

**ILLINOIS DEPARTMENT OF REVENUE
TAX PRACTITIONERS MEETING
OCTOBER 27, 2017**

INCOME TAX UPDATE – 2017 Legislation and Rulemaking

I. LEGISLATION

Public Act 99-0914 SB 1488 Effective December 20, 2016

Extends the river's edge historic preservation tax credit through 2017.

Public Act 99-0915 SB 2921 Effective December 20, 2016

Extends the affordable housing tax credit through 2021.

Public Act 100-22 SB 9

- Creates the State Tax Lien Registry Effective January 1, 2018
- Increases individual income tax rate to 4.95% and business income tax rate to 7% Effective July 1, 2017
- Extends the research and development credit to December 31, 2021, and reinstates it retroactive to January 1, 2016. Effective January 1, 2016
- Increases the education expense credit from \$500 to \$750 and phases it out for AGI above \$250,000 or \$500,000 joint Effective December 31, 2017
- Increases the earned income credit to 14% in 2017 and 18% in 2018 Effective December 31, 2017
- Phases out the standard exemption and property tax credit for AGI above \$250,000 or \$500,000 joint Effective January 1, 2017
- Creates an addition modification for the federal domestic Production activities deduction Effective December 31, 2017
- Creates a \$250 credit for instructional materials and supplies Effective January 1, 2017
- Repeals the non-combination rule Effective December 31, 2017
- Extends the definition of United States to include the outercontinental shelf Effective December 31, 2017

Public Act 100-236 SB 1783 Effective August 18, 2017

Extends the river's edge historic preservation tax credit to tax years beginning prior to January 1, 2022.

Public Act 100-303 HB 821 Effective August 24, 2017

Allows the Department to require electronic filing of withholding returns and W-2 information.

Public Act 100-328 SB 2012 Effective January 1, 2018

Extends the angel investment tax credit through tax years ending prior to January 1, 2022.

Public Act 100-408 SB 652 Effective August 25, 2017

Extends the new markets credit through fiscal 2017 and makes changes to the credit.

Public Act 100-415 SB 852 Effective January 1, 2018

Extends the live theater production tax credit to tax years beginning prior to January 1, 2022.

Public Act 100-465 SB 1947 Effective August 31, 2017

Creates the Invest in Kids tax credit for contributions to scholarship funds.

Public Act 100-511 HB 162 Effective September 18, 2017

Extends the EDGE tax credit to allow new agreements to be entered into through June 30, 2022, prohibits the use of the EDGE credit against withholding for agreements entered into after 2014, changes the scope of the credit, and adds a clawback.

II. RULEMAKING

A. Adopted

86 Ill. Admin. Code § 100.2465 Effective October 12, 2016

Adds new Claim of Right Repayments section providing guidance on the subtraction modification allowed to taxpayers who claimed a federal income tax itemized deduction, or a federal income tax credit in lieu of a deduction, as the result of repaying an amount that had been included in taxable income in a previous year under the "claim of right" doctrine.

86 Ill. Admin Code § 100.3370 Effective August 3, 2017

Amends the sales factor provisions to reflect amendments to IITA Section 304(a).

86 Ill. Admin. Code §§ 100.3380, 100.3390 Effective August 3, 2017

Amends special apportionment rules to reflect amendment to IITA Section 304(f) to provide that an alternative formula for apportioning business income to Illinois could be allowed or required if the statutory formula did not fairly represent the market for the taxpayer's goods and services in Illinois (rather than the extent of the taxpayer's business activities in Illinois under prior law) and to reflect current Department of Revenue policies.

86 Ill. Admin. Code § 100.5020 Effective September 7, 2016

Amends provision on extensions of time for filing income tax returns to accommodate changes in the federal income tax due dates for corporate returns, which automatically apply to Illinois corporate income tax returns, and potential amendments to the IITA to match the federal income tax changes for partnership returns.

