



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3913

Introduced 12/11/2011, by Rep. Fred Crespo

SYNOPSIS AS INTRODUCED:

20 ILCS 2505/2505-430 new
35 ILCS 5/917

from Ch. 120, par. 9-917

Amends the Department of Revenue Law of the Civil Administrative Code of Illinois. Provides that the Department must prepare an annual report disclosing the identity of each taxpayer who (i) received a research and development credit under the Illinois Income Tax Act during any taxable year ending within the previous 10 calendar years or (ii) carried forward unused research and development credit amounts to any of those taxable years. Contains certain restrictions and prohibitions. Provides that the report must be submitted to the Governor and the General Assembly no later than June 1 of each calendar year and must be posted on the Department's website. Amends the Illinois Income Tax Act to make conforming changes. Effective immediately.

LRB097 14901 HLH 59932 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 Department of Revenue Law of the Civil
5 Administrative Code of Illinois is amended by adding Section
6 2505-430 as follows:

7 (20 ILCS 2505/2505-430 new)

8 Sec. 2505-430. Research and development credit; report.

9 The Department must prepare an annual report disclosing the
10 identity of each taxpayer who received a research and
11 development credit under subsection (k) of Section 201 of the
12 Illinois Income Tax Act during any taxable year ending within
13 the previous 10 calendar years, including taxpayers who carried
14 forward unused credit amounts to those taxable years. This
15 report must be submitted to the Governor and the General
16 Assembly no later than June 1 of each calendar year and must be
17 posted on the Department's website. Nothing in this Section
18 requires the Department to disclose a taxpayer's social
19 security number, tax identification number, address, or any
20 other information that may not lawfully be disclosed. The
21 Department is not required to disclose the amount of the credit
22 and may not disclose any information identified by the taxpayer
23 as a trade secret.

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

3 (35 ILCS 5/917) (from Ch. 120, par. 9-917)

4 Sec. 917. Confidentiality and information sharing.

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

1 necessary to file information obtained pursuant to this Act in
2 a child support enforcement proceeding, the information shall
3 be filed under seal.

4 (b) Public information. Nothing contained in this Act shall
5 prevent the Director from publishing or making available to the
6 public the names and addresses of persons filing returns under
7 this Act, or from publishing or making available reasonable
8 statistics concerning the operation of the tax wherein the
9 contents of returns are grouped into aggregates in such a way
10 that the information contained in any individual return shall
11 not be disclosed.

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

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

17 The Director may make available to any State agency,
18 including the Illinois Supreme Court, which licenses persons to
19 engage in any occupation, information that a person licensed by
20 such agency has failed to file returns under this Act or pay
21 the tax, penalty and interest shown therein, or has failed to
22 pay any final assessment of tax, penalty or interest due under
23 this Act. The Director may make available to any State agency,
24 including the Illinois Supreme Court, information regarding
25 whether a bidder, contractor, or an affiliate of a bidder or
26 contractor has failed to file returns under this Act or pay the

1 tax, penalty, and interest shown therein, or has failed to pay
2 any final assessment of tax, penalty, or interest due under
3 this Act, for the limited purpose of enforcing bidder and
4 contractor certifications. For purposes of this Section, the
5 term "affiliate" means any entity that (1) directly,
6 indirectly, or constructively controls another entity, (2) is
7 directly, indirectly, or constructively controlled by another
8 entity, or (3) is subject to the control of a common entity.
9 For purposes of this subsection (a), an entity controls another
10 entity if it owns, directly or individually, more than 10% of
11 the voting securities of that entity. As used in this
12 subsection (a), the term "voting security" means a security
13 that (1) confers upon the holder the right to vote for the
14 election of members of the board of directors or similar
15 governing body of the business or (2) is convertible into, or
16 entitles the holder to receive upon its exercise, a security
17 that confers such a right to vote. A general partnership
18 interest is a voting security.

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

26 The Director may also make available to the Secretary of

1 State information that a corporation which has been issued a
2 certificate of incorporation by the Secretary of State has
3 failed to file returns under this Act or pay the tax, penalty
4 and interest shown therein, or has failed to pay any final
5 assessment of tax, penalty or interest due under this Act. An
6 assessment is final when all proceedings in court for review of
7 such assessment have terminated or the time for the taking
8 thereof has expired without such proceedings being instituted.
9 For taxable years ending on or after December 31, 1987, the
10 Director may make available to the Director or principal
11 officer of any Department of the State of Illinois, information
12 that a person employed by such Department has failed to file
13 returns under this Act or pay the tax, penalty and interest
14 shown therein. For purposes of this paragraph, the word
15 "Department" shall have the same meaning as provided in Section
16 3 of the State Employees Group Insurance Act of 1971.

17 The Director may make available to the General Assembly and
18 the Governor information pertaining to the identity of
19 taxpayers who receive a research and development credit, as
20 provided in Section 2505-430 of the Department of Revenue Law
21 of the Civil Administrative Code of Illinois, and the
22 Department may post that information on its website.

23 (d) The Director shall make available for public inspection
24 in the Department's principal office and for publication, at
25 cost, administrative decisions issued on or after January 1,
26 1995. These decisions are to be made available in a manner so

1 that the following taxpayer information is not disclosed:

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

4 (2) At the sole discretion of the Director, trade
5 secrets or other confidential information identified as
6 such by the taxpayer, no later than 30 days after receipt
7 of an administrative decision, by such means as the
8 Department shall provide by rule.

9 The Director shall determine the appropriate extent of the
10 deletions allowed in paragraph (2). In the event the taxpayer
11 does not submit deletions, the Director shall make only the
12 deletions specified in paragraph (1).

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

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

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

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.