



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB4636**

by Rep. Annazette Collins

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/201	from Ch. 120, par. 2-201
35 ILCS 5/202.5 new	
35 ILCS 5/901	from Ch. 120, par. 9-901

Amends the Illinois Income Tax Act. Increases the rate of tax on individuals and on trusts and estates from 3% to 4% on January 1, 2009. Effective immediately.

LRB095 17012 BDD 43060 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 Sections 201 and 901 and by adding Section 202.5 as  
6 follows:

7 (35 ILCS 5/201) (from Ch. 120, par. 2-201)

8 Sec. 201. Tax Imposed.

9 (a) In general. A tax measured by net income is hereby  
10 imposed on every individual, corporation, trust and estate for  
11 each taxable year ending after July 31, 1969 on the privilege  
12 of earning or receiving income in or as a resident of this  
13 State. Such tax shall be in addition to all other occupation or  
14 privilege taxes imposed by this State or by any municipal  
15 corporation or political subdivision thereof.

16 (b) Rates. The tax imposed by subsection (a) of this  
17 Section shall be determined as follows, except as adjusted by  
18 subsection (d-1):

19 (1) In the case of an individual, trust or estate, for  
20 taxable years ending prior to July 1, 1989, an amount equal  
21 to 2 1/2% of the taxpayer's net income for the taxable  
22 year.

23 (2) In the case of an individual, trust or estate, for

1 taxable years beginning prior to July 1, 1989 and ending  
2 after June 30, 1989, an amount equal to the sum of (i) 2  
3 1/2% of the taxpayer's net income for the period prior to  
4 July 1, 1989, as calculated under Section 202.3, and (ii)  
5 3% of the taxpayer's net income for the period after June  
6 30, 1989, as calculated under Section 202.3.

7 (3) In the case of an individual, trust or estate, for  
8 taxable years beginning after June 30, 1989 and ending on  
9 or before December 31, 2008, an amount equal to 3% of the  
10 taxpayer's net income for the taxable year.

11 (4) In the case of an individual, trust, or estate, for  
12 taxable years beginning prior to January 1, 2009 and ending  
13 after December 31, 2008, an amount equal to the sum of (i)  
14 3% of the taxpayer's net income for the period prior to  
15 January 1, 2009, as calculated under Section 202.5, and  
16 (ii) 4% of the taxpayer's net income for the period after  
17 December 31, 2008, as calculated under Section 202.5  
18 ~~(Blank)~~.

19 (5) In the case of an individual, trust or estate, for  
20 taxable years beginning after December 31, 2008, an amount  
21 equal to 4% of the taxpayer's net income for the taxable  
22 year ~~(Blank)~~.

23 (6) In the case of a corporation, for taxable years  
24 ending prior to July 1, 1989, an amount equal to 4% of the  
25 taxpayer's net income for the taxable year.

26 (7) In the case of a corporation, for taxable years

1 beginning prior to July 1, 1989 and ending after June 30,  
2 1989, an amount equal to the sum of (i) 4% of the  
3 taxpayer's net income for the period prior to July 1, 1989,  
4 as calculated under Section 202.3, and (ii) 4.8% of the  
5 taxpayer's net income for the period after June 30, 1989,  
6 as calculated under Section 202.3.

7 (8) In the case of a corporation, for taxable years  
8 beginning after June 30, 1989, an amount equal to 4.8% of  
9 the taxpayer's net income for the taxable year.

10 (c) Personal Property Tax Replacement Income Tax.  
11 Beginning on July 1, 1979 and thereafter, in addition to such  
12 income tax, there is also hereby imposed the Personal Property  
13 Tax Replacement Income Tax measured by net income on every  
14 corporation (including Subchapter S corporations), partnership  
15 and trust, for each taxable year ending after June 30, 1979.  
16 Such taxes are imposed on the privilege of earning or receiving  
17 income in or as a resident of this State. The Personal Property  
18 Tax Replacement Income Tax shall be in addition to the income  
19 tax imposed by subsections (a) and (b) of this Section and in  
20 addition to all other occupation or privilege taxes imposed by  
21 this State or by any municipal corporation or political  
22 subdivision thereof.

23 (d) Additional Personal Property Tax Replacement Income  
24 Tax Rates. The personal property tax replacement income tax  
25 imposed by this subsection and subsection (c) of this Section  
26 in the case of a corporation, other than a Subchapter S

1 corporation and except as adjusted by subsection (d-1), shall  
2 be an additional amount equal to 2.85% of such taxpayer's net  
3 income for the taxable year, except that beginning on January  
4 1, 1981, and thereafter, the rate of 2.85% specified in this  
5 subsection shall be reduced to 2.5%, and in the case of a  
6 partnership, trust or a Subchapter S corporation shall be an  
7 additional amount equal to 1.5% of such taxpayer's net income  
8 for the taxable year.

9 (d-1) Rate reduction for certain foreign insurers. In the  
10 case of a foreign insurer, as defined by Section 35A-5 of the  
11 Illinois Insurance Code, whose state or country of domicile  
12 imposes on insurers domiciled in Illinois a retaliatory tax  
13 (excluding any insurer whose premiums from reinsurance assumed  
14 are 50% or more of its total insurance premiums as determined  
15 under paragraph (2) of subsection (b) of Section 304, except  
16 that for purposes of this determination premiums from  
17 reinsurance do not include premiums from inter-affiliate  
18 reinsurance arrangements), beginning with taxable years ending  
19 on or after December 31, 1999, the sum of the rates of tax  
20 imposed by subsections (b) and (d) shall be reduced (but not  
21 increased) to the rate at which the total amount of tax imposed  
22 under this Act, net of all credits allowed under this Act,  
23 shall equal (i) the total amount of tax that would be imposed  
24 on the foreign insurer's net income allocable to Illinois for  
25 the taxable year by such foreign insurer's state or country of  
26 domicile if that net income were subject to all income taxes

1 and taxes measured by net income imposed by such foreign  
2 insurer's state or country of domicile, net of all credits  
3 allowed or (ii) a rate of zero if no such tax is imposed on such  
4 income by the foreign insurer's state of domicile. For the  
5 purposes of this subsection (d-1), an inter-affiliate includes  
6 a mutual insurer under common management.

7 (1) For the purposes of subsection (d-1), in no event  
8 shall the sum of the rates of tax imposed by subsections  
9 (b) and (d) be reduced below the rate at which the sum of:

10 (A) the total amount of tax imposed on such foreign  
11 insurer under this Act for a taxable year, net of all  
12 credits allowed under this Act, plus

13 (B) the privilege tax imposed by Section 409 of the  
14 Illinois Insurance Code, the fire insurance company  
15 tax imposed by Section 12 of the Fire Investigation  
16 Act, and the fire department taxes imposed under  
17 Section 11-10-1 of the Illinois Municipal Code,  
18 equals 1.25% for taxable years ending prior to December 31,  
19 2003, or 1.75% for taxable years ending on or after  
20 December 31, 2003, of the net taxable premiums written for  
21 the taxable year, as described by subsection (1) of Section  
22 409 of the Illinois Insurance Code. This paragraph will in  
23 no event increase the rates imposed under subsections (b)  
24 and (d).

25 (2) Any reduction in the rates of tax imposed by this  
26 subsection shall be applied first against the rates imposed

1 by subsection (b) and only after the tax imposed by  
2 subsection (a) net of all credits allowed under this  
3 Section other than the credit allowed under subsection (i)  
4 has been reduced to zero, against the rates imposed by  
5 subsection (d).

