



Rep. Michael J. Madigan

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1 AMENDMENT TO HOUSE BILL 3890

2 AMENDMENT NO. _____. Amend House Bill 3890 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Economic Development for a Growing Economy
5 Tax Credit Act is amended by changing Sections 5-5, 5-15, 5-20,
6 and 5-50 as follows:

7 (35 ILCS 10/5-5)

8 Sec. 5-5. Definitions. As used in this Act:

9 "Agreement" means the Agreement between a Taxpayer and the
10 Department under the provisions of Section 5-50 of this Act.

11 "Applicant" means a Taxpayer that is operating a business
12 located or that the Taxpayer plans to locate within the State
13 of Illinois and that is engaged in interstate or intrastate
14 commerce for the purpose of manufacturing, processing,
15 assembling, warehousing, or distributing products, conducting
16 research and development, providing tourism services, or

1 providing services in interstate commerce, office industries,
2 or agricultural processing, but excluding retail, retail food,
3 health, or professional services. "Applicant" does not include
4 a Taxpayer who closes or substantially reduces an operation at
5 one location in the State and relocates substantially the same
6 operation to another location in the State. This does not
7 prohibit a Taxpayer from expanding its operations at another
8 location in the State, provided that existing operations of a
9 similar nature located within the State are not closed or
10 substantially reduced. This also does not prohibit a Taxpayer
11 from moving its operations from one location in the State to
12 another location in the State for the purpose of expanding the
13 operation provided that the Department determines that
14 expansion cannot reasonably be accommodated within the
15 municipality in which the business is located, or in the case
16 of a business located in an incorporated area of the county,
17 within the county in which the business is located, after
18 conferring with the chief elected official of the municipality
19 or county and taking into consideration any evidence offered by
20 the municipality or county regarding the ability to accommodate
21 expansion within the municipality or county.

22 "Committee" means the Illinois Business Investment
23 Committee created under Section 5-25 of this Act within the
24 Illinois Economic Development Board.

25 "Credit" means the amount agreed to between the Department
26 and Applicant under this Act, but not to exceed the Incremental

1 Income Tax attributable to the Applicant's project. However, if
2 the Applicant's project includes retained employees, then the
3 amount of the Credit may also include an amount agreed to
4 between the Department and the Applicant based on the severity
5 of the poverty or unemployment in the geographic area in which
6 the Applicant's project is located or the retained employees
7 reside. That amount may not be more than 40% of the total
8 amount withheld during the taxable year under Article 7 of the
9 Illinois Income Tax Act from the compensation of retained
10 employees. For the purposes of this definition, "retained
11 employee" means a full-time employee of the Applicant who is
12 employed at the project location and whose job is identified in
13 the application as being at risk of being relocated outside of
14 Illinois if the Applicant does not receive a credit under this
15 Act.

16 "Department" means the Department of Commerce and Economic
17 Opportunity.

18 "Director" means the Director of Commerce and Economic
19 Opportunity.

20 "Full-time Employee" means an individual who is employed
21 for consideration for at least 35 hours each week or who
22 renders any other standard of service generally accepted by
23 industry custom or practice as full-time employment. An
24 individual for whom a W-2 is issued by a Professional Employer
25 Organization (PEO) is a full-time employee if employed in the
26 service of the Applicant for consideration for at least 35

1 hours each week or who renders any other standard of service
2 generally accepted by industry custom or practice as full-time
3 employment to Applicant.

4 "Geographic area of high poverty or high unemployment"
5 means a census tract in which more than 20% of the residents
6 live below the poverty level, as determined by the most recent
7 data from the United States Census Bureau, or the average
8 unemployment rate for that census tract exceeds the average
9 unemployment rate for the State by 3% or more.

10 "Incremental Income Tax" means the total amount withheld
11 during the taxable year from the compensation of New Employees
12 under Article 7 of the Illinois Income Tax Act arising from
13 employment at a project that is the subject of an Agreement.

14 "New Employee" means:

15 (a) A Full-time Employee first employed by a Taxpayer
16 in the project that is the subject of an Agreement and who
17 is hired after the Taxpayer enters into the tax credit
18 Agreement.

