 domicile if that net income were subject to all income taxes
16 and taxes measured by net income imposed by such foreign
17 insurer's state or country of domicile, net of all credits
18 allowed or (ii) a rate of zero if no such tax is imposed on such
19 income by the foreign insurer's state of domicile. For the
20 purposes of this subsection (d-1), an inter-affiliate includes
21 a mutual insurer under common management.

22 (1) For the purposes of subsection (d-1), in no event
23 shall the sum of the rates of tax imposed by subsections
24 (b) and (d) be reduced below the rate at which the sum of:

25 (A) the total amount of tax imposed on such foreign
26 insurer under this Act for a taxable year, net of all

1 credits allowed under this Act, plus

2 (B) the privilege tax imposed by Section 409 of the
3 Illinois Insurance Code, the fire insurance company
4 tax imposed by Section 12 of the Fire Investigation
5 Act, and the fire department taxes imposed under
6 Section 11-10-1 of the Illinois Municipal Code,
7 equals 1.25% for taxable years ending prior to December 31,
8 2003, or 1.75% for taxable years ending on or after
9 December 31, 2003, of the net taxable premiums written for
10 the taxable year, as described by subsection (1) of Section
11 409 of the Illinois Insurance Code. This paragraph will in
12 no event increase the rates imposed under subsections (b)
13 and (d).

14 (2) Any reduction in the rates of tax imposed by this
15 subsection shall be applied first against the rates imposed
16 by subsection (b) and only after the tax imposed by
17 subsection (a) net of all credits allowed under this
18 Section other than the credit allowed under subsection (i)
19 has been reduced to zero, against the rates imposed by
20 subsection (d).

21 This subsection (d-1) is exempt from the provisions of
22 Section 250.

23 (e) Investment credit. A taxpayer shall be allowed a credit
24 against the Personal Property Tax Replacement Income Tax for
25 investment in qualified property.

26 (1) A taxpayer shall be allowed a credit equal to .5%

1 of the basis of qualified property placed in service during
2 the taxable year, provided such property is placed in
3 service on or after July 1, 1984. There shall be allowed an
4 additional credit equal to .5% of the basis of qualified
5 property placed in service during the taxable year,
6 provided such property is placed in service on or after
7 July 1, 1986, and the taxpayer's base employment within
8 Illinois has increased by 1% or more over the preceding
9 year as determined by the taxpayer's employment records
10 filed with the Illinois Department of Employment Security.
11 Taxpayers who are new to Illinois shall be deemed to have
12 met the 1% growth in base employment for the first year in
13 which they file employment records with the Illinois
14 Department of Employment Security. The provisions added to
15 this Section by Public Act 85-1200 (and restored by Public
16 Act 87-895) shall be construed as declaratory of existing
17 law and not as a new enactment. If, in any year, the
18 increase in base employment within Illinois over the
19 preceding year is less than 1%, the additional credit shall
20 be limited to that percentage times a fraction, the
21 numerator of which is .5% and the denominator of which is
22 1%, but shall not exceed .5%. The investment credit shall
23 not be allowed to the extent that it would reduce a
24 taxpayer's liability in any tax year below zero, nor may
25 any credit for qualified property be allowed for any year
26 other than the year in which the property was placed in

1 service in Illinois. For tax years ending on or after
2 December 31, 1987, and on or before December 31, 1988, the
3 credit shall be allowed for the tax year in which the
4 property is placed in service, or, if the amount of the
5 credit exceeds the tax liability for that year, whether it
6 exceeds the original liability or the liability as later
7 amended, such excess may be carried forward and applied to
8 the tax liability of the 5 taxable years following the
9 excess credit years if the taxpayer (i) makes investments
10 which cause the creation of a minimum of 2,000 full-time
11 equivalent jobs in Illinois, (ii) is located in an
12 enterprise zone established pursuant to the Illinois
13 Enterprise Zone Act and (iii) is certified by the
14 Department of Commerce and Community Affairs (now
15 Department of Commerce and Economic Opportunity) as
16 complying with the requirements specified in clause (i) and
17 (ii) by July 1, 1986. The Department of Commerce and
18 Community Affairs (now Department of Commerce and Economic
19 Opportunity) shall notify the Department of Revenue of all
20 such certifications immediately. For tax years ending
21 after December 31, 1988, the credit shall be allowed for
22 the tax year in which the property is placed in service,
23 or, if the amount of the credit exceeds the tax liability
24 for that year, whether it exceeds the original liability or
25 the liability as later amended, such excess may be carried
26 forward and applied to the tax liability of the 5 taxable

1 years following the excess credit years. The credit shall
2 be applied to the earliest year for which there is a
3 liability. If there is credit from more than one tax year
4 that is available to offset a liability, earlier credit
5 shall be applied first.