6 This subsection (d-1) is exempt from the provisions of  
7 Section 250.

8 (e) Investment credit. A taxpayer shall be allowed a credit  
9 against the Personal Property Tax Replacement Income Tax for  
10 investment in qualified property.

11 (1) A taxpayer shall be allowed a credit equal to .5%  
12 of the basis of qualified property placed in service during  
13 the taxable year, provided such property is placed in  
14 service on or after July 1, 1984. There shall be allowed an  
15 additional credit equal to .5% of the basis of qualified  
16 property placed in service during the taxable year,  
17 provided such property is placed in service on or after  
18 July 1, 1986, and the taxpayer's base employment within  
19 Illinois has increased by 1% or more over the preceding  
20 year as determined by the taxpayer's employment records  
21 filed with the Illinois Department of Employment Security.  
22 Taxpayers who are new to Illinois shall be deemed to have  
23 met the 1% growth in base employment for the first year in  
24 which they file employment records with the Illinois  
25 Department of Employment Security. The provisions added to  
26 this Section by Public Act 85-1200 (and restored by Public

1 Act 87-895) shall be construed as declaratory of existing  
2 law and not as a new enactment. If, in any year, the  
3 increase in base employment within Illinois over the  
4 preceding year is less than 1%, the additional credit shall  
5 be limited to that percentage times a fraction, the  
6 numerator of which is .5% and the denominator of which is  
7 1%, but shall not exceed .5%. The investment credit shall  
8 not be allowed to the extent that it would reduce a  
9 taxpayer's liability in any tax year below zero, nor may  
10 any credit for qualified property be allowed for any year  
11 other than the year in which the property was placed in  
12 service in Illinois. For tax years ending on or after  
13 December 31, 1987, and on or before December 31, 1988, the  
14 credit shall be allowed for the tax year in which the  
15 property is placed in service, or, if the amount of the  
16 credit exceeds the tax liability for that year, whether it  
17 exceeds the original liability or the liability as later  
18 amended, such excess may be carried forward and applied to  
19 the tax liability of the 5 taxable years following the  
20 excess credit years if the taxpayer (i) makes investments  
21 which cause the creation of a minimum of 2,000 full-time  
22 equivalent jobs in Illinois, (ii) is located in an  
23 enterprise zone established pursuant to the Illinois  
24 Enterprise Zone Act and (iii) is certified by the  
25 Department of Commerce and Community Affairs (now  
26 Department of Commerce and Economic Opportunity) as



1 complying with the requirements specified in clause (i) and  
2 (ii) by July 1, 1986. The Department of Commerce and  
3 Community Affairs (now Department of Commerce and Economic  
4 Opportunity) shall notify the Department of Revenue of all  
5 such certifications immediately. For tax years ending  
6 after December 31, 1988, the credit shall be allowed for  
7 the tax year in which the property is placed in service,  
8 or, if the amount of the credit exceeds the tax liability  
9 for that year, whether it exceeds the original liability or  
10 the liability as later amended, such excess may be carried  
11 forward and applied to the tax liability of the 5 taxable  
12 years following the excess credit years. The credit shall  
13 be applied to the earliest year for which there is a  
14 liability. If there is credit from more than one tax year  
15 that is available to offset a liability, earlier credit  
16 shall be applied first.

17 (2) The term "qualified property" means property  
18 which:

19 (A) is tangible, whether new or used, including  
20 buildings and structural components of buildings and  
21 signs that are real property, but not including land or  
22 improvements to real property that are not a structural  
23 component of a building such as landscaping, sewer  
24 lines, local access roads, fencing, parking lots, and  
25 other appurtenances;

26 (B) is depreciable pursuant to Section 167 of the

1 Internal Revenue Code, except that "3-year property"  
2 as defined in Section 168(c)(2)(A) of that Code is not  
3 eligible for the credit provided by this subsection  
4 (e);

5 (C) is acquired by purchase as defined in Section  
6 179(d) of the Internal Revenue Code;

7 (D) is used in Illinois by a taxpayer who is  
8 primarily engaged in manufacturing, or in mining coal  
9 or fluorite, or in retailing, or was placed in service  
10 on or after July 1, 2006 in a River Edge Redevelopment  
11 Zone established pursuant to the River Edge  
12 Redevelopment Zone Act; and

13 (E) has not previously been used in Illinois in  
14 such a manner and by such a person as would qualify for  
15 the credit provided by this subsection (e) or  
16 subsection (f).

17 (3) For purposes of this subsection (e),  
18 "manufacturing" means the material staging and production  
19 of tangible personal property by procedures commonly  
20 regarded as manufacturing, processing, fabrication, or  
21 assembling which changes some existing material into new  
22 shapes, new qualities, or new combinations. For purposes of  
23 this subsection (e) the term "mining" shall have the same  
24 meaning as the term "mining" in Section 613(c) of the  
25 Internal Revenue Code. For purposes of this subsection (e),  
26 the term "retailing" means the sale of tangible personal

1 property or services rendered in conjunction with the sale  
2 of tangible consumer goods or commodities.

3 (4) The basis of qualified property shall be the basis  
4 used to compute the depreciation deduction for federal  
5 income tax purposes.

6 (5) If the basis of the property for federal income tax  
7 depreciation purposes is increased after it has been placed  
8 in service in Illinois by the taxpayer, the amount of such  
9 increase shall be deemed property placed in service on the  
10 date of such increase in basis.

11 (6) The term "placed in service" shall have the same  
12 meaning as under Section 46 of the Internal Revenue Code.

13 (7) If during any taxable year, any property ceases to  
14 be qualified property in the hands of the taxpayer within  
15 48 months after being placed in service, or the situs of  
16 any qualified property is moved outside Illinois within 48  
17 months after being placed in service, the Personal Property  
18 Tax Replacement Income Tax for such taxable year shall be  
19 increased. Such increase shall be determined by (i)  
20 recomputing the investment credit which would have been  
21 allowed for the year in which credit for such property was  
22 originally allowed by eliminating such property from such  
23 computation and, (ii) subtracting such recomputed credit  
24 from the amount of credit previously allowed. For the  
25 purposes of this paragraph (7), a reduction of the basis of  
26 qualified property resulting from a redetermination of the

1 purchase price shall be deemed a disposition of qualified  
2 property to the extent of such reduction.

3 (8) Unless the investment credit is extended by law,  
4 the basis of qualified property shall not include costs  
5 incurred after December 31, 2008, except for costs incurred  
6 pursuant to a binding contract entered into on or before  
7 December 31, 2008.

8 (9) Each taxable year ending before December 31, 2000,  
9 a partnership may elect to pass through to its partners the  
10 credits to which the partnership is entitled under this  
11 subsection (e) for the taxable year. A partner may use the  
12 credit allocated to him or her under this paragraph only  
13 against the tax imposed in subsections (c) and (d) of this  
14 Section. If the partnership makes that election, those  
15 credits shall be allocated among the partners in the  
16 partnership in accordance with the rules set forth in  
17 Section 704(b) of the Internal Revenue Code, and the rules  
18 promulgated under that Section, and the allocated amount of  
19 the credits shall be allowed to the partners for that  
20 taxable year. The partnership shall make this election on  
21 its Personal Property Tax Replacement Income Tax return for  
22 that taxable year. The election to pass through the credits  
23 shall be irrevocable.