19 (b) The term "New Employee" does not include:

20 (1) an employee of the Taxpayer who performs a job
21 that was previously performed by another employee, if
22 that job existed for at least 6 months before hiring
23 the employee;

24 (2) an employee of the Taxpayer who was previously
25 employed in Illinois by a Related Member of the
26 Taxpayer and whose employment was shifted to the

1 Taxpayer after the Taxpayer entered into the tax credit
2 Agreement; or

3 (3) a child, grandchild, parent, or spouse, other
4 than a spouse who is legally separated from the
5 individual, of any individual who has a direct or an
6 indirect ownership interest of at least 5% in the
7 profits, capital, or value of the Taxpayer.

8 (c) Notwithstanding paragraph (1) of subsection (b),
9 an employee may be considered a New Employee under the
10 Agreement if the employee performs a job that was
11 previously performed by an employee who was:

12 (1) treated under the Agreement as a New Employee;
13 and

14 (2) promoted by the Taxpayer to another job.

15 (d) Notwithstanding subsection (a), the Department may
16 award Credit to an Applicant with respect to an employee
17 hired prior to the date of the Agreement if:

18 (1) the Applicant is in receipt of a letter from
19 the Department stating an intent to enter into a credit
20 Agreement;

21 (2) the letter described in paragraph (1) is issued
22 by the Department not later than 15 days after the
23 effective date of this Act; and

24 (3) the employee was hired after the date the
25 letter described in paragraph (1) was issued.

26 "Noncompliance Date" means, in the case of a Taxpayer that

1 is not complying with the requirements of the Agreement or the
2 provisions of this Act, the day following the last date upon
3 which the Taxpayer was in compliance with the requirements of
4 the Agreement and the provisions of this Act, as determined by
5 the Director, pursuant to Section 5-65.

6 "Pass Through Entity" means an entity that is exempt from
7 the tax under subsection (b) or (c) of Section 205 of the
8 Illinois Income Tax Act.

9 "Professional Employer Organization" (PEO) means an
10 employee leasing company, as defined in Section 206.1(A)(2) of
11 the Illinois Unemployment Insurance Act.

12 "Related Member" means a person that, with respect to the
13 Taxpayer during any portion of the taxable year, is any one of
14 the following:

15 (1) An individual stockholder, if the stockholder and
16 the members of the stockholder's family (as defined in
17 Section 318 of the Internal Revenue Code) own directly,
18 indirectly, beneficially, or constructively, in the
19 aggregate, at least 50% of the value of the Taxpayer's
20 outstanding stock.

21 (2) A partnership, estate, or trust and any partner or
22 beneficiary, if the partnership, estate, or trust, and its
23 partners or beneficiaries own directly, indirectly,
24 beneficially, or constructively, in the aggregate, at
25 least 50% of the profits, capital, stock, or value of the
26 Taxpayer.

1 (3) A corporation, and any party related to the
2 corporation in a manner that would require an attribution
3 of stock from the corporation to the party or from the
4 party to the corporation under the attribution rules of
5 Section 318 of the Internal Revenue Code, if the Taxpayer
6 owns directly, indirectly, beneficially, or constructively
7 at least 50% of the value of the corporation's outstanding
8 stock.

9 (4) A corporation and any party related to that
10 corporation in a manner that would require an attribution
11 of stock from the corporation to the party or from the
12 party to the corporation under the attribution rules of
13 Section 318 of the Internal Revenue Code, if the
14 corporation and all such related parties own in the
15 aggregate at least 50% of the profits, capital, stock, or
16 value of the Taxpayer.

17 (5) A person to or from whom there is attribution of
18 stock ownership in accordance with Section 1563(e) of the
19 Internal Revenue Code, except, for purposes of determining
20 whether a person is a Related Member under this paragraph,
21 20% shall be substituted for 5% wherever 5% appears in
22 Section 1563(e) of the Internal Revenue Code.

23 "Taxpayer" means an individual, corporation, partnership,
24 or other entity that has any Illinois Income Tax liability.

25 (Source: P.A. 94-793, eff. 5-19-06; 95-375, eff. 8-23-07.)

1 (35 ILCS 10/5-15)

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

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

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

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

17 (d) The Credit shall not exceed the Incremental Income Tax
18 attributable to the project that is the subject of the
19 Agreement.

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

23 (f) Subject to the requirements of paragraph (5) of this
24 subsection (f), in ~~lieu~~ lieu of the Credit allowed under this Act
25 against the taxes imposed pursuant to subsections (a) and (b)
26 of Section 201 of the Illinois Income Tax Act for any taxable

1 year ending on or after December 31, 2009, the Taxpayer may
2 elect to claim the Credit against its obligation to pay over
3 withholding under Section 704A of the Illinois Income Tax Act.

