

SB2974



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB2974

Introduced 2/4/2014, by Sen. Thomas Cullerton

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 business as hardware wholesalers may elect to claim the credit against their withholding tax liability.

LRB098 14479 HLH 49200 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: water purification and
14 treatment, motor vehicle metal stamping, automobile
15 manufacturing, automobile and light duty motor vehicle
16 manufacturing, motor vehicle manufacturing, light truck
17 and utility vehicle manufacturing, heavy duty truck
18 manufacturing, motor vehicle body manufacturing, cable
19 television infrastructure design or manufacturing, or
20 wireless telecommunication or computing terminal device
21 design or manufacturing for use on public networks and (ii)
22 meets the following criteria:

23 (A) the Taxpayer (i) had an Illinois net loss or an
24 Illinois net loss deduction under Section 207 of the
25 Illinois Income Tax Act for the taxable year in which
26 the Credit is awarded, (ii) employed a minimum of 1,000

1 full-time employees in this State during the taxable
2 year in which the Credit is awarded, (iii) has an
3 Agreement under this Act on December 14, 2009 (the
4 effective date of Public Act 96-834), and (iv) is in
5 compliance with all provisions of that Agreement;

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

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 (D) the Taxpayer (i) had an Illinois net operating
25 loss carryforward under Section 207 of the Illinois
26 Income Tax Act in a taxable year ending during calendar

1 year 2009, (ii) has applied for an Agreement within 150
2 days after the effective date of this amendatory Act of
3 the 96th General Assembly, (iii) creates at least 150
4 new jobs, (iv) retains at least 1,000 jobs in Illinois
5 that would have been at risk of relocation out of
6 Illinois over a 10-year period, and (v) makes a capital
7 investment of at least \$57,000,000; or

8 (E) the Taxpayer (i) employed at least 2,500
9 full-time employees in the State during the year in
10 which the Credit is awarded, (ii) commits to make at
11 least \$500,000,000 in combined capital improvements
12 and project costs under the Agreement, (iii) applies
13 for an Agreement between January 1, 2011 and June 30,
14 2011, (iv) executes an Agreement for the Credit during
15 calendar year 2011, and (v) was incorporated no more
16 than 5 years before the filing of an application for an
17 Agreement.

18 (1.5) The election under this subsection (f) may also
19 be made by a Taxpayer for any Credit awarded pursuant to an
20 agreement that was executed between January 1, 2011 and
21 June 30, 2011, if the Taxpayer (i) is primarily engaged in
22 the manufacture of inner tubes or tires, or both, from
23 natural and synthetic rubber, (ii) employs a minimum of
24 2,400 full-time employees in Illinois at the time of
25 application, (iii) creates at least 350 full-time jobs and
26 retains at least 250 full-time jobs in Illinois that would

1 have been at risk of being created or retained outside of
2 Illinois, and (iv) makes a capital investment of at least
3 \$200,000,000 at the project location.

4 (1.6) The election under this subsection (f) may also
5 be made by a Taxpayer for any Credit awarded pursuant to an
6 agreement that was executed within 150 days after the
7 effective date of this amendatory Act of the 97th General
8 Assembly, if the Taxpayer (i) is primarily engaged in the
9 operation of a discount department store, (ii) maintains
10 its corporate headquarters in Illinois, (iii) employs a
11 minimum of 4,250 full-time employees at its corporate
12 headquarters in Illinois at the time of application, (iv)
13 retains at least 4,250 full-time jobs in Illinois that
14 would have been at risk of being relocated outside of
15 Illinois, (v) had a minimum of \$40,000,000,000 in total
16 revenue in 2010, and (vi) makes a capital investment of at
17 least \$300,000,000 at the project location.

18 (1.7) Notwithstanding any other provision of law, the
19 election under this subsection (f) may also be made by a
20 Taxpayer for any Credit awarded pursuant to an agreement
21 that was executed or applied for on or after July 1, 2011
22 and on or before March 31, 2012, if the Taxpayer is
23 primarily engaged in the manufacture of original and
24 aftermarket filtration parts and products for automobiles,
25 motor vehicles, light duty motor vehicles, light trucks and
26 utility vehicles, and heavy duty trucks, (ii) employs a

1 minimum of 1,000 full-time employees in Illinois at the
2 time of application, (iii) creates at least 250 full-time
3 jobs in Illinois, (iv) relocates its corporate
4 headquarters to Illinois from another state, and (v) makes
5 a capital investment of at least \$4,000,000 at the project
6 location.

7 (1.8) Notwithstanding any other provision of law, the
8 election under this subsection (f) may also be made by a
9 Taxpayer for any Credit awarded pursuant to an agreement
10 that was executed or applied for on or after January 1,
11 2012 and on or before June 30, 2012, if the Taxpayer (i) is
12 primarily engaged in hardware wholesale, (ii) retains its
13 corporate headquarters in Illinois, (iii) retains at least
14 740 full-time jobs in Illinois, and (iv) makes a capital
15 investment of at least \$28,000,000 at the project location.

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

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

24 (4) If a Taxpayer who meets the requirements of
25 subparagraph (A) of paragraph (1) of this subsection (f)
26 elects to claim the Credit against its withholdings as

1 provided in this subsection (f), then, on and after the
2 date of the election, the terms of the Agreement between
3 the Taxpayer and the Department may not be further amended
4 during the term of the Agreement.

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

18 (Source: P.A. 96-834, eff. 12-14-09; 96-836, eff. 12-16-09;
19 96-905, eff. 6-4-10; 96-1000, eff. 7-2-10; 96-1534, eff.
20 3-4-11; 97-2, eff. 5-6-11; 97-636, eff. 6-1-12.)