

HB3316



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB3316

by Rep. Norine Hammond

SYNOPSIS AS INTRODUCED:

35 ILCS 5/211
35 ILCS 10/5-45

Amends the Economic Development for a Growing Economy Tax Credit Act and the Illinois Income Tax Act. Provides that, with respect to any project located at an ethanol plant, if the amount of the credit exceeds the taxpayer's Illinois income tax liability for the taxable year, then the excess credit amounts may be refunded to the taxpayer. Provides that refundable credits may not be transferred to a separate business firm or to a non-ethanol producing subsidiary of the same firm. Effective immediately.

LRB098 10058 HLH 40217 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 under the Economic
10 Development for a Growing Economy Tax Credit Act is entitled to
11 a credit against the taxes imposed under subsections (a) and
12 (b) of Section 201 of this Act in an amount to be determined in
13 the Agreement. If the Taxpayer is a partnership or Subchapter S
14 corporation, the credit shall be allowed to the partners or
15 shareholders in accordance with the determination of income and
16 distributive share of income under Sections 702 and 704 and
17 subchapter S of the Internal Revenue Code. The Department, in
18 cooperation with the Department of Commerce and Economic
19 Opportunity, shall prescribe rules to enforce and administer
20 the provisions of this Section. This Section is exempt from the
21 provisions of Section 250 of this Act.

22 The credit shall be subject to the conditions set forth in
23 the Agreement and the following limitations:

1 (1) The tax credit shall not exceed the Incremental
2 Income Tax (as defined in Section 5-5 of the Economic
3 Development for a Growing Economy Tax Credit Act) with
4 respect to the project.

5 (2) The amount of the credit allowed during the tax
6 year plus the sum of all amounts allowed in prior years
7 shall not exceed 100% of the aggregate amount expended by
8 the Taxpayer during all prior tax years on approved costs
9 defined by Agreement.

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

23 (4) The credit may not exceed the amount of taxes
24 imposed pursuant to subsections (a) and (b) of Section 201
25 of this Act. Any credit that is unused in the year the
26 credit is computed may be carried forward and applied to

1 the tax liability of the 5 taxable years following the
2 excess credit year. The credit shall be applied to the
3 earliest year for which there is a tax liability. If there
4 are credits from more than one tax year that are available
5 to offset a liability, the earlier credit shall be applied
6 first.

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

21 (6) For purposes of this Section, the terms
22 "Agreement", "Incremental Income Tax", and "Noncompliance
23 Date" have the same meaning as when used in the Economic
24 Development for a Growing Economy Tax Credit Act.

25 Notwithstanding any other provision of law, with respect to
26 any project located at an ethanol plant, as the term "ethanol"

1 is defined in the Illinois Renewable Fuels Development Program
2 Act, if the amount of the credit exceeds the taxpayer's
3 Illinois income tax liability for the taxable year, then the
4 excess credit amounts may be refunded to the taxpayer. The
5 refundable credits may not be transferred to a separate
6 business firm or to a non-ethanol producing subsidiary of the
7 same firm.

8 (Source: P.A. 94-793, eff. 5-19-06.)

9 Section 10. The Economic Development for a Growing Economy
10 Tax Credit Act is amended by changing Section 5-45 as follows:

11 (35 ILCS 10/5-45)

12 Sec. 5-45. Amount and duration of the credit.

13 (a) The Department shall determine the amount and duration
14 of the credit awarded under this Act. The duration of the
15 credit may not exceed 10 taxable years. The credit may be
16 stated as a percentage of the Incremental Income Tax
17 attributable to the applicant's project and may include a fixed
18 dollar limitation.

19 (b) Notwithstanding subsection (a), and except as the
20 credit may be applied in a carryover year pursuant to Section
21 211(4) of the Illinois Income Tax Act, the credit may be
22 applied against the State income tax liability in more than 10
23 taxable years but not in more than 15 taxable years for an
24 eligible business that (i) qualifies under this Act and the

1 Corporate Headquarters Relocation Act and has in fact
2 undertaken a qualifying project within the time frame specified
3 by the Department of Commerce and Economic Opportunity under
4 that Act, and (ii) applies against its State income tax
5 liability, during the entire 15-year period, no more than 60%
6 of the maximum credit per year that would otherwise be
7 available under this Act.

8 (c) Notwithstanding any other provision of law, with
9 respect to any project located at an ethanol plant, as the term
10 "ethanol" is defined in the Illinois Renewable Fuels
11 Development Program Act, if the amount of the credit exceeds
12 the taxpayer's Illinois income tax liability for the taxable
13 year, then the excess credit amounts may be refunded to the
14 taxpayer. The refundable credits may not be transferred to a
15 separate business firm or to a non-ethanol producing subsidiary
16 of the same firm.

17 (Source: P.A. 94-793, eff. 5-19-06.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.