4 (1) The election under this subsection (f) may be made
5 only by a Taxpayer that (i) is primarily engaged in one of
6 the following business activities: water purification and
7 treatment, motor vehicle metal stamping, automobile
8 manufacturing, automobile and light duty motor vehicle
9 manufacturing, motor vehicle manufacturing, light truck
10 and utility vehicle manufacturing, heavy duty truck
11 manufacturing, motor vehicle body manufacturing, cable
12 television infrastructure design or manufacturing, or
13 wireless telecommunication or computing terminal device
14 design or manufacturing for use on public networks and (ii)
15 meets the following criteria:

16 (A) the Taxpayer (i) had an Illinois net loss or an
17 Illinois net loss deduction under Section 207 of the
18 Illinois Income Tax Act for the taxable year in which
19 the Credit is awarded, (ii) employed a minimum of 1,000
20 full-time employees in this State during the taxable
21 year in which the Credit is awarded, (iii) has an
22 Agreement under this Act on December 14, 2009 (the
23 effective date of Public Act 96-834), and (iv) is in
24 compliance with all provisions of that Agreement;

25 (B) the Taxpayer (i) had an Illinois net loss or an
26 Illinois net loss deduction under Section 207 of the

1 Illinois Income Tax Act for the taxable year in which
2 the Credit is awarded, (ii) employed a minimum of 1,000
3 full-time employees in this State during the taxable
4 year in which the Credit is awarded, and (iii) has
5 applied for an Agreement within 365 days after December
6 14, 2009 (the effective date of Public Act 96-834);

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

17 (D) the Taxpayer (i) had an Illinois net operating
18 loss carryforward under Section 207 of the Illinois
19 Income Tax Act in a taxable year ending during calendar
20 year 2009, (ii) has applied for an Agreement within 150
21 days after the effective date of this amendatory Act of
22 the 96th General Assembly, (iii) creates at least 150
23 new jobs, (iv) retains at least 1,000 jobs in Illinois
24 that would have been at risk of relocation out of
25 Illinois over a 10-year period, and (v) makes a capital
26 investment of at least \$57,000,000; or

1 (E) the Taxpayer (i) employed at least 2,500
2 full-time employees in the State during the year in
3 which the Credit is awarded, (ii) commits to make at
4 least \$500,000,000 in combined capital improvements
5 and project costs under the Agreement, (iii) applies
6 for an Agreement between January 1, 2011 and June 30,
7 2011, (iv) executes an Agreement for the Credit during
8 calendar year 2011, and (v) was incorporated no more
9 than 5 years before the filing of an application for an
10 Agreement.

11 (1.5) The election under this subsection (f) may also
12 be made by a Taxpayer for any Credit awarded pursuant to an
13 agreement that was executed between January 1, 2011 and
14 June 30, 2011, if the Taxpayer (i) is primarily engaged in
15 the manufacture of inner tubes or tires, or both, from
16 natural and synthetic rubber, (ii) employs a minimum of
17 2,400 full-time employees in Illinois at the time of
18 application, (iii) creates at least 350 full-time jobs and
19 retains at least 250 full-time jobs in Illinois that would
20 have been at risk of being created or retained outside of
21 Illinois, and (iv) makes a capital investment of at least
22 \$200,000,000 at the project location.

23 (1.6) The election under this subsection (f) may also
24 be made by a Taxpayer for any Credit awarded pursuant to an
25 agreement that was executed within 150 days after the
26 effective date of this amendatory Act of the 97th General

1 Assembly, if the Taxpayer (i) is primarily engaged in the
2 operation of a discount department store, (ii) maintains
3 its corporate headquarters in Illinois, (iii) employs a
4 minimum of 4,250 full-time employees at its corporate
5 headquarters in Illinois at the time of application, (iv)
6 retains at least 4,250 full-time jobs in Illinois that
7 would have been at risk of being relocated outside of
8 Illinois, (v) had a minimum of \$40,000,000,000 in total
9 revenue in 2010, and (vi) makes a capital investment of at
10 least \$300,000,000 at the project location.

