

SB2084



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2084

Introduced 2/26/2021, by Sen. Cristina Castro

SYNOPSIS AS INTRODUCED:

35 ILCS 5/211

Amends the Illinois Income Tax Act. Provides that the Economic Development for a Growing Economy Tax Credit may be carried forward for 15 (currently, 5) taxable years following the excess credit year. Effective immediately.

LRB102 13412 HLH 18756 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 Illinois Income Tax Act is amended by
5 changing Section 211 as follows:

6 (35 ILCS 5/211)

7 Sec. 211. Economic Development for a Growing Economy Tax
8 Credit. For tax years beginning on or after January 1, 1999, a
9 Taxpayer who has entered into an Agreement (including a New
10 Construction EDGE Agreement) under the Economic Development
11 for a Growing Economy Tax Credit Act is entitled to a credit
12 against the taxes imposed under subsections (a) and (b) of
13 Section 201 of this Act in an amount to be determined in the
14 Agreement. If the Taxpayer is a partnership or Subchapter S
15 corporation, the credit shall be allowed to the partners or
16 shareholders in accordance with the determination of income
17 and distributive share of income under Sections 702 and 704
18 and subchapter S of the Internal Revenue Code. The Department,
19 in cooperation with the Department of Commerce and Economic
20 Opportunity, shall prescribe rules to enforce and administer
21 the provisions of this Section. This Section is exempt from
22 the provisions of Section 250 of this Act.

23 The credit shall be subject to the conditions set forth in

1 the Agreement and the following limitations:

2 (1) The tax credit shall not exceed the Incremental
3 Income Tax (as defined in Section 5-5 of the Economic
4 Development for a Growing Economy Tax Credit Act) with
5 respect to the project; additionally, the New Construction
6 EDGE Credit shall not exceed the New Construction EDGE
7 Incremental Income Tax (as defined in Section 5-5 of the
8 Economic Development for a Growing Economy Tax Credit
9 Act).

10 (2) The amount of the credit allowed during the tax
11 year plus the sum of all amounts allowed in prior years
12 shall not exceed 100% of the aggregate amount expended by
13 the Taxpayer during all prior tax years on approved costs
14 defined by Agreement.

15 (3) The amount of the credit shall be determined on an
16 annual basis. Except as applied in a carryover year
17 pursuant to Section 211(4) of this Act, the credit may not
18 be applied against any State income tax liability in more
19 than 10 taxable years; provided, however, that (i) an
20 eligible business certified by the Department of Commerce
21 and Economic Opportunity under the Corporate Headquarters
22 Relocation Act may not apply the credit against any of its
23 State income tax liability in more than 15 taxable years
24 and (ii) credits allowed to that eligible business are
25 subject to the conditions and requirements set forth in
26 Sections 5-35 and 5-45 of the Economic Development for a

1 Growing Economy Tax Credit Act and Section 5-51 as
2 applicable to New Construction EDGE Credits.

3 (4) The credit may not exceed the amount of taxes
4 imposed pursuant to subsections (a) and (b) of Section 201
5 of this Act. Any credit that is unused in the year the
6 credit is computed may be carried forward and applied to
7 the tax liability of the 15 ~~5~~ taxable years following the
8 excess credit year. The credit shall be applied to the
9 earliest year for which there is a tax liability. If there
10 are credits from more than one tax year that are available
11 to offset a liability, the earlier credit shall be applied
12 first.

13 (5) No credit shall be allowed with respect to any
14 Agreement for any taxable year ending after the
15 Noncompliance Date. Upon receiving notification by the
16 Department of Commerce and Economic Opportunity of the
17 noncompliance of a Taxpayer with an Agreement, the
18 Department shall notify the Taxpayer that no credit is
19 allowed with respect to that Agreement for any taxable
20 year ending after the Noncompliance Date, as stated in
21 such notification. If any credit has been allowed with
22 respect to an Agreement for a taxable year ending after
23 the Noncompliance Date for that Agreement, any refund paid
24 to the Taxpayer for that taxable year shall, to the extent
25 of that credit allowed, be an erroneous refund within the
26 meaning of Section 912 of this Act.

1 (6) For purposes of this Section, the terms
2 "Agreement", "Incremental Income Tax", "New Construction
3 EDGE Agreement", "New Construction EDGE Credit", "New
4 Construction EDGE Incremental Income Tax", and
5 "Noncompliance Date" have the same meaning as when used in
6 the Economic Development for a Growing Economy Tax Credit
7 Act.

8 (Source: P.A. 101-9, eff. 6-5-19.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.