24 For taxable years ending on or after December 31, 2000,  
25 a partner that qualifies its partnership for a subtraction  
26 under subparagraph (I) of paragraph (2) of subsection (d)

1 of Section 203 or a shareholder that qualifies a Subchapter  
2 S corporation for a subtraction under subparagraph (S) of  
3 paragraph (2) of subsection (b) of Section 203 shall be  
4 allowed a credit under this subsection (e) equal to its  
5 share of the credit earned under this subsection (e) during  
6 the taxable year by the partnership or Subchapter S  
7 corporation, determined in accordance with the  
8 determination of income and distributive share of income  
9 under Sections 702 and 704 and Subchapter S of the Internal  
10 Revenue Code. This paragraph is exempt from the provisions  
11 of Section 250.

12 (f) Investment credit; Enterprise Zone; River Edge  
13 Redevelopment Zone.

14 (1) A taxpayer shall be allowed a credit against the  
15 tax imposed by subsections (a) and (b) of this Section for  
16 investment in qualified property which is placed in service  
17 in an Enterprise Zone created pursuant to the Illinois  
18 Enterprise Zone Act or, for property placed in service on  
19 or after July 1, 2006, a River Edge Redevelopment Zone  
20 established pursuant to the River Edge Redevelopment Zone  
21 Act. For partners, shareholders of Subchapter S  
22 corporations, and owners of limited liability companies,  
23 if the liability company is treated as a partnership for  
24 purposes of federal and State income taxation, there shall  
25 be allowed a credit under this subsection (f) to be  
26 determined in accordance with the determination of income

1 and distributive share of income under Sections 702 and 704  
2 and Subchapter S of the Internal Revenue Code. The credit  
3 shall be .5% of the basis for such property. The credit  
4 shall be available only in the taxable year in which the  
5 property is placed in service in the Enterprise Zone or  
6 River Edge Redevelopment Zone and shall not be allowed to  
7 the extent that it would reduce a taxpayer's liability for  
8 the tax imposed by subsections (a) and (b) of this Section  
9 to below zero. For tax years ending on or after December  
10 31, 1985, the credit shall be allowed for the tax year in  
11 which the property is placed in service, or, if the amount  
12 of the credit exceeds the tax liability for that year,  
13 whether it exceeds the original liability or the liability  
14 as later amended, such excess may be carried forward and  
15 applied to the tax liability of the 5 taxable years  
16 following the excess credit year. The credit shall be  
17 applied to the earliest year for which there is a  
18 liability. If there is credit from more than one tax year  
19 that is available to offset a liability, the credit  
20 accruing first in time shall be applied first.

21 (2) The term qualified property means property which:

22 (A) is tangible, whether new or used, including  
23 buildings and structural components of buildings;

24 (B) is depreciable pursuant to Section 167 of the  
25 Internal Revenue Code, except that "3-year property"  
26 as defined in Section 168(c)(2)(A) of that Code is not

1 eligible for the credit provided by this subsection  
2 (f);

3 (C) is acquired by purchase as defined in Section  
4 179(d) of the Internal Revenue Code;

5 (D) is used in the Enterprise Zone or River Edge  
6 Redevelopment Zone by the taxpayer; and

7 (E) has not been previously used in Illinois in  
8 such a manner and by such a person as would qualify for  
9 the credit provided by this subsection (f) or  
10 subsection (e).

11 (3) The basis of qualified property shall be the basis  
12 used to compute the depreciation deduction for federal  
13 income tax purposes.

14 (4) If the basis of the property for federal income tax  
15 depreciation purposes is increased after it has been placed  
16 in service in the Enterprise Zone or River Edge  
17 Redevelopment Zone by the taxpayer, the amount of such  
18 increase shall be deemed property placed in service on the  
19 date of such increase in basis.

20 (5) The term "placed in service" shall have the same  
21 meaning as under Section 46 of the Internal Revenue Code.

22 (6) If during any taxable year, any property ceases to  
23 be qualified property in the hands of the taxpayer within  
24 48 months after being placed in service, or the situs of  
25 any qualified property is moved outside the Enterprise Zone  
26 or River Edge Redevelopment Zone within 48 months after

1 being placed in service, the tax imposed under subsections  
2 (a) and (b) of this Section for such taxable year shall be  
3 increased. Such increase shall be determined by (i)  
4 recomputing the investment credit which would have been  
5 allowed for the year in which credit for such property was  
6 originally allowed by eliminating such property from such  
7 computation, and (ii) subtracting such recomputed credit  
8 from the amount of credit previously allowed. For the  
9 purposes of this paragraph (6), a reduction of the basis of  
10 qualified property resulting from a redetermination of the  
11 purchase price shall be deemed a disposition of qualified  
12 property to the extent of such reduction.

13 (7) There shall be allowed an additional credit equal  
14 to 0.5% of the basis of qualified property placed in  
15 service during the taxable year in a River Edge  
16 Redevelopment Zone, provided such property is placed in  
17 service on or after July 1, 2006, and the taxpayer's base  
18 employment within Illinois has increased by 1% or more over  
19 the preceding year as determined by the taxpayer's  
20 employment records filed with the Illinois Department of  
21 Employment Security. Taxpayers who are new to Illinois  
22 shall be deemed to have met the 1% growth in base  
23 employment for the first year in which they file employment  
24 records with the Illinois Department of Employment  
25 Security. If, in any year, the increase in base employment  
26 within Illinois over the preceding year is less than 1%,



1 the additional credit shall be limited to that percentage  
2 times a fraction, the numerator of which is 0.5% and the  
3 denominator of which is 1%, but shall not exceed 0.5%.

4 (g) Jobs Tax Credit; Enterprise Zone, River Edge  
5 Redevelopment Zone, and Foreign Trade Zone or Sub-Zone.

6 (1) A taxpayer conducting a trade or business in an  
7 enterprise zone or a High Impact Business designated by the  
8 Department of Commerce and Economic Opportunity or for  
9 taxable years ending on or after December 31, 2006, in a  
10 River Edge Redevelopment Zone conducting a trade or  
11 business in a federally designated Foreign Trade Zone or  
12 Sub-Zone shall be allowed a credit against the tax imposed  
13 by subsections (a) and (b) of this Section in the amount of  
14 \$500 per eligible employee hired to work in the zone during  
15 the taxable year.

16 (2) To qualify for the credit:

17 (A) the taxpayer must hire 5 or more eligible  
18 employees to work in an enterprise zone, River Edge  
19 Redevelopment Zone, or federally designated Foreign  
20 Trade Zone or Sub-Zone during the taxable year;

21 (B) the taxpayer's total employment within the  
22 enterprise zone, River Edge Redevelopment Zone, or  
23 federally designated Foreign Trade Zone or Sub-Zone  
24 must increase by 5 or more full-time employees beyond  
25 the total employed in that zone at the end of the  
26 previous tax year for which a jobs tax credit under

1 this Section was taken, or beyond the total employed by  
2 the taxpayer as of December 31, 1985, whichever is  
3 later; and

4 (C) the eligible employees must be employed 180  
5 consecutive days in order to be deemed hired for  
6 purposes of this subsection.