11 (1.7) Notwithstanding any other provision of law, the
12 election under this subsection (f) may also be made by a
13 Taxpayer for any Credit awarded pursuant to an agreement
14 that was executed or applied for on or after July 1, 2011
15 and on or before March 31, 2012, if the Taxpayer is
16 primarily engaged in the manufacture of original and
17 aftermarket filtration parts and products for automobiles,
18 motor vehicles, light duty motor vehicles, light trucks and
19 utility vehicles, and heavy duty trucks, (ii) employs a
20 minimum of 1,000 full-time employees in Illinois at the
21 time of application, (iii) creates at least 250 full-time
22 jobs in Illinois, (iv) relocates its corporate
23 headquarters to Illinois from another state, and (v) makes
24 a capital investment of at least \$4,000,000 at the project
25 location.

26 (2) An election under this subsection shall allow the

1 credit to be taken against payments otherwise due under
2 Section 704A of the Illinois Income Tax Act during the
3 first calendar year beginning after the end of the taxable
4 year in which the credit is awarded under this Act.

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

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

15 (5) With respect to Agreements entered into on or after
16 the effective date of this amendatory Act of the 98th
17 General Assembly, no Taxpayer may make an election under
18 this subsection (f) unless all of the following conditions
19 are met:

20 (A) The General Assembly authorizes that election
21 by law.

22 (B) The Taxpayer applies with the Department for a
23 Credit prior to the date the General Assembly
24 authorizes the election.

25 (C) The Taxpayer (i) agrees to hire a specified
26 number of New Employees at a project location in a

1 geographic area of high poverty or high unemployment or
2 (ii) agrees to hire a specified number of New Employees
3 at least 65% of whom reside in a geographic area of
4 high poverty or high unemployment; the number of New
5 Employees hired under item (ii) shall be verified
6 annually by the Department through payroll information
7 submitted by the Taxpayer; for the purposes of this
8 subparagraph (C), an employee who is retained by the
9 Taxpayer is not considered a New Employee.

10 (D) The Taxpayer files a statement with the
11 Department at the time of the application for the
12 Credit containing the following information from the
13 Taxpayer's Illinois income tax return for the 2 years
14 immediately preceding the date of the application; in
15 addition, the Taxpayer shall file an additional
16 statement with the Department containing the same
17 information for the first taxable year with respect to
18 which an election is made under this subsection (f) and
19 for each subsequent tax year covered by the Agreement:

20 (i) the Taxpayer's base income, as calculated
21 under Section 203 of the Illinois Income Tax Act;

22 (ii) the apportionment factor to the State for
23 the Taxpayer;

24 (iii) the total business income of the
25 Taxpayer apportioned to the State;

26 (iv) the Illinois net operating loss deduction

1 for the Taxpayer, if any;

2 (v) the total non-business income of the
3 Taxpayer and the amount of the Taxpayer's
4 non-business income allocated to the State;

5 (vi) the net income of the Taxpayer;

6 (vii) the Taxpayer's total State income tax
7 liability before credits;

8 (viii) the Taxpayer's net income tax
9 liability;

10 (ix) the Taxpayer's total personal property
11 tax replacement tax liability before credits;

12 (x) the Taxpayer's net personal property tax
13 replacement tax liability; and

14 (xi) tax credits claimed by the Taxpayer, with
15 each credit individually enumerated.

16 Each additional statement required under this
17 subparagraph (D) for a taxable year shall be filed no
18 later than the earlier of 30 days after (i) the
19 Taxpayer files its Illinois income tax return for that
20 taxable year, (ii) the due date (including extensions)
21 for the filing of that return, or (iii) in the case of
22 the additional statement covering the taxable year in
23 which an election is made, the date the election is
24 made under this subsection (f).

25 (E) The Taxpayer files a statement with the
26 Department reporting any changes to the information

1 required to be reported under subparagraph (D) that
2 were reported by the Taxpayer on an amended return for
3 the taxable year or that were made by the Department of
4 Revenue; the report required under this subparagraph
5 (E) must be filed within 30 days after the Taxpayer
6 files the amended return or within 30 days after the
7 date on which all proceedings in court for review of
8 the changes made by the Department of Revenue have
9 terminated or the time for taking thereof has expired
10 without such proceedings being instituted.

11 (F) The Agreement includes a consent by the
12 Taxpayer to allow the Department to confirm with the
13 Department of Revenue the accuracy of the information
14 required to be reported under subparagraphs (D) and
15 (E).

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

1 the Illinois income tax liability of the pass-through entity or
2 its shareholders or partners for the taxable year.