86 Ill. Admin. Code §§ 100.5060, 5100, 5130, 7035 Effective November 2, 2016

Amends the Composite Return provisions to provide guidance on the effects of PA 98-478. Prior to that Act, partnerships and S corporations were allowed to file composite returns, reporting and paying Illinois income tax on behalf of some nonresident partners and shareholders, and were required to withhold

Illinois income tax from nonresidents who were not included on composite returns. That Act repealed the general authority to file composite returns, so that partnerships and S corporations now withhold from nonresident partners and shareholders rather than comply with two different methods of reporting and paying tax for them. The Act also amended the provisions for computing the required withholding to allow credits earned by the partnership or S corporation and passed through to the nonresident partners and shareholders to reduce the amount of required withholding.

86 Ill. Admin. Code § 100.5215

Effective November 2, 2016

Amends the Filing of Separate Unitary Returns to provide guidance on the filing of unitary returns by taxpayers who are not permitted to join with other members of their unitary business group in the filing of a single combined return to provide examples of the computations for partnerships.

86 Ill. Admin Code § 100.7300

Effective September 21, 2017

Amends withholding provisions to establish a due date of January 31 for employers who must file copies of their W-2 information with the Department electronically to match the federal due date and allow the Department to match the employer information with individual income tax returns earlier.

86 Ill. Admin. Code §§ 100.7310, 100.7325

Effective March 27, 2017

Amends return filing provisions to terminate the programs allowing annual filing of withholding returns and annual payment of taxes withheld, because too many employers were confused by the programs and made incorrect filings and payments.

86 Ill. Admin. Code §§ 100.8010, 9400

Effective November 2, 2016

Amends the Application of Return Overpayments Against Estimated Tax Obligations implementing the provisions of PA 98-925, which amended IITA Section 909 to require the Department of Revenue to adopt regulations allowing a taxpayer to elect to apply overpayments of Illinois income tax reported on any return or amended return against the taxpayer's Illinois income tax obligation for a subsequent taxable year. Under existing regulations, this election could only be made on a timely-filed original return.

86 Ill. Admin. Code § 100.9910

Effective May 22, 2017

Adds new provisions for paid tax return preparers implementing the State Tax Preparer Oversight Act.

B. Priority Projects

86 Ill. Admin. Code §§ 100.3380, 100.3600, 100.5220, 100.5270, 100.9700

Adds section to provide guidance on how a unitary business group computes its apportionment factor when the group includes members that use different apportionment formulas under IITA Section 304. Amends various other provisions to implement these changes. The prohibition on including taxpayers who use different apportionment formulas in the same unitary business group has been repealed, effective for taxable years ending on or after December 31, 2017.

86 Ill. Admin. Code § 100.7300

Amends withholding provisions to implement the amendments to IITA Section 704A in Public Act 100-303 to require electronic filing of withholding returns and W-2 information beginning in 2018.

86 Ill. Admin. Code §§ 100.2055, 100.2160, 100.2165, 100.2171, 100.2180, 100.2181, 100.2199

Amends provisions on credits and exemptions to implement the changes enacted in PA 100-22 and PA 100-328, including the phasing out.

86 Ill. Admin. Code § 100.2850

Adds new provision to provide guidance regarding the application of IITA Section 203(d)(2)(H), which allows partnerships a subtraction modification in an amount equal to the greater of: (i) the personal service income of the partnership, or (ii) a reasonable allowance for compensation for services rendered by partners to the partnership.

C. Other Pending Rulemaking

86 Ill. Admin. Code Part 700

Omnibus revisions to provisions under the Uniform Penalty and Interest Act.

86 Ill. Admin. Code §§ 100.2330, 100.2360, 100.2405, 100.2665, 100.2668

Amends net loss provisions to implement various statutory changes and adds provisions explaining subtraction modifications for payments to attorney-in-fact and dividends from foreign controlled corporations.

86 Ill. Admin. Code § 100.9715

Amends provisions for apportionment of transportation services income to provide a definition of transportation company.