6 (2) The term "qualified property" means property
7 which:

8 (A) is tangible, whether new or used, including
9 buildings and structural components of buildings and
10 signs that are real property, but not including land or
11 improvements to real property that are not a structural
12 component of a building such as landscaping, sewer
13 lines, local access roads, fencing, parking lots, and
14 other appurtenances;

15 (B) is depreciable pursuant to Section 167 of the
16 Internal Revenue Code, except that "3-year property"
17 as defined in Section 168(c)(2)(A) of that Code is not
18 eligible for the credit provided by this subsection
19 (e);

20 (C) is acquired by purchase as defined in Section
21 179(d) of the Internal Revenue Code;

22 (D) is used in Illinois by a taxpayer who is
23 primarily engaged in manufacturing, or in mining coal
24 or fluorite, or in retailing, or was placed in service
25 on or after July 1, 2006 in a River Edge Redevelopment
26 Zone established pursuant to the River Edge

1 Redevelopment Zone Act; and

2 (E) has not previously been used in Illinois in
3 such a manner and by such a person as would qualify for
4 the credit provided by this subsection (e) or
5 subsection (f).

6 (3) For purposes of this subsection (e),
7 "manufacturing" means the material staging and production
8 of tangible personal property by procedures commonly
9 regarded as manufacturing, processing, fabrication, or
10 assembling which changes some existing material into new
11 shapes, new qualities, or new combinations. For purposes of
12 this subsection (e) the term "mining" shall have the same
13 meaning as the term "mining" in Section 613(c) of the
14 Internal Revenue Code. For purposes of this subsection (e),
15 the term "retailing" means the sale of tangible personal
16 property for use or consumption and not for resale, or
17 services rendered in conjunction with the sale of tangible
18 personal property for use or consumption and not for
19 resale. For purposes of this subsection (e), "tangible
20 personal property" has the same meaning as when that term
21 is used in the Retailers' Occupation Tax Act, and, for
22 taxable years ending after December 31, 2008, does not
23 include the generation, transmission, or distribution of
24 electricity.

25 (4) The basis of qualified property shall be the basis
26 used to compute the depreciation deduction for federal

1 income tax purposes.

2 (5) If the basis of the property for federal income tax
3 depreciation purposes is increased after it has been placed
4 in service in Illinois by the taxpayer, the amount of such
5 increase shall be deemed property placed in service on the
6 date of such increase in basis.

7 (6) The term "placed in service" shall have the same
8 meaning as under Section 46 of the Internal Revenue Code.

9 (7) If during any taxable year, any property ceases to
10 be qualified property in the hands of the taxpayer within
11 48 months after being placed in service, or the situs of
12 any qualified property is moved outside Illinois within 48
13 months after being placed in service, the Personal Property
14 Tax Replacement Income Tax for such taxable year shall be
15 increased. Such increase shall be determined by (i)
16 recomputing the investment credit which would have been
17 allowed for the year in which credit for such property was
18 originally allowed by eliminating such property from such
19 computation and, (ii) subtracting such recomputed credit
20 from the amount of credit previously allowed. For the
21 purposes of this paragraph (7), a reduction of the basis of
22 qualified property resulting from a redetermination of the
23 purchase price shall be deemed a disposition of qualified
24 property to the extent of such reduction.

25 (8) Unless the investment credit is extended by law,
26 the basis of qualified property shall not include costs

1 incurred after December 31, 2013, except for costs incurred
2 pursuant to a binding contract entered into on or before
3 December 31, 2013.

4 (9) Each taxable year ending before December 31, 2000,
5 a partnership may elect to pass through to its partners the
6 credits to which the partnership is entitled under this
7 subsection (e) for the taxable year. A partner may use the
8 credit allocated to him or her under this paragraph only
9 against the tax imposed in subsections (c) and (d) of this
10 Section. If the partnership makes that election, those
11 credits shall be allocated among the partners in the
12 partnership in accordance with the rules set forth in
13 Section 704(b) of the Internal Revenue Code, and the rules
14 promulgated under that Section, and the allocated amount of
15 the credits shall be allowed to the partners for that
16 taxable year. The partnership shall make this election on
17 its Personal Property Tax Replacement Income Tax return for
18 that taxable year. The election to pass through the credits
19 shall be irrevocable.

20 For taxable years ending on or after December 31, 2000,
21 a partner that qualifies its partnership for a subtraction
22 under subparagraph (I) of paragraph (2) of subsection (d)
23 of Section 203 or a shareholder that qualifies a Subchapter
24 S corporation for a subtraction under subparagraph (S) of
25 paragraph (2) of subsection (b) of Section 203 shall be
26 allowed a credit under this subsection (e) equal to its

1 share of the credit earned under this subsection (e) during
2 the taxable year by the partnership or Subchapter S
3 corporation, determined in accordance with the
4 determination of income and distributive share of income
5 under Sections 702 and 704 and Subchapter S of the Internal
6 Revenue Code. This paragraph is exempt from the provisions
7 of Section 250.