7 (3) An "eligible employee" means an employee who is:

8 (A) Certified by the Department of Commerce and  
9 Economic Opportunity as "eligible for services"  
10 pursuant to regulations promulgated in accordance with  
11 Title II of the Job Training Partnership Act, Training  
12 Services for the Disadvantaged or Title III of the Job  
13 Training Partnership Act, Employment and Training  
14 Assistance for Dislocated Workers Program.

15 (B) Hired after the enterprise zone, River Edge  
16 Redevelopment Zone, or federally designated Foreign  
17 Trade Zone or Sub-Zone was designated or the trade or  
18 business was located in that zone, whichever is later.

19 (C) Employed in the enterprise zone, River Edge  
20 Redevelopment Zone, or Foreign Trade Zone or Sub-Zone.  
21 An employee is employed in an enterprise zone or  
22 federally designated Foreign Trade Zone or Sub-Zone if  
23 his services are rendered there or it is the base of  
24 operations for the services performed.

25 (D) A full-time employee working 30 or more hours  
26 per week.

1           (4) For tax years ending on or after December 31, 1985  
2           and prior to December 31, 1988, the credit shall be allowed  
3           for the tax year in which the eligible employees are hired.  
4           For tax years ending on or after December 31, 1988, the  
5           credit shall be allowed for the tax year immediately  
6           following the tax year in which the eligible employees are  
7           hired. If the amount of the credit exceeds the tax  
8           liability for that year, whether it exceeds the original  
9           liability or the liability as later amended, such excess  
10          may be carried forward and applied to the tax liability of  
11          the 5 taxable years following the excess credit year. The  
12          credit shall be applied to the earliest year for which  
13          there is a liability. If there is credit from more than one  
14          tax year that is available to offset a liability, earlier  
15          credit shall be applied first.

16          (5) The Department of Revenue shall promulgate such  
17          rules and regulations as may be deemed necessary to carry  
18          out the purposes of this subsection (g).

19          (6) The credit shall be available for eligible  
20          employees hired on or after January 1, 1986.

21          (h) Investment credit; High Impact Business.

22          (1) Subject to subsections (b) and (b-5) of Section 5.5  
23          of the Illinois Enterprise Zone Act, a taxpayer shall be  
24          allowed a credit against the tax imposed by subsections (a)  
25          and (b) of this Section for investment in qualified  
26          property which is placed in service by a Department of

1 Commerce and Economic Opportunity designated High Impact  
2 Business. The credit shall be .5% of the basis for such  
3 property. The credit shall not be available (i) until the  
4 minimum investments in qualified property set forth in  
5 subdivision (a)(3)(A) of Section 5.5 of the Illinois  
6 Enterprise Zone Act have been satisfied or (ii) until the  
7 time authorized in subsection (b-5) of the Illinois  
8 Enterprise Zone Act for entities designated as High Impact  
9 Businesses under subdivisions (a)(3)(B), (a)(3)(C), and  
10 (a)(3)(D) of Section 5.5 of the Illinois Enterprise Zone  
11 Act, and shall not be allowed to the extent that it would  
12 reduce a taxpayer's liability for the tax imposed by  
13 subsections (a) and (b) of this Section to below zero. The  
14 credit applicable to such investments shall be taken in the  
15 taxable year in which such investments have been completed.  
16 The credit for additional investments beyond the minimum  
17 investment by a designated high impact business authorized  
18 under subdivision (a)(3)(A) of Section 5.5 of the Illinois  
19 Enterprise Zone Act shall be available only in the taxable  
20 year in which the property is placed in service and shall  
21 not be allowed to the extent that it would reduce a  
22 taxpayer's liability for the tax imposed by subsections (a)  
23 and (b) of this Section to below zero. For tax years ending  
24 on or after December 31, 1987, the credit shall be allowed  
25 for the tax year in which the property is placed in  
26 service, or, if the amount of the credit exceeds the tax

1 liability for that year, whether it exceeds the original  
2 liability or the liability as later amended, such excess  
3 may be carried forward and applied to the tax liability of  
4 the 5 taxable years following the excess credit year. The  
5 credit shall be applied to the earliest year for which  
6 there is a liability. If there is credit from more than one  
7 tax year that is available to offset a liability, the  
8 credit accruing first in time shall be applied first.

9 Changes made in this subdivision (h)(1) by Public Act  
10 88-670 restore changes made by Public Act 85-1182 and  
11 reflect existing law.

12 (2) The term qualified property means property which:

13 (A) is tangible, whether new or used, including  
14 buildings and structural components of buildings;

15 (B) is depreciable pursuant to Section 167 of the  
16 Internal Revenue Code, except that "3-year property"  
17 as defined in Section 168(c)(2)(A) of that Code is not  
18 eligible for the credit provided by this subsection  
19 (h);

20 (C) is acquired by purchase as defined in Section  
21 179(d) of the Internal Revenue Code; and

22 (D) is not eligible for the Enterprise Zone  
23 Investment Credit provided by subsection (f) of this  
24 Section.

25 (3) The basis of qualified property shall be the basis  
26 used to compute the depreciation deduction for federal

1 income tax purposes.

2 (4) If the basis of the property for federal income tax  
3 depreciation purposes is increased after it has been placed  
4 in service in a federally designated Foreign Trade Zone or  
5 Sub-Zone located in Illinois by the taxpayer, the amount of  
6 such increase shall be deemed property placed in service on  
7 the date of such increase in basis.

8 (5) The term "placed in service" shall have the same  
9 meaning as under Section 46 of the Internal Revenue Code.

10 (6) If during any taxable year ending on or before  
11 December 31, 1996, any property ceases to be qualified  
12 property in the hands of the taxpayer within 48 months  
13 after being placed in service, or the situs of any  
14 qualified property is moved outside Illinois within 48  
15 months after being placed in service, the tax imposed under  
16 subsections (a) and (b) of this Section for such taxable  
17 year shall be increased. Such increase shall be determined  
18 by (i) recomputing the investment credit which would have  
19 been allowed for the year in which credit for such property  
20 was originally allowed by eliminating such property from  
21 such computation, and (ii) subtracting such recomputed  
22 credit from the amount of credit previously allowed. For  
23 the purposes of this paragraph (6), a reduction of the  
24 basis of qualified property resulting from a  
25 redetermination of the purchase price shall be deemed a  
26 disposition of qualified property to the extent of such

1 reduction.

2 (7) Beginning with tax years ending after December 31,  
3 1996, if a taxpayer qualifies for the credit under this  
4 subsection (h) and thereby is granted a tax abatement and  
5 the taxpayer relocates its entire facility in violation of  
6 the explicit terms and length of the contract under Section  
7 18-183 of the Property Tax Code, the tax imposed under  
8 subsections (a) and (b) of this Section shall be increased  
9 for the taxable year in which the taxpayer relocated its  
10 facility by an amount equal to the amount of credit  
11 received by the taxpayer under this subsection (h).

12 (i) Credit for Personal Property Tax Replacement Income  
13 Tax. For tax years ending prior to December 31, 2003, a credit  
14 shall be allowed against the tax imposed by subsections (a) and  
15 (b) of this Section for the tax imposed by subsections (c) and  
16 (d) of this Section. This credit shall be computed by  
17 multiplying the tax imposed by subsections (c) and (d) of this  
18 Section by a fraction, the numerator of which is base income  
19 allocable to Illinois and the denominator of which is Illinois  
20 base income, and further multiplying the product by the tax  
21 rate imposed by subsections (a) and (b) of this Section.