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

6 (35 ILCS 10/5-20)

7 Sec. 5-20. Application for a project to create and retain
8 new jobs.

9 (a) Any Taxpayer proposing a project located or planned to
10 be located in Illinois may request consideration for
11 designation of its project, by formal written letter of request
12 or by formal application to the Department, in which the
13 Applicant states its intent to make at least a specified level
14 of investment and intends to hire or retain a specified number
15 of full-time employees at a designated location in Illinois. As
16 circumstances require, the Department may require a formal
17 application from an Applicant and a formal letter of request
18 for assistance. Each application must contain an affidavit
19 signed by the Taxpayer's chief executive officer or chief
20 financial officer, or an individual holding an equivalent
21 position in the organization, stating that, but for the Credit,
22 the Taxpayer would not locate the project in the State.

23 (b) In order to qualify for Credits under this Act, an
24 Applicant's project must:

25 (1) except as provided in paragraphs (2) and (3),

1 involve an investment of at least \$5,000,000 in capital
2 improvements to be placed in service and ~~to~~ employ at least
3 25 New Employees within the State as a direct result of the
4 project;

5 (2) involve an investment of at least an amount (to be
6 expressly specified by the Department and the Committee) in
7 capital improvements to be placed in service and will
8 employ at least an amount (to be expressly specified by the
9 Department and the Committee) of New Employees within the
10 State, provided that the Department and the Committee have
11 determined that the project will provide a substantial
12 economic benefit to the State; or

13 (3) if the applicant has 100 or fewer employees, then
14 the applicant is not subject to the capital improvement
15 requirements set forth in paragraph (1) of this subsection,
16 but the applicant's project must involve an investment of
17 ~~at least \$1,000,000 in capital improvements to be placed in~~
18 ~~service and to~~ employ at least 5 New Employees within the
19 State as a direct result of the project.

20 (c) After receipt of an application, the Department may
21 enter into an Agreement with the Applicant if the application
22 is accepted in accordance with Section 5-25.

23 (Source: P.A. 93-882, eff. 1-1-05.)

24 (35 ILCS 10/5-50)

25 Sec. 5-50. Contents of Agreements with Applicants. The

1 Department shall enter into an Agreement with an Applicant that
2 is awarded a Credit under this Act. The Agreement must include
3 all of the following:

4 (1) A detailed description of the project that is the
5 subject of the Agreement, including the location and amount
6 of the investment and jobs created or retained.

7 (2) The duration of the Credit and the first taxable
8 year for which the Credit may be claimed.

9 (3) The Credit amount that will be allowed for each
10 taxable year.

11 (4) A requirement that the Taxpayer shall maintain
12 operations at the project location that shall be stated as
13 a minimum number of years not to exceed 10.

14 (5) A specific method for determining the number of New
15 Employees employed during a taxable year.

16 (6) A requirement that the Taxpayer shall annually
17 report to the Department the number of New Employees, the
18 home addresses of any retained employees, the Incremental
19 Income Tax withheld in connection with the New Employees
20 and retained employees, and any other information the
21 Director needs to perform the Director's duties under this
22 Act.

23 (7) A requirement that the Director is authorized to
24 verify with the appropriate State agencies the amounts
25 reported under paragraph (6), and after doing so shall
26 issue a certificate to the Taxpayer stating that the

1 amounts have been verified.

2 (8) A requirement that the Taxpayer shall provide
3 written notification to the Director not more than 30 days
4 after the Taxpayer makes or receives a proposal that would
5 transfer the Taxpayer's State tax liability obligations to
6 a successor Taxpayer.

7 (9) A detailed description of the number of New
8 Employees to be hired, and the occupation and payroll of
9 the full-time jobs to be created or retained as a result of
10 the project.

11 (10) The minimum investment the business enterprise
12 will make in capital improvements, the time period for
13 placing the property in service, and the designated
14 location in Illinois for the investment.

15 (11) A requirement that the Taxpayer shall provide
16 written notification to the Director and the Committee not
17 more than 30 days after the Taxpayer determines that the
18 minimum job creation or retention, employment payroll, or
19 investment no longer is being or will be achieved or
20 maintained as set forth in the terms and conditions of the
21 Agreement.

22 (12) A provision that, if the total number of New
23 Employees falls below a specified level, the allowance of
24 Credit shall be suspended until the number of New Employees
25 equals or exceeds the Agreement amount.

26 (13) A detailed description of the items for which the

1 costs incurred by the Taxpayer will be included in the
2 limitation on the Credit provided in Section 5-30.