8 (f) Investment credit; Enterprise Zone; River Edge
9 Redevelopment Zone.

10 (1) A taxpayer shall be allowed a credit against the
11 tax imposed by subsections (a) and (b) of this Section for
12 investment in qualified property which is placed in service
13 in an Enterprise Zone created pursuant to the Illinois
14 Enterprise Zone Act or, for property placed in service on
15 or after July 1, 2006, a River Edge Redevelopment Zone
16 established pursuant to the River Edge Redevelopment Zone
17 Act. For partners, shareholders of Subchapter S
18 corporations, and owners of limited liability companies,
19 if the liability company is treated as a partnership for
20 purposes of federal and State income taxation, there shall
21 be allowed a credit under this subsection (f) to be
22 determined in accordance with the determination of income
23 and distributive share of income under Sections 702 and 704
24 and Subchapter S of the Internal Revenue Code. The credit
25 shall be .5% of the basis for such property. The credit
26 shall be available only in the taxable year in which the

1 property is placed in service in the Enterprise Zone or
2 River Edge Redevelopment Zone and shall not be allowed to
3 the extent that it would reduce a taxpayer's liability for
4 the tax imposed by subsections (a) and (b) of this Section
5 to below zero. For tax years ending on or after December
6 31, 1985, the credit shall be allowed for the tax year in
7 which the property is placed in service, or, if the amount
8 of the credit exceeds the tax liability for that year,
9 whether it exceeds the original liability or the liability
10 as later amended, such excess may be carried forward and
11 applied to the tax liability of the 5 taxable years
12 following the excess credit year. The credit shall be
13 applied to the earliest year for which there is a
14 liability. If there is credit from more than one tax year
15 that is available to offset a liability, the credit
16 accruing first in time shall be applied first.

17 (2) The term qualified property means property which:

18 (A) is tangible, whether new or used, including
19 buildings and structural components of buildings;

20 (B) is depreciable pursuant to Section 167 of the
21 Internal Revenue Code, except that "3-year property"
22 as defined in Section 168(c) (2) (A) of that Code is not
23 eligible for the credit provided by this subsection
24 (f);

25 (C) is acquired by purchase as defined in Section
26 179(d) of the Internal Revenue Code;

1 (D) is used in the Enterprise Zone or River Edge
2 Redevelopment Zone by the taxpayer; and

3 (E) has not been previously used in Illinois in
4 such a manner and by such a person as would qualify for
5 the credit provided by this subsection (f) or
6 subsection (e).

7 (3) The basis of qualified property shall be the basis
8 used to compute the depreciation deduction for federal
9 income tax purposes.

10 (4) If the basis of the property for federal income tax
11 depreciation purposes is increased after it has been placed
12 in service in the Enterprise Zone or River Edge
13 Redevelopment Zone by the taxpayer, the amount of such
14 increase shall be deemed property placed in service on the
15 date of such increase in basis.

16 (5) The term "placed in service" shall have the same
17 meaning as under Section 46 of the Internal Revenue Code.

18 (6) If during any taxable year, any property ceases to
19 be qualified property in the hands of the taxpayer within
20 48 months after being placed in service, or the situs of
21 any qualified property is moved outside the Enterprise Zone
22 or River Edge Redevelopment Zone within 48 months after
23 being placed in service, the tax imposed under subsections
24 (a) and (b) of this Section for such taxable year shall be
25 increased. Such increase shall be determined by (i)
26 recomputing the investment credit which would have been

1 allowed for the year in which credit for such property was
2 originally allowed by eliminating such property from such
3 computation, and (ii) subtracting such recomputed credit
4 from the amount of credit previously allowed. For the
5 purposes of this paragraph (6), a reduction of the basis of
6 qualified property resulting from a redetermination of the
7 purchase price shall be deemed a disposition of qualified
8 property to the extent of such reduction.

9 (7) There shall be allowed an additional credit equal
10 to 0.5% of the basis of qualified property placed in
11 service during the taxable year in a River Edge
12 Redevelopment Zone, provided such property is placed in
13 service on or after July 1, 2006, and the taxpayer's base
14 employment within Illinois has increased by 1% or more over
15 the preceding year as determined by the taxpayer's
16 employment records filed with the Illinois Department of
17 Employment Security. Taxpayers who are new to Illinois
18 shall be deemed to have met the 1% growth in base
19 employment for the first year in which they file employment
20 records with the Illinois Department of Employment
21 Security. If, in any year, the increase in base employment
22 within Illinois over the preceding year is less than 1%,
23 the additional credit shall be limited to that percentage
24 times a fraction, the numerator of which is 0.5% and the
25 denominator of which is 1%, but shall not exceed 0.5%.