22 Any credit earned on or after December 31, 1986 under this  
23 subsection which is unused in the year the credit is computed  
24 because it exceeds the tax liability imposed by subsections (a)  
25 and (b) for that year (whether it exceeds the original  
26 liability or the liability as later amended) may be carried

1 forward and applied to the tax liability imposed by subsections  
2 (a) and (b) of the 5 taxable years following the excess credit  
3 year, provided that no credit may be carried forward to any  
4 year ending on or after December 31, 2003. This credit shall be  
5 applied first to the earliest year for which there is a  
6 liability. If there is a credit under this subsection from more  
7 than one tax year that is available to offset a liability the  
8 earliest credit arising under this subsection shall be applied  
9 first.

10 If, during any taxable year ending on or after December 31,  
11 1986, the tax imposed by subsections (c) and (d) of this  
12 Section for which a taxpayer has claimed a credit under this  
13 subsection (i) is reduced, the amount of credit for such tax  
14 shall also be reduced. Such reduction shall be determined by  
15 recomputing the credit to take into account the reduced tax  
16 imposed by subsections (c) and (d). If any portion of the  
17 reduced amount of credit has been carried to a different  
18 taxable year, an amended return shall be filed for such taxable  
19 year to reduce the amount of credit claimed.

20 (j) Training expense credit. Beginning with tax years  
21 ending on or after December 31, 1986 and prior to December 31,  
22 2003, a taxpayer shall be allowed a credit against the tax  
23 imposed by subsections (a) and (b) under this Section for all  
24 amounts paid or accrued, on behalf of all persons employed by  
25 the taxpayer in Illinois or Illinois residents employed outside  
26 of Illinois by a taxpayer, for educational or vocational



1 training in semi-technical or technical fields or semi-skilled  
2 or skilled fields, which were deducted from gross income in the  
3 computation of taxable income. The credit against the tax  
4 imposed by subsections (a) and (b) shall be 1.6% of such  
5 training expenses. For partners, shareholders of subchapter S  
6 corporations, and owners of limited liability companies, if the  
7 liability company is treated as a partnership for purposes of  
8 federal and State income taxation, there shall be allowed a  
9 credit under this subsection (j) to be determined in accordance  
10 with the determination of income and distributive share of  
11 income under Sections 702 and 704 and subchapter S of the  
12 Internal Revenue Code.

13 Any credit allowed under this subsection which is unused in  
14 the year the credit is earned may be carried forward to each of  
15 the 5 taxable years following the year for which the credit is  
16 first computed until it is used. This credit shall be applied  
17 first to the earliest year for which there is a liability. If  
18 there is a credit under this subsection from more than one tax  
19 year that is available to offset a liability the earliest  
20 credit arising under this subsection shall be applied first. No  
21 carryforward credit may be claimed in any tax year ending on or  
22 after December 31, 2003.

23 (k) Research and development credit.

24 For tax years ending after July 1, 1990 and prior to  
25 December 31, 2003, and beginning again for tax years ending on  
26 or after December 31, 2004, a taxpayer shall be allowed a

1 credit against the tax imposed by subsections (a) and (b) of  
2 this Section for increasing research activities in this State.  
3 The credit allowed against the tax imposed by subsections (a)  
4 and (b) shall be equal to 6 1/2% of the qualifying expenditures  
5 for increasing research activities in this State. For partners,  
6 shareholders of subchapter S corporations, and owners of  
7 limited liability companies, if the liability company is  
8 treated as a partnership for purposes of federal and State  
9 income taxation, there shall be allowed a credit under this  
10 subsection to be determined in accordance with the  
11 determination of income and distributive share of income under  
12 Sections 702 and 704 and subchapter S of the Internal Revenue  
13 Code.

14 For purposes of this subsection, "qualifying expenditures"  
15 means the qualifying expenditures as defined for the federal  
16 credit for increasing research activities which would be  
17 allowable under Section 41 of the Internal Revenue Code and  
18 which are conducted in this State, "qualifying expenditures for  
19 increasing research activities in this State" means the excess  
20 of qualifying expenditures for the taxable year in which  
21 incurred over qualifying expenditures for the base period,  
22 "qualifying expenditures for the base period" means the average  
23 of the qualifying expenditures for each year in the base  
24 period, and "base period" means the 3 taxable years immediately  
25 preceding the taxable year for which the determination is being  
26 made.

1 Any credit in excess of the tax liability for the taxable  
2 year may be carried forward. A taxpayer may elect to have the  
3 unused credit shown on its final completed return carried over  
4 as a credit against the tax liability for the following 5  
5 taxable years or until it has been fully used, whichever occurs  
6 first; provided that no credit earned in a tax year ending  
7 prior to December 31, 2003 may be carried forward to any year  
8 ending on or after December 31, 2003.

9 If an unused credit is carried forward to a given year from  
10 2 or more earlier years, that credit arising in the earliest  
11 year will be applied first against the tax liability for the  
12 given year. If a tax liability for the given year still  
13 remains, the credit from the next earliest year will then be  
14 applied, and so on, until all credits have been used or no tax  
15 liability for the given year remains. Any remaining unused  
16 credit or credits then will be carried forward to the next  
17 following year in which a tax liability is incurred, except  
18 that no credit can be carried forward to a year which is more  
19 than 5 years after the year in which the expense for which the  
20 credit is given was incurred.

21 No inference shall be drawn from this amendatory Act of the  
22 91st General Assembly in construing this Section for taxable  
23 years beginning before January 1, 1999.

24 (1) Environmental Remediation Tax Credit.

25 (i) For tax years ending after December 31, 1997 and on  
26 or before December 31, 2001, a taxpayer shall be allowed a

1 credit against the tax imposed by subsections (a) and (b)  
2 of this Section for certain amounts paid for unreimbursed  
3 eligible remediation costs, as specified in this  
4 subsection. For purposes of this Section, "unreimbursed  
5 eligible remediation costs" means costs approved by the  
6 Illinois Environmental Protection Agency ("Agency") under  
7 Section 58.14 of the Environmental Protection Act that were  
8 paid in performing environmental remediation at a site for  
9 which a No Further Remediation Letter was issued by the  
10 Agency and recorded under Section 58.10 of the  
11 Environmental Protection Act. The credit must be claimed  
12 for the taxable year in which Agency approval of the  
13 eligible remediation costs is granted. The credit is not  
14 available to any taxpayer if the taxpayer or any related  
15 party caused or contributed to, in any material respect, a  
16 release of regulated substances on, in, or under the site  
17 that was identified and addressed by the remedial action  
18 pursuant to the Site Remediation Program of the  
19 Environmental Protection Act. After the Pollution Control  
20 Board rules are adopted pursuant to the Illinois  
21 Administrative Procedure Act for the administration and  
22 enforcement of Section 58.9 of the Environmental  
23 Protection Act, determinations as to credit availability  
24 for purposes of this Section shall be made consistent with  
25 those rules. For purposes of this Section, "taxpayer"  
26 includes a person whose tax attributes the taxpayer has

1 succeeded to under Section 381 of the Internal Revenue Code  
2 and "related party" includes the persons disallowed a  
3 deduction for losses by paragraphs (b), (c), and (f)(1) of  
4 Section 267 of the Internal Revenue Code by virtue of being  
5 a related taxpayer, as well as any of its partners. The  
6 credit allowed against the tax imposed by subsections (a)  
7 and (b) shall be equal to 25% of the unreimbursed eligible  
8 remediation costs in excess of \$100,000 per site, except  
9 that the \$100,000 threshold shall not apply to any site  
10 contained in an enterprise zone as determined by the  
11 Department of Commerce and Community Affairs (now  
12 Department of Commerce and Economic Opportunity). The  
13 total credit allowed shall not exceed \$40,000 per year with  
14 a maximum total of \$150,000 per site. For partners and  
15 shareholders of subchapter S corporations, there shall be  
16 allowed a credit under this subsection to be determined in  
17 accordance with the determination of income and  
18 distributive share of income under Sections 702 and 704 and  
19 subchapter S of the Internal Revenue Code.

