

# SB1231



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB1231

Introduced 2/8/2011, by Sen. John O. Jones

#### SYNOPSIS AS INTRODUCED:

35 ILCS 10/5-15

Amends the Economic Development for a Growing Economy Tax Credit Act. Provides that certain taxpayers that are primarily engaged in the manufacture of inner tubes or tires, or both, from natural and synthetic rubber may elect to claim the EDGE Credit against their withholding tax obligations. Effective immediately.

LRB097 07212 HLH 47319 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 (iv) is in  
2 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, (ii) employed a minimum of 1,000  
7 full-time employees in this State during the taxable  
8 year in which the Credit is awarded, and (iii) has  
9 applied for an Agreement within 365 days after December  
10 14, 2009 (the effective date of Public Act 96-834); or

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

21 (1.5) The election under this subsection (f) may also  
22 be made by a Taxpayer for any Credit awarded pursuant to an  
23 agreement that was executed on or after January 1, 2011, if  
24 the Taxpayer (i) is primarily engaged in the manufacture of  
25 inner tubes or tires, or both, from natural and synthetic  
26 rubber, (ii) employs a minimum of 2,400 full-time employees

1 in Illinois at the time of application, (iii) creates at  
2 least 350 full-time jobs and retains at least 250 full-time  
3 jobs in Illinois that would have been at risk of being  
4 created or retained outside of Illinois, and (iv) makes a  
5 capital investment of at least \$200,000,000 at the project  
6 location.

7 (2) An election under this subsection shall allow the  
8 credit to be taken against payments otherwise due under  
9 Section 704A of the Illinois Income Tax Act during the  
10 first calendar year beginning after the end of the taxable  
11 year in which the credit is awarded under this Act.

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

15 (4) If a Taxpayer who meets the requirements of  
16 subparagraph (A) of paragraph (1) of this subsection (f)  
17 elects to claim the Credit against its withholdings as  
18 provided in this subsection (f), then, on and after the  
19 date of the election, the terms of the Agreement between  
20 the Taxpayer and the Department may not be further amended  
21 during the term of the Agreement.

22 (g) A pass-through entity that has been awarded a credit  
23 under this Act, its shareholders, or its partners may treat  
24 some or all of the credit awarded pursuant to this Act as a tax  
25 payment for purposes of the Illinois Income Tax Act. The term  
26 "tax payment" means a payment as described in Article 6 or

1 Article 8 of the Illinois Income Tax Act or a composite payment  
2 made by a pass-through entity on behalf of any of its  
3 shareholders or partners to satisfy such shareholders' or  
4 partners' taxes imposed pursuant to subsections (a) and (b) of  
5 Section 201 of the Illinois Income Tax Act. In no event shall  
6 the amount of the award credited pursuant to this Act exceed  
7 the Illinois income tax liability of the pass-through entity or  
8 its shareholders or partners for the taxable year.

9 (Source: P.A. 95-375, eff. 8-23-07; 96-834, eff. 12-14-09;  
10 96-836, eff. 12-16-09; 96-905, eff. 6-4-10; 96-1000, eff.  
11 7-2-10.)

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