26 (g) Jobs Tax Credit; Enterprise Zone, River Edge

1 Redevelopment Zone, and Foreign Trade Zone or Sub-Zone.

2 (1) A taxpayer conducting a trade or business in an
3 enterprise zone or a High Impact Business designated by the
4 Department of Commerce and Economic Opportunity or for
5 taxable years ending on or after December 31, 2006, in a
6 River Edge Redevelopment Zone conducting a trade or
7 business in a federally designated Foreign Trade Zone or
8 Sub-Zone shall be allowed a credit against the tax imposed
9 by subsections (a) and (b) of this Section in the amount of
10 \$500 per eligible employee hired to work in the zone during
11 the taxable year.

12 (2) To qualify for the credit:

13 (A) the taxpayer must hire 5 or more eligible
14 employees to work in an enterprise zone, River Edge
15 Redevelopment Zone, or federally designated Foreign
16 Trade Zone or Sub-Zone during the taxable year;

17 (B) the taxpayer's total employment within the
18 enterprise zone, River Edge Redevelopment Zone, or
19 federally designated Foreign Trade Zone or Sub-Zone
20 must increase by 5 or more full-time employees beyond
21 the total employed in that zone at the end of the
22 previous tax year for which a jobs tax credit under
23 this Section was taken, or beyond the total employed by
24 the taxpayer as of December 31, 1985, whichever is
25 later; and

26 (C) the eligible employees must be employed 180

1 consecutive days in order to be deemed hired for
2 purposes of this subsection.

3 (3) An "eligible employee" means an employee who is:

4 (A) Certified by the Department of Commerce and
5 Economic Opportunity as "eligible for services"
6 pursuant to regulations promulgated in accordance with
7 Title II of the Job Training Partnership Act, Training
8 Services for the Disadvantaged or Title III of the Job
9 Training Partnership Act, Employment and Training
10 Assistance for Dislocated Workers Program.

11 (B) Hired after the enterprise zone, River Edge
12 Redevelopment Zone, or federally designated Foreign
13 Trade Zone or Sub-Zone was designated or the trade or
14 business was located in that zone, whichever is later.

15 (C) Employed in the enterprise zone, River Edge
16 Redevelopment Zone, or Foreign Trade Zone or Sub-Zone.
17 An employee is employed in an enterprise zone or
18 federally designated Foreign Trade Zone or Sub-Zone if
19 his services are rendered there or it is the base of
20 operations for the services performed.

21 (D) A full-time employee working 30 or more hours
22 per week.

23 (4) For tax years ending on or after December 31, 1985
24 and prior to December 31, 1988, the credit shall be allowed
25 for the tax year in which the eligible employees are hired.
26 For tax years ending on or after December 31, 1988, the

1 credit shall be allowed for the tax year immediately
2 following the tax year in which the eligible employees are
3 hired. If the amount of the credit exceeds the tax
4 liability for that year, whether it exceeds the original
5 liability or the liability as later amended, such excess
6 may be carried forward and applied to the tax liability of
7 the 5 taxable years following the excess credit year. The
8 credit shall be applied to the earliest year for which
9 there is a liability. If there is credit from more than one
10 tax year that is available to offset a liability, earlier
11 credit shall be applied first.

12 (5) The Department of Revenue shall promulgate such
13 rules and regulations as may be deemed necessary to carry
14 out the purposes of this subsection (g).

15 (6) The credit shall be available for eligible
16 employees hired on or after January 1, 1986.

17 (h) Investment credit; High Impact Business.

18 (1) Subject to subsections (b) and (b-5) of Section 5.5
19 of the Illinois Enterprise Zone Act, a taxpayer shall be
20 allowed a credit against the tax imposed by subsections (a)
21 and (b) of this Section for investment in qualified
22 property which is placed in service by a Department of
23 Commerce and Economic Opportunity designated High Impact
24 Business. The credit shall be .5% of the basis for such
25 property. The credit shall not be available (i) until the
26 minimum investments in qualified property set forth in

