

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  
5 adding Section 213 as follows:

6 (35 ILCS 5/213 new)

7 Sec. 213. Dependent care tax credit.

8 (a) Beginning with taxable years ending on or after  
9 December 31, 2001 and ending with taxable years ending on or  
10 before December 30, 2006, each individual taxpayer is  
11 entitled to a credit against the tax imposed by subsections  
12 (a) and (b) of Section 201 in an amount equal to \$500  
13 multiplied by the number of applicable individuals with  
14 respect to whom the taxpayer is an eligible caregiver for the  
15 taxable year.

16 (b) As used in this Section, "applicable individual"  
17 means, with respect to any taxable year, any individual who  
18 has been certified, before the due date for filing the return  
19 of tax for the taxable year (without extensions), by a  
20 physician licensed to practice medicine in all its branches  
21 under the Medical Practice Act of 1987 as being an individual  
22 with long-term care needs described in subsection (c) for a  
23 period:

24 (1) which is at least 180 consecutive days, and

25 (2) a portion of which occurs within the taxable  
26 year.

27 "Applicable individual" does not include any individual  
28 otherwise meeting the requirements of the preceding sentence  
29 unless within the 39 1/2 month period ending on that due date  
30 (or such other period as the Department prescribes) a  
31 physician licensed to practice medicine in all its branches

1 under the Medical Practice Act of 1987 has certified that  
2 that individual meets those requirements.

3 (c) As used in this Section, an individual is an  
4 individual with long term care needs if the individual meets  
5 any of the following requirements:

6 (1) The individual is at least 6 years of age and:

7 (A) is unable to perform (without substantial  
8 assistance from another individual) at least 3  
9 activities of daily living, as defined in Section  
10 7702B(c)(2)(B) of the Internal Revenue Code, due to  
11 a loss of functional capacity, or

12 (B) requires substantial supervision to  
13 protect that individual from threats to health and  
14 safety due to severe cognitive impairment and is  
15 unable to perform at least one activity of daily  
16 living, as defined in Section 7702B(c)(2)(B) of the  
17 Internal Revenue Code, or to the extent provided by  
18 the Department (in consultation with the Secretary  
19 of Human Services), is unable to engage in age  
20 appropriate activities.

21 (2) The individual is at least 2 years of age but  
22 less than 6 years of age and is unable due to a loss of  
23 functional capacity to perform (without substantial  
24 assistance from another individual) at least 2 of the  
25 following activities: eating, transferring, or mobility.

26 (3) The individual is under 2 years of age and  
27 requires specific durable medical equipment by reason of  
28 a severe health condition or requires a skilled  
29 practitioner trained to address the individual's  
30 condition to be available if the individual's parents or  
31 guardians are absent.

32 (d) A taxpayer shall be treated as an "eligible  
33 caregiver" for any taxable year with respect to the following  
34 individuals:

1           (1) The taxpayer.

2           (2) The taxpayer's spouse.

3           (3) An individual with respect to whom the taxpayer  
4 is allowed an exemption under Section 204 for the taxable  
5 year.

6           (4) An individual who would be described in  
7 subdivision (d)(3) for the taxable year if Section  
8 151(c)(1)(A) of the Internal Revenue Code, relating to  
9 gross income limitation, were applied by substituting for  
10 the federal exemption amount specified in that Section,  
11 an amount equal to the sum of the federal exemption  
12 amount specified in that Section, the federal standard  
13 deduction under Section 63(c)(2)(C) of the Internal  
14 Revenue Code, and any additional federal standard  
15 deduction under Section 63(c)(3) of the Internal Revenue  
16 Code which would be applicable to the individual if  
17 subdivision (d)(3) applied.

18           (5) An individual who would be described in  
19 subdivision (d)(3) for the taxable year if:

20                   (A) the requirements of subdivision (d)(4) are  
21 met with respect to the individual, and

22                   (B) the requirements of subsection (e) are met  
23 with respect to the individual in lieu of the  
24 support test of Section 152(a) of the Internal  
25 Revenue Code.

26           (e) The requirements of this subsection are met if an  
27 individual has as his or her principal place of abode the  
28 home of the taxpayer, and

29                   (1) in the case of an individual who is an ancestor  
30 or descendant of the taxpayer or the taxpayer's spouse,  
31 is a member of the taxpayer's household for over half the  
32 taxable year, or

33                   (2) in the case of any other individual, is a  
34 member of the taxpayer's household for the entire taxable

1 year.

2 (f) Persons eligible to claim credit.

3 (1) If more than one individual is an eligible  
4 caregiver with respect to the same applicable individual  
5 for taxable years ending with or within the same calendar  
6 year, a taxpayer shall be treated as the eligible  
7 caregiver if each of those individuals (other than the  
8 taxpayer) files a written declaration (in the form and  
9 manner as the Department may prescribe) that that  
10 individual will not claim that applicable individual for  
11 the credit under this Section.

12 (2) If each individual required under subdivision  
13 (f)(1) to file a written declaration under subdivision  
14 (f)(1) does not do so, the individual with the highest  
15 federal modified adjusted gross income (as defined in  
16 Section 32(c)(5) of the Internal Revenue Code for federal  
17 purposes) shall be treated as the eligible caregiver.

18 (3) In the case of married individuals filing  
19 separate returns, the determination under this subsection  
20 (f) as to whether the husband or wife is the eligible  
21 caregiver shall be made under the rules of subdivision  
22 (f)(2) (whether or not one of them has filed a written  
23 declaration under subdivision (f)(1)).

24 (g) No credit shall be allowed under this Section to a  
25 taxpayer with respect to any applicable individual unless the  
26 taxpayer includes the name and taxpayer identification number  
27 of that individual, and the identification number of the  
28 physician certifying that individual, on the return of tax  
29 for the taxable year.

30 (h) The taxpayer shall retain the physician  
31 certification required by subdivision (b) and shall make that  
32 certification available to the Department upon request.