3 (13.5) A provision that, if the Taxpayer never meets
4 either the investment or job creation and retention
5 requirements specified in the Agreement during the entire
6 5-year period beginning on the first day of the first
7 taxable year in which the Agreement is executed and ending
8 on the last day of the fifth taxable year after the
9 Agreement is executed, then the Agreement is automatically
10 terminated on the last day of the fifth taxable year after
11 the Agreement is executed and the Taxpayer is not entitled
12 to the award of any credits for any of that 5-year period.

13 (14) Any other performance conditions or contract
14 provisions as the Department determines are appropriate.

15 The Department shall post on its website (i) the terms of
16 each Agreement entered into under this Act on or after the
17 effective date of this amendatory Act of the 97th General
18 Assembly and (ii) the tax information provided to the
19 Department under subparagraphs (D) and (E) of paragraph (5) of
20 subsection (f).

21 (Source: P.A. 97-2, eff. 5-6-11; 97-749, eff. 7-6-12.)

22 Section 10. The Illinois Income Tax Act is amended by
23 changing Section 917 as follows:

24 (35 ILCS 5/917) (from Ch. 120, par. 9-917)

1 Sec. 917. Confidentiality and information sharing.

2 (a) Confidentiality. Except as provided in this Section,
3 all information received by the Department from returns filed
4 under this Act, or from any investigation conducted under the
5 provisions of this Act, shall be confidential, except for
6 official purposes within the Department or pursuant to official
7 procedures for collection of any State tax or pursuant to an
8 investigation or audit by the Illinois State Scholarship
9 Commission of a delinquent student loan or monetary award or
10 enforcement of any civil or criminal penalty or sanction
11 imposed by this Act or by another statute imposing a State tax,
12 and any person who divulges any such information in any manner,
13 except for such purposes and pursuant to order of the Director
14 or in accordance with a proper judicial order, shall be guilty
15 of a Class A misdemeanor. However, the provisions of this
16 paragraph are not applicable to information furnished to (i)
17 the Department of Healthcare and Family Services (formerly
18 Department of Public Aid), State's Attorneys, and the Attorney
19 General for child support enforcement purposes and (ii) a
20 licensed attorney representing the taxpayer where an appeal or
21 a protest has been filed on behalf of the taxpayer. If it is
22 necessary to file information obtained pursuant to this Act in
23 a child support enforcement proceeding, the information shall
24 be filed under seal.

25 (b) Public information. Nothing contained in this Act shall
26 prevent the Director from publishing or making available to the

1 public the names and addresses of persons filing returns under
2 this Act, or from publishing or making available reasonable
3 statistics concerning the operation of the tax wherein the
4 contents of returns are grouped into aggregates in such a way
5 that the information contained in any individual return shall
6 not be disclosed.

7 (c) Governmental agencies. The Director may make available
8 to the Secretary of the Treasury of the United States or his
9 delegate, or the proper officer or his delegate of any other
10 state imposing a tax upon or measured by income, for
11 exclusively official purposes, information received by the
12 Department in the administration of this Act, but such
13 permission shall be granted only if the United States or such
14 other state, as the case may be, grants the Department
15 substantially similar privileges. The Director may exchange
16 information with the Department of Healthcare and Family
17 Services and the Department of Human Services (acting as
18 successor to the Department of Public Aid under the Department
19 of Human Services Act) for the purpose of verifying sources and
20 amounts of income and for other purposes directly connected
21 with the administration of this Act, the Illinois Public Aid
22 Code, and any other health benefit program administered by the
23 State. The Director may exchange information with the Director
24 of the Department of Employment Security for the purpose of
25 verifying sources and amounts of income and for other purposes
26 directly connected with the administration of this Act and Acts

1 administered by the Department of Employment Security. The
2 Director may make available to the Illinois Workers'
3 Compensation Commission information regarding employers for
4 the purpose of verifying the insurance coverage required under
5 the Workers' Compensation Act and Workers' Occupational
6 Diseases Act. The Director may exchange information with the
7 Illinois Department on Aging for the purpose of verifying
8 sources and amounts of income for purposes directly related to
9 confirming eligibility for participation in the programs of
10 benefits authorized by the Senior Citizens and Disabled Persons
11 Property Tax Relief and Pharmaceutical Assistance Act.