1 subdivision (a)(3)(A) of Section 5.5 of the Illinois
2 Enterprise Zone Act have been satisfied or (ii) until the
3 time authorized in subsection (b-5) of the Illinois
4 Enterprise Zone Act for entities designated as High Impact
5 Businesses under subdivisions (a)(3)(B), (a)(3)(C), and
6 (a)(3)(D) of Section 5.5 of the Illinois Enterprise Zone
7 Act, and shall not be allowed to the extent that it would
8 reduce a taxpayer's liability for the tax imposed by
9 subsections (a) and (b) of this Section to below zero. The
10 credit applicable to such investments shall be taken in the
11 taxable year in which such investments have been completed.
12 The credit for additional investments beyond the minimum
13 investment by a designated high impact business authorized
14 under subdivision (a)(3)(A) of Section 5.5 of the Illinois
15 Enterprise Zone Act shall be available only in the taxable
16 year in which the property is placed in service and shall
17 not be allowed to the extent that it would reduce a
18 taxpayer's liability for the tax imposed by subsections (a)
19 and (b) of this Section to below zero. For tax years ending
20 on or after December 31, 1987, the credit shall be allowed
21 for the tax year in which the property is placed in
22 service, or, if the amount of the credit exceeds the tax
23 liability for that year, whether it exceeds the original
24 liability or the liability as later amended, such excess
25 may be carried forward and applied to the tax liability of
26 the 5 taxable years following the excess credit year. The

1 credit shall be applied to the earliest year for which
2 there is a liability. If there is credit from more than one
3 tax year that is available to offset a liability, the
4 credit accruing first in time shall be applied first.

5 Changes made in this subdivision (h) (1) by Public Act
6 88-670 restore changes made by Public Act 85-1182 and
7 reflect existing law.

8 (2) The term qualified property means property which:

9 (A) is tangible, whether new or used, including
10 buildings and structural components of buildings;

11 (B) is depreciable pursuant to Section 167 of the
12 Internal Revenue Code, except that "3-year property"
13 as defined in Section 168(c) (2) (A) of that Code is not
14 eligible for the credit provided by this subsection
15 (h);

16 (C) is acquired by purchase as defined in Section
17 179(d) of the Internal Revenue Code; and

18 (D) is not eligible for the Enterprise Zone
19 Investment Credit provided by subsection (f) of this
20 Section.

21 (3) The basis of qualified property shall be the basis
22 used to compute the depreciation deduction for federal
23 income tax purposes.

24 (4) If the basis of the property for federal income tax
25 depreciation purposes is increased after it has been placed
26 in service in a federally designated Foreign Trade Zone or

1 Sub-Zone located in Illinois by the taxpayer, the amount of
2 such increase shall be deemed property placed in service on
3 the date of such increase in basis.

4 (5) The term "placed in service" shall have the same
5 meaning as under Section 46 of the Internal Revenue Code.

6 (6) If during any taxable year ending on or before
7 December 31, 1996, any property ceases to be qualified
8 property in the hands of the taxpayer within 48 months
9 after being placed in service, or the situs of any
10 qualified property is moved outside Illinois within 48
11 months after being placed in service, the tax imposed under
12 subsections (a) and (b) of this Section for such taxable
13 year shall be increased. Such increase shall be determined
14 by (i) recomputing the investment credit which would have
15 been allowed for the year in which credit for such property
16 was originally allowed by eliminating such property from
17 such computation, and (ii) subtracting such recomputed
18 credit from the amount of credit previously allowed. For
19 the purposes of this paragraph (6), a reduction of the
20 basis of qualified property resulting from a
21 redetermination of the purchase price shall be deemed a
22 disposition of qualified property to the extent of such
23 reduction.

24 (7) Beginning with tax years ending after December 31,
25 1996, if a taxpayer qualifies for the credit under this
26 subsection (h) and thereby is granted a tax abatement and

1 the taxpayer relocates its entire facility in violation of
2 the explicit terms and length of the contract under Section
3 18-183 of the Property Tax Code, the tax imposed under
4 subsections (a) and (b) of this Section shall be increased
5 for the taxable year in which the taxpayer relocated its
6 facility by an amount equal to the amount of credit
7 received by the taxpayer under this subsection (h).

8 (i) Credit for Personal Property Tax Replacement Income
9 Tax. For tax years ending prior to December 31, 2003, a credit
10 shall be allowed against the tax imposed by subsections (a) and
11 (b) of this Section for the tax imposed by subsections (c) and
12 (d) of this Section. This credit shall be computed by
13 multiplying the tax imposed by subsections (c) and (d) of this
14 Section by a fraction, the numerator of which is base income
15 allocable to Illinois and the denominator of which is Illinois
16 base income, and further multiplying the product by the tax
17 rate imposed by subsections (a) and (b) of this Section.

18 Any credit earned on or after December 31, 1986 under this
19 subsection which is unused in the year the credit is computed
20 because it exceeds the tax liability imposed by subsections (a)
21 and (b) for that year (whether it exceeds the original
22 liability or the liability as later amended) may be carried
23 forward and applied to the tax liability imposed by subsections
24 (a) and (b) of the 5 taxable years following the excess credit
25 year, provided that no credit may be carried forward to any
26 year ending on or after December 31, 2003. This credit shall be

1 applied first to the earliest year for which there is a
2 liability. If there is a credit under this subsection from more
3 than one tax year that is available to offset a liability the
4 earliest credit arising under this subsection shall be applied
5 first.

