

Illinois - EDGE Tax Credit Program Restored

Overview

On September 18, 2017, Illinois Governor Bruce Rauner signed into law House Bill (HB) 162, restoring the Economic Development for a Growing Economy (EDGE) tax credit program which had previously expired on April 30, 2017.¹ In addition to restoring the EDGE credit (a non-refundable corporate income tax credit with a five year carryforward) through June 30, 2022, HB 162 modifies the EDGE credit program through new capital investment and job creation requirements. HB 162 also adds a job retention component to the EDGE program (if certain requirements are met) as well as the potential for increased credit amounts if a qualified project is located in an underserved area.²

This tax alert summarizes some of the notable elements of the Illinois EDGE program resulting from HB 162 enactment.

HB 162 – Notable modifications to the Illinois EDGE Tax Credit Program

- The Illinois Department of Commerce and Economic Opportunity (DCEO) may enter into new agreements until June 30, 2022.³
- The credit awarded cannot exceed the lesser of:
 - The sum of (i) 50% of the incremental income tax⁴ attributable to new employees at the applicant's project and (ii) 10% of the training costs of new employees; or
 - 100% of the incremental income tax attributable to new employees at the applicant's project.⁵
- If a project is located in an "underserved area," then the amount of the credit may not exceed the lesser of:
 - The sum of (i) 75% of the incremental income tax attributable to new employees at the applicant's project and (ii) 10% of the training costs of new employees; or
 - 100% of the incremental income tax attributable to new employees at the applicant's project.⁶
- Applicants that agree to hire the required number of new employees may be eligible for an additional credit amount not to exceed 25% of the incremental income tax attributable to *retained* employees at the applicant's project.⁷
- To be eligible for the credit, applicants with more than 100 employees must invest at least \$2,500,000 in capital improvements within Illinois as a direct result of the project, and employ new employees in the state equal to the lesser of:
 - 10% of the number of full-time employees employed by the applicant world-wide on the date the application is filed with DCEO; or

¹ Illinois House Bill 0162, a copy of the act is accessible [here](#).

² "Underserved area" is defined as a geographic area that meets one or more of the following conditions: (1) the area has a poverty rate of at least 20% according to the latest federal decennial census; (2) 75% or more of the children in the area participate in the federal free lunch program according to reported statistics from the State Board of Education; (3) at least 20% of the households in the area receive assistance under the Supplemental Nutrition Assistance Program; or (4) the area has an average unemployment rate, as determined by the Illinois Department of Employment Security, that is more than 120% of the national unemployment average for a period of at least two consecutive calendar years preceding the date of the application. 35 ILCS 10/5-5.

³ 35 ILCS 10/5-77.

⁴ "Incremental income tax" is defined as "the total amount withheld during the taxable year from the compensation of New Employees and, if applicable, retained employees under Article 7 of the Illinois Income Tax Act arising from employment at a project that is the subject of an Agreement." 35 ILCS 10/5-5.

⁵ 35 ILCS 10/5-5.

⁶ *Id.*

⁷ *Id.*

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- 50 new employees.⁸
- Applicants with 100 employees or less are eligible for the credit regardless of capital investment associated with the project, however they must employ new employees in the state equal to the lesser of:
 - 5% of the number of full-time employees employed by the applicant world-wide on the date the application is filed with DCEO; or
 - 50 new employees.⁹
- If, during the term of an agreement, the taxpayer ceases operations at the project location, the DCEO is authorized to recapture the entire credit amount awarded under the agreement prior to the date the taxpayer ceases operations.¹⁰
- Taxpayers entering into agreements on or after January 1, 2015 will not be allowed a credit to offset withholding payments due.¹¹

Considerations

In light of the restoration of the Illinois EDGE tax credit program, taxpayers with Illinois-based activities or expansion plans should consult with their tax advisers to determine whether they may be eligible for the EDGE tax credit program.

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⁸ 35 ILCS 10/5-20(b)(1)

⁹ *Id.*

¹⁰ 35 ILCS 10/5-50(13.7)

¹¹ 35 ILCS 5/704A(g)