20 (ii) A credit allowed under this subsection that is  
21 unused in the year the credit is earned may be carried  
22 forward to each of the 5 taxable years following the year  
23 for which the credit is first earned until it is used. The  
24 term "unused credit" does not include any amounts of  
25 unreimbursed eligible remediation costs in excess of the  
26 maximum credit per site authorized under paragraph (i).

1 This credit shall be applied first to the earliest year for  
2 which there is a liability. If there is a credit under this  
3 subsection from more than one tax year that is available to  
4 offset a liability, the earliest credit arising under this  
5 subsection shall be applied first. A credit allowed under  
6 this subsection may be sold to a buyer as part of a sale of  
7 all or part of the remediation site for which the credit  
8 was granted. The purchaser of a remediation site and the  
9 tax credit shall succeed to the unused credit and remaining  
10 carry-forward period of the seller. To perfect the  
11 transfer, the assignor shall record the transfer in the  
12 chain of title for the site and provide written notice to  
13 the Director of the Illinois Department of Revenue of the  
14 assignor's intent to sell the remediation site and the  
15 amount of the tax credit to be transferred as a portion of  
16 the sale. In no event may a credit be transferred to any  
17 taxpayer if the taxpayer or a related party would not be  
18 eligible under the provisions of subsection (i).

19 (iii) For purposes of this Section, the term "site"  
20 shall have the same meaning as under Section 58.2 of the  
21 Environmental Protection Act.

22 (m) Education expense credit. Beginning with tax years  
23 ending after December 31, 1999, a taxpayer who is the custodian  
24 of one or more qualifying pupils shall be allowed a credit  
25 against the tax imposed by subsections (a) and (b) of this  
26 Section for qualified education expenses incurred on behalf of

1 the qualifying pupils. The credit shall be equal to 25% of  
2 qualified education expenses, but in no event may the total  
3 credit under this subsection claimed by a family that is the  
4 custodian of qualifying pupils exceed \$500. In no event shall a  
5 credit under this subsection reduce the taxpayer's liability  
6 under this Act to less than zero. This subsection is exempt  
7 from the provisions of Section 250 of this Act.

8 For purposes of this subsection:

9 "Qualifying pupils" means individuals who (i) are  
10 residents of the State of Illinois, (ii) are under the age of  
11 21 at the close of the school year for which a credit is  
12 sought, and (iii) during the school year for which a credit is  
13 sought were full-time pupils enrolled in a kindergarten through  
14 twelfth grade education program at any school, as defined in  
15 this subsection.

16 "Qualified education expense" means the amount incurred on  
17 behalf of a qualifying pupil in excess of \$250 for tuition,  
18 book fees, and lab fees at the school in which the pupil is  
19 enrolled during the regular school year.

20 "School" means any public or nonpublic elementary or  
21 secondary school in Illinois that is in compliance with Title  
22 VI of the Civil Rights Act of 1964 and attendance at which  
23 satisfies the requirements of Section 26-1 of the School Code,  
24 except that nothing shall be construed to require a child to  
25 attend any particular public or nonpublic school to qualify for  
26 the credit under this Section.

1 "Custodian" means, with respect to qualifying pupils, an  
2 Illinois resident who is a parent, the parents, a legal  
3 guardian, or the legal guardians of the qualifying pupils.

4 (n) River Edge Redevelopment Zone site remediation tax  
5 credit.

6 (i) For tax years ending on or after December 31, 2006,  
7 a taxpayer shall be allowed a credit against the tax  
8 imposed by subsections (a) and (b) of this Section for  
9 certain amounts paid for unreimbursed eligible remediation  
10 costs, as specified in this subsection. For purposes of  
11 this Section, "unreimbursed eligible remediation costs"  
12 means costs approved by the Illinois Environmental  
13 Protection Agency ("Agency") under Section 58.14a of the  
14 Environmental Protection Act that were paid in performing  
15 environmental remediation at a site within a River Edge  
16 Redevelopment Zone for which a No Further Remediation  
17 Letter was issued by the Agency and recorded under Section  
18 58.10 of the Environmental Protection Act. The credit must  
19 be claimed for the taxable year in which Agency approval of  
20 the eligible remediation costs is granted. The credit is  
21 not available to any taxpayer if the taxpayer or any  
22 related party caused or contributed to, in any material  
23 respect, a release of regulated substances on, in, or under  
24 the site that was identified and addressed by the remedial  
25 action pursuant to the Site Remediation Program of the  
26 Environmental Protection Act. Determinations as to credit



1 availability for purposes of this Section shall be made  
2 consistent with rules adopted by the Pollution Control  
3 Board pursuant to the Illinois Administrative Procedure  
4 Act for the administration and enforcement of Section 58.9  
5 of the Environmental Protection Act. For purposes of this  
6 Section, "taxpayer" includes a person whose tax attributes  
7 the taxpayer has succeeded to under Section 381 of the  
8 Internal Revenue Code and "related party" includes the  
9 persons disallowed a deduction for losses by paragraphs  
10 (b), (c), and (f) (1) of Section 267 of the Internal Revenue  
11 Code by virtue of being a related taxpayer, as well as any  
12 of its partners. The credit allowed against the tax imposed  
13 by subsections (a) and (b) shall be equal to 25% of the  
14 unreimbursed eligible remediation costs in excess of  
15 \$100,000 per site.

16 (ii) A credit allowed under this subsection that is  
17 unused in the year the credit is earned may be carried  
18 forward to each of the 5 taxable years following the year  
19 for which the credit is first earned until it is used. This  
20 credit shall be applied first to the earliest year for  
21 which there is a liability. If there is a credit under this  
22 subsection from more than one tax year that is available to  
23 offset a liability, the earliest credit arising under this  
24 subsection shall be applied first. A credit allowed under  
25 this subsection may be sold to a buyer as part of a sale of  
26 all or part of the remediation site for which the credit

1 was granted. The purchaser of a remediation site and the  
2 tax credit shall succeed to the unused credit and remaining  
3 carry-forward period of the seller. To perfect the  
4 transfer, the assignor shall record the transfer in the  
5 chain of title for the site and provide written notice to  
6 the Director of the Illinois Department of Revenue of the  
7 assignor's intent to sell the remediation site and the  
8 amount of the tax credit to be transferred as a portion of  
9 the sale. In no event may a credit be transferred to any  
10 taxpayer if the taxpayer or a related party would not be  
11 eligible under the provisions of subsection (i).

12 (iii) For purposes of this Section, the term "site"  
13 shall have the same meaning as under Section 58.2 of the  
14 Environmental Protection Act.

15 (iv) This subsection is exempt from the provisions of  
16 Section 250.