6 If, during any taxable year ending on or after December 31,
7 1986, the tax imposed by subsections (c) and (d) of this
8 Section for which a taxpayer has claimed a credit under this
9 subsection (i) is reduced, the amount of credit for such tax
10 shall also be reduced. Such reduction shall be determined by
11 recomputing the credit to take into account the reduced tax
12 imposed by subsections (c) and (d). If any portion of the
13 reduced amount of credit has been carried to a different
14 taxable year, an amended return shall be filed for such taxable
15 year to reduce the amount of credit claimed.

16 (j) Training expense credit. Beginning with tax years
17 ending on or after December 31, 1986 and prior to December 31,
18 2003, a taxpayer shall be allowed a credit against the tax
19 imposed by subsections (a) and (b) under this Section for all
20 amounts paid or accrued, on behalf of all persons employed by
21 the taxpayer in Illinois or Illinois residents employed outside
22 of Illinois by a taxpayer, for educational or vocational
23 training in semi-technical or technical fields or semi-skilled
24 or skilled fields, which were deducted from gross income in the
25 computation of taxable income. The credit against the tax
26 imposed by subsections (a) and (b) shall be 1.6% of such

1 training expenses. For partners, shareholders of subchapter S
2 corporations, and owners of limited liability companies, if the
3 liability company is treated as a partnership for purposes of
4 federal and State income taxation, there shall be allowed a
5 credit under this subsection (j) to be determined in accordance
6 with the determination of income and distributive share of
7 income under Sections 702 and 704 and subchapter S of the
8 Internal Revenue Code.

9 Any credit allowed under this subsection which is unused in
10 the year the credit is earned may be carried forward to each of
11 the 5 taxable years following the year for which the credit is
12 first computed until it is used. This credit shall be applied
13 first to the earliest year for which there is a liability. If
14 there is a credit under this subsection from more than one tax
15 year that is available to offset a liability the earliest
16 credit arising under this subsection shall be applied first. No
17 carryforward credit may be claimed in any tax year ending on or
18 after December 31, 2003.

19 (k) Research and development credit.

20 For tax years ending after July 1, 1990 and prior to
21 December 31, 2003, and beginning again for tax years ending on
22 or after December 31, 2004, and ending prior to January 1,
23 2011, a taxpayer shall be allowed a credit against the tax
24 imposed by subsections (a) and (b) of this Section for
25 increasing research activities in this State. The credit
26 allowed against the tax imposed by subsections (a) and (b)

1 shall be equal to 6 1/2% of the qualifying expenditures for
2 increasing research activities in this State. For partners,
3 shareholders of subchapter S corporations, and owners of
4 limited liability companies, if the liability company is
5 treated as a partnership for purposes of federal and State
6 income taxation, there shall be allowed a credit under this
7 subsection to be determined in accordance with the
8 determination of income and distributive share of income under
9 Sections 702 and 704 and subchapter S of the Internal Revenue
10 Code.

11 For purposes of this subsection, "qualifying expenditures"
12 means the qualifying expenditures as defined for the federal
13 credit for increasing research activities which would be
14 allowable under Section 41 of the Internal Revenue Code and
15 which are conducted in this State, "qualifying expenditures for
16 increasing research activities in this State" means the excess
17 of qualifying expenditures for the taxable year in which
18 incurred over qualifying expenditures for the base period,
19 "qualifying expenditures for the base period" means the average
20 of the qualifying expenditures for each year in the base
21 period, and "base period" means the 3 taxable years immediately
22 preceding the taxable year for which the determination is being
23 made.

24 Any credit in excess of the tax liability for the taxable
25 year may be carried forward. A taxpayer may elect to have the
26 unused credit shown on its final completed return carried over

1 as a credit against the tax liability for the following 5
2 taxable years or until it has been fully used, whichever occurs
3 first; provided that no credit earned in a tax year ending
4 prior to December 31, 2003 may be carried forward to any year
5 ending on or after December 31, 2003, and no credit may be
6 carried forward to any taxable year ending on or after January
7 1, 2011.

8 If an unused credit is carried forward to a given year from
9 2 or more earlier years, that credit arising in the earliest
10 year will be applied first against the tax liability for the
11 given year. If a tax liability for the given year still
12 remains, the credit from the next earliest year will then be
13 applied, and so on, until all credits have been used or no tax
14 liability for the given year remains. Any remaining unused
15 credit or credits then will be carried forward to the next
16 following year in which a tax liability is incurred, except
17 that no credit can be carried forward to a year which is more
18 than 5 years after the year in which the expense for which the
19 credit is given was incurred.

