



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB2754

Introduced 2/19/2021, by Rep. Justin Slaughter

SYNOPSIS AS INTRODUCED:

35 ILCS 5/232 new
215 ILCS 5/121-2.08

from Ch. 73, par. 733-2.08

Amends the Illinois Income Tax Act. Creates an income tax credit and a credit against insurance premium taxes for business entities for the cost of providing certain commuter benefits to employees. Provides that the credit shall be equal to 50% of the cost of providing the eligible commuter benefits, but not to exceed \$100 per individual employee per month. Effective immediately.

LRB102 14483 HLH 19836 b

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 adding Section 232 as follows:

6 (35 ILCS 5/232 new)

7 Sec. 232. Commuter benefits credit.

8 (a) As used in this Section:

9 "Business entity" means (i) A person conducting or
10 operating a trade or business in the State; or (ii) an
11 organization operating in the State that is exempt from
12 taxation under § 501(c)(3) or (4) of the Internal Revenue
13 Code.

14 "Instrument" means a pass, token, fare-card, voucher, or
15 similar item.

16 "Ride-sharing" means for-profit driving services, taxis,
17 rental car agencies or non-commercial transportation services.

18 (b) A business entity interested in claiming the tax
19 credits for the cost of providing commuter benefits to its
20 employees must complete the Illinois Commuter Tax Credit
21 Registration Form for each tax year and submit it to the
22 Department. The registration form should be filed with the
23 Department as soon as possible after the decision is made to

1 seek qualification for the credit, but no later than the last
2 day of the taxable year in which the credit will be claimed.

3 (c) For taxable years beginning after December 31, 2020, a
4 business entity may claim a credit against the tax imposed by
5 subsections (a) and (b) of Section 201 of this Act or the tax
6 imposed by subsection (c) of Section 121-2.08 of the Illinois
7 Insurance Code for the cost of providing either or both of the
8 following commuter benefits to its employees:

9 (1) a vanpool that meets the following criteria and is
10 provided for the purpose of travel between an employee's
11 residence and place of employment if the transportation is
12 to or from a location in Illinois: (A) the vehicle must
13 have seating capacity for at least 6 adult individuals;
14 (B) at least 80% of the annual mileage incurred must be
15 between the employees' residences and their places of
16 employment; and (C) the number of employees transported
17 must be at least one-half of that vehicle's adult seating
18 capacity; or

19 (2) an instrument that entitles an employee, at no
20 added cost or at a reduced fare, to transportation to or
21 from a location in Illinois on a publicly-owned or
22 privately-owned mass transit system, taxi service, or
23 ride-sharing service.

24 The credit shall be equal to 50% of the cost of providing
25 the eligible commuter benefits. The credit allowed may not
26 exceed \$100 per individual employee per month. The total

1 credit allowed may not exceed the total tax otherwise payable
2 by the business entity for that taxable year determined after
3 the application of any other credit, and the unused amount of
4 the credit may not be carried over to any other taxable year.

5 (d) Partners, shareholders of subchapter S corporations,
6 and owners of limited liability companies (if the limited
7 liability company is treated as a partnership for purposes of
8 federal and State income taxation) are entitled to a credit
9 under this Section to be determined in accordance with the
10 determination of income and distributive share of income under
11 Sections 702 and 703 and subchapter S of the Internal Revenue
12 Code.

13 (e) This Section is exempt from the provisions of Section
14 250.

15 Section 10. The Illinois Insurance Code is amended by
16 changing Section 121-2.08 as follows:

17 (215 ILCS 5/121-2.08) (from Ch. 73, par. 733-2.08)

18 Sec. 121-2.08. Transactions in this State involving
19 contracts of insurance independently procured directly from an
20 unauthorized insurer by industrial insureds.

21 (a) As used in this Section:

22 "Exempt commercial purchaser" means exempt commercial
23 purchaser as the term is defined in subsection (1) of Section
24 445 of this Code.

1 "Home state" means home state as the term is defined in
2 subsection (1) of Section 445 of this Code.

3 "Industrial insured" means an insured:

4 (i) that procures the insurance of any risk or risks
5 of the kinds specified in Classes 2 and 3 of Section 4 of
6 this Code by use of the services of a full-time employee
7 who is a qualified risk manager or the services of a
8 regularly and continuously retained consultant who is a
9 qualified risk manager;

10 (ii) that procures the insurance directly from an
11 unauthorized insurer without the services of an
12 intermediary insurance producer; and

13 (iii) that is an exempt commercial purchaser whose
14 home state is Illinois.

15 "Insurance producer" means insurance producer as the term
16 is defined in Section 500-10 of this Code.

17 "Qualified risk manager" means qualified risk manager as
18 the term is defined in subsection (1) of Section 445 of this
19 Code.

20 "Safety-Net Hospital" means an Illinois hospital that
21 qualifies as a Safety-Net Hospital under Section 5-5e.1 of the
22 Illinois Public Aid Code.

23 "Unauthorized insurer" means unauthorized insurer as the
24 term is defined in subsection (1) of Section 445 of this Code.

25 (b) For contracts of insurance effective January 1, 2015
26 or later, within 90 days after the effective date of each

1 contract of insurance issued under this Section, the insured
2 shall file a report with the Director by submitting the report
3 to the Surplus Line Association of Illinois in writing or in a
4 computer readable format and provide information as designated
5 by the Surplus Line Association of Illinois. The information
6 in the report shall be substantially similar to that required
7 for surplus line submissions as described in subsection (5) of
8 Section 445 of this Code. Where applicable, the report shall
9 satisfy, with respect to the subject insurance, the reporting
10 requirement of Section 12 of the Fire Investigation Act.

11 (c) For contracts of insurance effective January 1, 2015
12 through December 31, 2017, within 30 days after filing the
13 report, the insured shall pay to the Director for the use and
14 benefit of the State a sum equal to the gross premium of the
15 contract of insurance multiplied by the surplus line tax rate,
16 as described in paragraph (3) of subsection (a) of Section 445
17 of this Code, and shall pay the fire marshal tax that would
18 otherwise be due annually in March for insurance subject to
19 tax under Section 12 of the Fire Investigation Act. For
20 contracts of insurance effective January 1, 2018 or later,
21 within 30 days after filing the report, the insured shall pay
22 to the Director for the use and benefit of the State a sum
23 equal to 0.5% of the gross premium of the contract of
24 insurance, and shall pay the fire marshal tax that would
25 otherwise be due annually in March for insurance subject to
26 tax under Section 12 of the Fire Investigation Act. For

1 contracts of insurance effective January 1, 2015 or later,
2 within 30 days after filing the report, the insured shall pay
3 to the Surplus Line Association of Illinois a countersigning
4 fee that shall be assessed at the same rate charged to members
5 pursuant to subsection (4) of Section 445.1 of this Code. An
6 insured is entitled to a credit against the tax imposed under
7 this Section as provided in Section 232 of the Illinois Income
8 Tax Act.

9 (d) For contracts of insurance effective January 1, 2015
10 or later, the insured shall withhold the amount of the taxes
11 and countersignature fee from the amount of premium charged by
12 and otherwise payable to the insurer for the insurance. If the
13 insured fails to withhold the tax and countersignature fee
14 from the premium, then the insured shall be liable for the
15 amounts thereof and shall pay the amounts as prescribed in
16 subsection (c) of this Section.

17 (e) Contracts of insurance with an industrial insured that
18 qualifies as a Safety-Net Hospital are not subject to
19 subsections (b) through (d) of this Section.

20 (Source: P.A. 100-535, eff. 9-22-17; 100-1118, eff. 11-27-18.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.