12 The Director may make available to any State agency,
13 including the Illinois Supreme Court, which licenses persons to
14 engage in any occupation, information that a person licensed by
15 such agency has failed to file returns under this Act or pay
16 the tax, penalty and interest shown therein, or has failed to
17 pay any final assessment of tax, penalty or interest due under
18 this Act. The Director may make available to any State agency,
19 including the Illinois Supreme Court, information regarding
20 whether a bidder, contractor, or an affiliate of a bidder or
21 contractor has failed to file returns under this Act or pay the
22 tax, penalty, and interest shown therein, or has failed to pay
23 any final assessment of tax, penalty, or interest due under
24 this Act, for the limited purpose of enforcing bidder and
25 contractor certifications. For purposes of this Section, the
26 term "affiliate" means any entity that (1) directly,

1 indirectly, or constructively controls another entity, (2) is
2 directly, indirectly, or constructively controlled by another
3 entity, or (3) is subject to the control of a common entity.
4 For purposes of this subsection (a), an entity controls another
5 entity if it owns, directly or individually, more than 10% of
6 the voting securities of that entity. As used in this
7 subsection (a), the term "voting security" means a security
8 that (1) confers upon the holder the right to vote for the
9 election of members of the board of directors or similar
10 governing body of the business or (2) is convertible into, or
11 entitles the holder to receive upon its exercise, a security
12 that confers such a right to vote. A general partnership
13 interest is a voting security.

14 The Director may make available to any State agency,
15 including the Illinois Supreme Court, units of local
16 government, and school districts, information regarding
17 whether a bidder or contractor is an affiliate of a person who
18 is not collecting and remitting Illinois Use taxes, for the
19 limited purpose of enforcing bidder and contractor
20 certifications.

21 The Director may also make available to the Secretary of
22 State information that a corporation which has been issued a
23 certificate of incorporation by the Secretary of State has
24 failed to file returns under this Act or pay the tax, penalty
25 and interest shown therein, or has failed to pay any final
26 assessment of tax, penalty or interest due under this Act. An

1 assessment is final when all proceedings in court for review of
2 such assessment have terminated or the time for the taking
3 thereof has expired without such proceedings being instituted.
4 For taxable years ending on or after December 31, 1987, the
5 Director may make available to the Director or principal
6 officer of any Department of the State of Illinois, information
7 that a person employed by such Department has failed to file
8 returns under this Act or pay the tax, penalty and interest
9 shown therein. For purposes of this paragraph, the word
10 "Department" shall have the same meaning as provided in Section
11 3 of the State Employees Group Insurance Act of 1971.

12 The Director may provide information to the Department of
13 Commerce and Economic Opportunity for the purpose of confirming
14 information provided by a taxpayer under subparagraphs (D) and
15 (E) of item (5) of subsection (f) of Section 5-15 of the
16 Economic Development for a Growing Economy Tax Credit Act if
17 the taxpayer consents to that disclosure in the Agreement under
18 that Act.

19 (d) The Director shall make available for public inspection
20 in the Department's principal office and for publication, at
21 cost, administrative decisions issued on or after January 1,
22 1995. These decisions are to be made available in a manner so
23 that the following taxpayer information is not disclosed:

24 (1) The names, addresses, and identification numbers
25 of the taxpayer, related entities, and employees.

26 (2) At the sole discretion of the Director, trade

1 secrets or other confidential information identified as
2 such by the taxpayer, no later than 30 days after receipt
3 of an administrative decision, by such means as the
4 Department shall provide by rule.

5 The Director shall determine the appropriate extent of the
6 deletions allowed in paragraph (2). In the event the taxpayer
7 does not submit deletions, the Director shall make only the
8 deletions specified in paragraph (1).

9 The Director shall make available for public inspection and
10 publication an administrative decision within 180 days after
11 the issuance of the administrative decision. The term
12 "administrative decision" has the same meaning as defined in
13 Section 3-101 of Article III of the Code of Civil Procedure.
14 Costs collected under this Section shall be paid into the Tax
15 Compliance and Administration Fund.

16 (e) Nothing contained in this Act shall prevent the
17 Director from divulging information to any person pursuant to a
18 request or authorization made by the taxpayer, by an authorized
19 representative of the taxpayer, or, in the case of information
20 related to a joint return, by the spouse filing the joint
21 return with the taxpayer.

22 (Source: P.A. 95-331, eff. 8-21-07; 96-1501, eff. 1-25-11.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law."