20 No inference shall be drawn from this amendatory Act of the
21 91st General Assembly in construing this Section for taxable
22 years beginning before January 1, 1999.

23 (1) Environmental Remediation Tax Credit.

24 (i) For tax years ending after December 31, 1997 and on
25 or before December 31, 2001, a taxpayer shall be allowed a
26 credit against the tax imposed by subsections (a) and (b)

1 of this Section for certain amounts paid for unreimbursed
2 eligible remediation costs, as specified in this
3 subsection. For purposes of this Section, "unreimbursed
4 eligible remediation costs" means costs approved by the
5 Illinois Environmental Protection Agency ("Agency") under
6 Section 58.14 of the Environmental Protection Act that were
7 paid in performing environmental remediation at a site for
8 which a No Further Remediation Letter was issued by the
9 Agency and recorded under Section 58.10 of the
10 Environmental Protection Act. The credit must be claimed
11 for the taxable year in which Agency approval of the
12 eligible remediation costs is granted. The credit is not
13 available to any taxpayer if the taxpayer or any related
14 party caused or contributed to, in any material respect, a
15 release of regulated substances on, in, or under the site
16 that was identified and addressed by the remedial action
17 pursuant to the Site Remediation Program of the
18 Environmental Protection Act. After the Pollution Control
19 Board rules are adopted pursuant to the Illinois
20 Administrative Procedure Act for the administration and
21 enforcement of Section 58.9 of the Environmental
22 Protection Act, determinations as to credit availability
23 for purposes of this Section shall be made consistent with
24 those rules. For purposes of this Section, "taxpayer"
25 includes a person whose tax attributes the taxpayer has
26 succeeded to under Section 381 of the Internal Revenue Code

1 and "related party" includes the persons disallowed a
2 deduction for losses by paragraphs (b), (c), and (f)(1) of
3 Section 267 of the Internal Revenue Code by virtue of being
4 a related taxpayer, as well as any of its partners. The
5 credit allowed against the tax imposed by subsections (a)
6 and (b) shall be equal to 25% of the unreimbursed eligible
7 remediation costs in excess of \$100,000 per site, except
8 that the \$100,000 threshold shall not apply to any site
9 contained in an enterprise zone as determined by the
10 Department of Commerce and Community Affairs (now
11 Department of Commerce and Economic Opportunity). The
12 total credit allowed shall not exceed \$40,000 per year with
13 a maximum total of \$150,000 per site. For partners and
14 shareholders of subchapter S corporations, there shall be
15 allowed a credit under this subsection to be determined in
16 accordance with the determination of income and
17 distributive share of income under Sections 702 and 704 and
18 subchapter S of the Internal Revenue Code.

19 (ii) A credit allowed under this subsection that is
20 unused in the year the credit is earned may be carried
21 forward to each of the 5 taxable years following the year
22 for which the credit is first earned until it is used. The
23 term "unused credit" does not include any amounts of
24 unreimbursed eligible remediation costs in excess of the
25 maximum credit per site authorized under paragraph (i).
26 This credit shall be applied first to the earliest year for

1 which there is a liability. If there is a credit under this
2 subsection from more than one tax year that is available to
3 offset a liability, the earliest credit arising under this
4 subsection shall be applied first. A credit allowed under
5 this subsection may be sold to a buyer as part of a sale of
6 all or part of the remediation site for which the credit
7 was granted. The purchaser of a remediation site and the
8 tax credit shall succeed to the unused credit and remaining
9 carry-forward period of the seller. To perfect the
10 transfer, the assignor shall record the transfer in the
11 chain of title for the site and provide written notice to
12 the Director of the Illinois Department of Revenue of the
13 assignor's intent to sell the remediation site and the
14 amount of the tax credit to be transferred as a portion of
15 the sale. In no event may a credit be transferred to any
16 taxpayer if the taxpayer or a related party would not be
17 eligible under the provisions of subsection (i).

18 (iii) For purposes of this Section, the term "site"
19 shall have the same meaning as under Section 58.2 of the
20 Environmental Protection Act.

21 (m) Education expense credit. Beginning with tax years
22 ending after December 31, 1999, a taxpayer who is the custodian
23 of one or more qualifying pupils shall be allowed a credit
24 against the tax imposed by subsections (a) and (b) of this
25 Section for qualified education expenses incurred on behalf of
26 the qualifying pupils. The credit shall be equal to 25% of

1 qualified education expenses, but in no event may the total
2 credit under this subsection claimed by a family that is the
3 custodian of qualifying pupils exceed \$500. In no event shall a
4 credit under this subsection reduce the taxpayer's liability
5 under this Act to less than zero. This subsection is exempt
6 from the provisions of Section 250 of this Act.