17 (Source: P.A. 94-1021, eff. 7-12-06; 95-454, eff. 8-27-07.)

18 (35 ILCS 5/202.5 new)

19 Sec. 202.5. Net income attributable to the period prior to  
20 January 1, 2009 and net income attributable to the period after  
21 December 31, 2008.

22 (a) In general. With respect to the taxable year of a  
23 taxpayer beginning prior to January 1, 2009 and ending after  
24 December 31, 2008, net income for the period after December 31,  
25 2008 is that amount that bears the same ratio to the taxpayer's

1 net income for the entire taxable year as the number of days in  
2 that year after December 31, 2008 bears to the total number of  
3 days in that year, and the net income for the period prior to  
4 January 1, 2009 is that amount that bears the same ratio to the  
5 taxpayer's net income for the entire taxable year as the number  
6 of days in that year prior to January 1, 2009 bears to the  
7 total number of days in that year.

8 (b) Election to attribute income and deduction items  
9 specifically to the respective portions of a taxable year prior  
10 to January 1, 2009 and after December 31, 2008. In the case of  
11 a taxpayer with a taxable year beginning prior to January 1,  
12 2009 and ending after December 31, 2008, the taxpayer may  
13 elect, instead of the procedure established in subsection (a)  
14 of this Section, to determine net income on a specific  
15 accounting basis for the 2 portions of his or her taxable year:

16 (i) from the beginning of the taxable year through  
17 December 31, 2008; and

18 (ii) from January 1, 2009 through the end of the  
19 taxable year.

20 If the taxpayer elects specific accounting under this  
21 subsection, there shall be taken into account in computing base  
22 income for each of the 2 portions of the taxable year only  
23 those items earned, received, paid, incurred or accrued in each  
24 such period. The standard exemption provided by Section 204  
25 must be divided between the respective periods in amounts that  
26 bear the same ratio to the total exemption allowable under

1 Section 204 (determined without regard to this Section) as the  
2 total number of days in each such period bears to the total  
3 number of days in the taxable year. The election provided by  
4 this subsection must be made in form and manner that the  
5 Department requires by rule, but must be made no later than the  
6 due date (including any extensions thereof) for the filing of  
7 the return for the taxable year, and is irrevocable.

8 (35 ILCS 5/901) (from Ch. 120, par. 9-901)

9 Sec. 901. Collection Authority.

10 (a) In general.

11 The Department shall collect the taxes imposed by this Act.  
12 The Department shall collect certified past due child support  
13 amounts under Section 2505-650 of the Department of Revenue Law  
14 (20 ILCS 2505/2505-650). Except as provided in subsections (c)  
15 and (e) of this Section, money collected pursuant to  
16 subsections (a) and (b) of Section 201 of this Act shall be  
17 paid into the General Revenue Fund in the State treasury; money  
18 collected pursuant to subsections (c) and (d) of Section 201 of  
19 this Act shall be paid into the Personal Property Tax  
20 Replacement Fund, a special fund in the State Treasury; and  
21 money collected under Section 2505-650 of the Department of  
22 Revenue Law (20 ILCS 2505/2505-650) shall be paid into the  
23 Child Support Enforcement Trust Fund, a special fund outside  
24 the State Treasury, or to the State Disbursement Unit  
25 established under Section 10-26 of the Illinois Public Aid

1 Code, as directed by the Department of Healthcare and Family  
2 Services.

3 (b) Local Governmental Distributive Fund.

4 Beginning August 1, 1969, and continuing through June 30,  
5 1994, the Treasurer shall transfer each month from the General  
6 Revenue Fund to a special fund in the State treasury, to be  
7 known as the "Local Government Distributive Fund", an amount  
8 equal to 1/12 of the net revenue realized from the tax imposed  
9 by subsections (a) and (b) of Section 201 of this Act during  
10 the preceding month. Beginning July 1, 1994, and continuing  
11 through June 30, 1995, the Treasurer shall transfer each month  
12 from the General Revenue Fund to the Local Government  
13 Distributive Fund an amount equal to 1/11 of the net revenue  
14 realized from the tax imposed by subsections (a) and (b) of  
15 Section 201 of this Act during the preceding month. Beginning  
16 July 1, 1995, the Treasurer shall transfer each month from the  
17 General Revenue Fund to the Local Government Distributive Fund  
18 an amount equal to the net of (i) 1/10 of the net revenue  
19 realized from the tax imposed by subsections (a) and (b) of  
20 Section 201 of the Illinois Income Tax Act during the preceding  
21 month (ii) minus, beginning July 1, 2003 and ending June 30,  
22 2004, \$6,666,666, and beginning July 1, 2004, zero. Net revenue  
23 realized for a month shall be defined as the revenue from the  
24 tax imposed by subsections (a) and (b) of Section 201 of this  
25 Act which is deposited in the General Revenue Fund, the  
26 Educational Assistance Fund and the Income Tax Surcharge Local

1 Government Distributive Fund during the month minus the amount  
2 paid out of the General Revenue Fund in State warrants during  
3 that same month as refunds to taxpayers for overpayment of  
4 liability under the tax imposed by subsections (a) and (b) of  
5 Section 201 of this Act.

6 (c) Deposits Into Income Tax Refund Fund.

7 (1) Beginning on January 1, 1989 and thereafter, the  
8 Department shall deposit a percentage of the amounts  
9 collected pursuant to subsections (a) and (b) (1), (2), ~~and~~  
10 (3), (4), and (5), of Section 201 of this Act into a fund  
11 in the State treasury known as the Income Tax Refund Fund.  
12 The Department shall deposit 6% of such amounts during the  
13 period beginning January 1, 1989 and ending on June 30,  
14 1989. Beginning with State fiscal year 1990 and for each  
15 fiscal year thereafter, the percentage deposited into the  
16 Income Tax Refund Fund during a fiscal year shall be the  
17 Annual Percentage. For fiscal years 1999 through 2001, the  
18 Annual Percentage shall be 7.1%. For fiscal year 2003, the  
19 Annual Percentage shall be 8%. For fiscal year 2004, the  
20 Annual Percentage shall be 11.7%. Upon the effective date  
21 of this amendatory Act of the 93rd General Assembly, the  
22 Annual Percentage shall be 10% for fiscal year 2005. For  
23 fiscal year 2006, the Annual Percentage shall be 9.75%. For  
24 fiscal year 2007, the Annual Percentage shall be 9.75%. For  
25 fiscal year 2008, the Annual Percentage shall be 7.75%. For  
26 all other fiscal years, the Annual Percentage shall be

1 calculated as a fraction, the numerator of which shall be  
2 the amount of refunds approved for payment by the  
3 Department during the preceding fiscal year as a result of  
4 overpayment of tax liability under subsections (a) and  
5 (b) (1), (2), ~~and~~ (3), (4), and (5), of Section 201 of this  
6 Act plus the amount of such refunds remaining approved but  
7 unpaid at the end of the preceding fiscal year, minus the  
8 amounts transferred into the Income Tax Refund Fund from  
9 the Tobacco Settlement Recovery Fund, and the denominator  
10 of which shall be the amounts which will be collected  
11 pursuant to subsections (a) and (b) (1), (2), ~~and~~ (3), (4),  
12 and (5), of Section 201 of this Act during the preceding  
13 fiscal year; except that in State fiscal year 2002, the  
14 Annual Percentage shall in no event exceed 7.6%. The  
15 Director of Revenue shall certify the Annual Percentage to  
16 the Comptroller on the last business day of the fiscal year  
17 immediately preceding the fiscal year for which it is to be  
18 effective.