7 For purposes of this subsection:

8 "Qualifying pupils" means individuals who (i) are
9 residents of the State of Illinois, (ii) are under the age of
10 21 at the close of the school year for which a credit is
11 sought, and (iii) during the school year for which a credit is
12 sought were full-time pupils enrolled in a kindergarten through
13 twelfth grade education program at any school, as defined in
14 this subsection.

15 "Qualified education expense" means the amount incurred on
16 behalf of a qualifying pupil in excess of \$250 for tuition,
17 book fees, and lab fees at the school in which the pupil is
18 enrolled during the regular school year.

19 "School" means any public or nonpublic elementary or
20 secondary school in Illinois that is in compliance with Title
21 VI of the Civil Rights Act of 1964 and attendance at which
22 satisfies the requirements of Section 26-1 of the School Code,
23 except that nothing shall be construed to require a child to
24 attend any particular public or nonpublic school to qualify for
25 the credit under this Section.

26 "Custodian" means, with respect to qualifying pupils, an

1 Illinois resident who is a parent, the parents, a legal
2 guardian, or the legal guardians of the qualifying pupils.

3 (n) River Edge Redevelopment Zone site remediation tax
4 credit.

5 (i) For tax years ending on or after December 31, 2006,
6 a taxpayer shall be allowed a credit against the tax
7 imposed by subsections (a) and (b) of this Section for
8 certain amounts paid for unreimbursed eligible remediation
9 costs, as specified in this subsection. For purposes of
10 this Section, "unreimbursed eligible remediation costs"
11 means costs approved by the Illinois Environmental
12 Protection Agency ("Agency") under Section 58.14a of the
13 Environmental Protection Act that were paid in performing
14 environmental remediation at a site within a River Edge
15 Redevelopment Zone for which a No Further Remediation
16 Letter was issued by the Agency and recorded under Section
17 58.10 of the Environmental Protection Act. The credit must
18 be claimed for the taxable year in which Agency approval of
19 the eligible remediation costs is granted. The credit is
20 not available to any taxpayer if the taxpayer or any
21 related party caused or contributed to, in any material
22 respect, a release of regulated substances on, in, or under
23 the site that was identified and addressed by the remedial
24 action pursuant to the Site Remediation Program of the
25 Environmental Protection Act. Determinations as to credit
26 availability for purposes of this Section shall be made

1 consistent with rules adopted by the Pollution Control
2 Board pursuant to the Illinois Administrative Procedure
3 Act for the administration and enforcement of Section 58.9
4 of the Environmental Protection Act. For purposes of this
5 Section, "taxpayer" includes a person whose tax attributes
6 the taxpayer has succeeded to under Section 381 of the
7 Internal Revenue Code and "related party" includes the
8 persons disallowed a deduction for losses by paragraphs
9 (b), (c), and (f) (1) of Section 267 of the Internal Revenue
10 Code by virtue of being a related taxpayer, as well as any
11 of its partners. The credit allowed against the tax imposed
12 by subsections (a) and (b) shall be equal to 25% of the
13 unreimbursed eligible remediation costs in excess of
14 \$100,000 per site.

15 (ii) A credit allowed under this subsection that is
16 unused in the year the credit is earned may be carried
17 forward to each of the 5 taxable years following the year
18 for which the credit is first earned until it is used. This
19 credit shall be applied first to the earliest year for
20 which there is a liability. If there is a credit under this
21 subsection from more than one tax year that is available to
22 offset a liability, the earliest credit arising under this
23 subsection shall be applied first. A credit allowed under
24 this subsection may be sold to a buyer as part of a sale of
25 all or part of the remediation site for which the credit
26 was granted. The purchaser of a remediation site and the

1 tax credit shall succeed to the unused credit and remaining
2 carry-forward period of the seller. To perfect the
3 transfer, the assignor shall record the transfer in the
4 chain of title for the site and provide written notice to
5 the Director of the Illinois Department of Revenue of the
6 assignor's intent to sell the remediation site and the
7 amount of the tax credit to be transferred as a portion of
8 the sale. In no event may a credit be transferred to any
9 taxpayer if the taxpayer or a related party would not be
10 eligible under the provisions of subsection (i).

11 (iii) For purposes of this Section, the term "site"
12 shall have the same meaning as under Section 58.2 of the
13 Environmental Protection Act.

14 (iv) This subsection is exempt from the provisions of
15 Section 250.

16 (Source: P.A. 95-454, eff. 8-27-07; 96-115, eff. 7-31-09;
17 96-116, eff. 7-31-09; 96-937, eff. 6-23-10; 96-1000, eff.
18 7-2-10.)