19 (2) Beginning on January 1, 1989 and thereafter, the  
20 Department shall deposit a percentage of the amounts  
21 collected pursuant to subsections (a) and (b) (6), (7), and  
22 (8), (c) and (d) of Section 201 of this Act into a fund in  
23 the State treasury known as the Income Tax Refund Fund. The  
24 Department shall deposit 18% of such amounts during the  
25 period beginning January 1, 1989 and ending on June 30,  
26 1989. Beginning with State fiscal year 1990 and for each

1 fiscal year thereafter, the percentage deposited into the  
2 Income Tax Refund Fund during a fiscal year shall be the  
3 Annual Percentage. For fiscal years 1999, 2000, and 2001,  
4 the Annual Percentage shall be 19%. For fiscal year 2003,  
5 the Annual Percentage shall be 27%. For fiscal year 2004,  
6 the Annual Percentage shall be 32%. Upon the effective date  
7 of this amendatory Act of the 93rd General Assembly, the  
8 Annual Percentage shall be 24% for fiscal year 2005. For  
9 fiscal year 2006, the Annual Percentage shall be 20%. For  
10 fiscal year 2007, the Annual Percentage shall be 17.5%. For  
11 fiscal year 2008, the Annual Percentage shall be 15.5%. For  
12 all other fiscal years, the Annual Percentage shall be  
13 calculated as a fraction, the numerator of which shall be  
14 the amount of refunds approved for payment by the  
15 Department during the preceding fiscal year as a result of  
16 overpayment of tax liability under subsections (a) and  
17 (b) (6), (7), and (8), (c) and (d) of Section 201 of this  
18 Act plus the amount of such refunds remaining approved but  
19 unpaid at the end of the preceding fiscal year, and the  
20 denominator of which shall be the amounts which will be  
21 collected pursuant to subsections (a) and (b) (6), (7), and  
22 (8), (c) and (d) of Section 201 of this Act during the  
23 preceding fiscal year; except that in State fiscal year  
24 2002, the Annual Percentage shall in no event exceed 23%.  
25 The Director of Revenue shall certify the Annual Percentage  
26 to the Comptroller on the last business day of the fiscal



1 year immediately preceding the fiscal year for which it is  
2 to be effective.

3 (3) The Comptroller shall order transferred and the  
4 Treasurer shall transfer from the Tobacco Settlement  
5 Recovery Fund to the Income Tax Refund Fund (i) \$35,000,000  
6 in January, 2001, (ii) \$35,000,000 in January, 2002, and  
7 (iii) \$35,000,000 in January, 2003.

8 (d) Expenditures from Income Tax Refund Fund.

9 (1) Beginning January 1, 1989, money in the Income Tax  
10 Refund Fund shall be expended exclusively for the purpose  
11 of paying refunds resulting from overpayment of tax  
12 liability under Section 201 of this Act, for paying rebates  
13 under Section 208.1 in the event that the amounts in the  
14 Homeowners' Tax Relief Fund are insufficient for that  
15 purpose, and for making transfers pursuant to this  
16 subsection (d).

17 (2) The Director shall order payment of refunds  
18 resulting from overpayment of tax liability under Section  
19 201 of this Act from the Income Tax Refund Fund only to the  
20 extent that amounts collected pursuant to Section 201 of  
21 this Act and transfers pursuant to this subsection (d) and  
22 item (3) of subsection (c) have been deposited and retained  
23 in the Fund.

24 (3) As soon as possible after the end of each fiscal  
25 year, the Director shall order transferred and the State  
26 Treasurer and State Comptroller shall transfer from the

1           Income Tax Refund Fund to the Personal Property Tax  
2           Replacement Fund an amount, certified by the Director to  
3           the Comptroller, equal to the excess of the amount  
4           collected pursuant to subsections (c) and (d) of Section  
5           201 of this Act deposited into the Income Tax Refund Fund  
6           during the fiscal year over the amount of refunds resulting  
7           from overpayment of tax liability under subsections (c) and  
8           (d) of Section 201 of this Act paid from the Income Tax  
9           Refund Fund during the fiscal year.

10           (4) As soon as possible after the end of each fiscal  
11           year, the Director shall order transferred and the State  
12           Treasurer and State Comptroller shall transfer from the  
13           Personal Property Tax Replacement Fund to the Income Tax  
14           Refund Fund an amount, certified by the Director to the  
15           Comptroller, equal to the excess of the amount of refunds  
16           resulting from overpayment of tax liability under  
17           subsections (c) and (d) of Section 201 of this Act paid  
18           from the Income Tax Refund Fund during the fiscal year over  
19           the amount collected pursuant to subsections (c) and (d) of  
20           Section 201 of this Act deposited into the Income Tax  
21           Refund Fund during the fiscal year.

22           (4.5) As soon as possible after the end of fiscal year  
23           1999 and of each fiscal year thereafter, the Director shall  
24           order transferred and the State Treasurer and State  
25           Comptroller shall transfer from the Income Tax Refund Fund  
26           to the General Revenue Fund any surplus remaining in the

1           Income Tax Refund Fund as of the end of such fiscal year;  
2           excluding for fiscal years 2000, 2001, and 2002 amounts  
3           attributable to transfers under item (3) of subsection (c)  
4           less refunds resulting from the earned income tax credit.

5           (5) This Act shall constitute an irrevocable and  
6           continuing appropriation from the Income Tax Refund Fund  
7           for the purpose of paying refunds upon the order of the  
8           Director in accordance with the provisions of this Section.

9           (e) Deposits into the Education Assistance Fund and the  
10          Income Tax Surcharge Local Government Distributive Fund.

11          On July 1, 1991, and thereafter, of the amounts collected  
12          pursuant to subsections (a) and (b) of Section 201 of this Act,  
13          minus deposits into the Income Tax Refund Fund, the Department  
14          shall deposit 7.3% into the Education Assistance Fund in the  
15          State Treasury. Beginning July 1, 1991, and continuing through  
16          January 31, 1993, of the amounts collected pursuant to  
17          subsections (a) and (b) of Section 201 of the Illinois Income  
18          Tax Act, minus deposits into the Income Tax Refund Fund, the  
19          Department shall deposit 3.0% into the Income Tax Surcharge  
20          Local Government Distributive Fund in the State Treasury.  
21          Beginning February 1, 1993 and continuing through June 30,  
22          1993, of the amounts collected pursuant to subsections (a) and  
23          (b) of Section 201 of the Illinois Income Tax Act, minus  
24          deposits into the Income Tax Refund Fund, the Department shall  
25          deposit 4.4% into the Income Tax Surcharge Local Government  
26          Distributive Fund in the State Treasury. Beginning July 1,

1 1993, and continuing through June 30, 1994, of the amounts  
2 collected under subsections (a) and (b) of Section 201 of this  
3 Act, minus deposits into the Income Tax Refund Fund, the  
4 Department shall deposit 1.475% into the Income Tax Surcharge  
5 Local Government Distributive Fund in the State Treasury.

6 (Source: P.A. 94-91, eff. 7-1-05; 94-839, eff. 6-6-06; 95-707,  
7 eff. 1-11-08.)

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