

# 2013 PRACTITIONERS' MEETING

## INCOME TAX LEGISLATION AND RULEMAKING UPDATE November 19, 2013

### INCOME TAX LEGISLATION

**PA 98-0024 SB 1329 Budget Implementation Enacted June 19, 2013**

This budget implementation bill amends IITA Section 901 to set the percentages of income tax revenues deposited into the refund fund for FY14 at 9.5% of regular income tax receipts and 13.4% of replacement tax receipts. The bill also delays the start date for the Illinois Independent Tax Tribunal until January 1, 2014.

**PA 98-0109 SB 0020 Enterprise/River Edge Zones Enacted July 25, 2013**

This bill repeals the jobs tax credit in IITA Section 201(g).

**PA 98-0122 HB 0001 Medical Cannabis Enacted August 1, 2013**

The Compassionate Use of Medical Cannabis legislation adds the surcharge on gains realized on dispositions of assets by registered organizations in IITA Section 201(o). The surcharge is equal to the federal income tax attributable to the gains.

**PA 98-0165 SB 1659 Ex-Offender Credit Enacted August 5, 2013**

This bill increases the maximum credit allowed by IITA Section 216 for hiring ex-offenders from \$600 to \$1500, allows the credit for employees hired within 3 years of release rather than 1 year, and exempts the credit from automatic sunset under IITA Section 250.

**PA 98-0425 HB 2518 IDOR Collections Bill Enacted August 16, 2013**

This bill amends UPIA Section 3-2 to eliminate the 2-tiered rate structure for overpayment and underpayment interest, effective for interest accruing after December 31, 2013.

**PA 98-0446 HB 2752 IDOR Lien Filing Enacted August 16, 2013**

This bill amends IITA Section 1101 to provide that the limitations period for filing a notice of lien is tolled during any period in which the taxpayer is in compliance with a payment plan with the Department.

**PA 98-0463 HB 2994 Revisory Bill Enacted August 16, 2013**

This revisory bill corrects typographical errors in IITA Sections 507JJ, 909, 1201, 1202 and 1408.

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#### **PA 98-0478 HB 3157 IDOR Income Tax Bill**

**Enacted August 16, 2013**

This bill amends IITA Section 304(f) to provide that alternative apportionment methods may be used when the statutory method does not fairly reflect the market for the taxpayer's goods and services in Illinois. This new standard applies retroactively to the 2008 time of the adoption of the market-based sales factor. The bill also repeals the general provisions in IITA Section 502(f) allowing composite returns and amends IITA Section 709.5 to require pass-through withholding on nonbusiness income sourced to Illinois and to allow credits to be taken against pass-through withholding, with both changes effective for tax years ending on or after December 31, 2014.

#### **PA 98-0496 SB 2169 IDOR Allocation Bill**

**Enacted August 16, 2013**

This bill amends IITA Section 303(e) to provide that nonbusiness gains on sales of Illinois lottery prizes are sourced to Illinois, adds IITA Section 304(a)(3)(B-8) to provide that Illinois lottery winnings and sales of Illinois lottery winnings are included in the numerator of the sales factor, and amends IITA Section 710 to require withholding from proceeds of sales of Illinois lottery winnings. The amendments to IITA Sections 303 and 304 apply to tax years ending on or after December 31, 2013, and withholding is required from payments for lottery winnings made after December 31, 2013. The bill also amends IITA Section 905 to provide a 6-year statute of limitations for issuing a notice of deficiency when there has been substantial understatement of wage withholding and to provide that a member of a unitary business group who is required to join in the filing of a combined return, and who neither joins in a combined return nor files a separate return for the taxable year, is a nonfiler for purposes of the statute of limitations for issuing a notice of deficiency. The amendments to Section 905 apply to 2013 and subsequent years.

### **INCOME TAX RULEMAKING (86 Ill. Adm. Code)**

#### **Adopted Rules**

Section 100.3020      Residency                      37 Ill. Reg. 5823 (May 3, 2013)

This rulemaking amends the guidance on the determination of residency to reflect recent court decisions.

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### Proposed Rules

Section 100.2470      Exempt Income      37 Ill. Reg. 13887 (August 30, 2013)

This rulemaking updates the regulation on income exempt from Illinois income taxation to reflect legislative changes in recent years that allowed new bond issuing authorities to exempt their bonds from tax.

Sections 100.2110, 100.2120,      37 Ill. Reg. 15464 (September 27, 2013)  
100.2160, 100.2185, 100.2190,  
100.2480 and 100.2655

This rulemaking updates the sunset dates for various credits and subtractions.

### Current Projects

Section 100.3370      Sales Factor

This rulemaking updates the sales factor regulation to provide guidance on the 2007 legislative changes.

Section 100.3450      Transportation Companies

This rulemaking provides guidance on the transportation company apportionment factor under IITA Section 304(d) as in effect before and after the 2007 legislative changes.

Sections 100.5000, 100.5020, and 100.6000

This rulemaking implements the provision in IITA Section 601(a) allowing the Department to adopt regulations extending the due date for payment of tax when the federal due date for payment has been extended, and updating the provisions dealing with due dates for filing and payment.

Section 100.2060

This new regulation provides guidance for taxpayers who are licensed under the Compassionate Use of Medical Cannabis Pilot Program Act, and are therefore potentially subject to the surcharge in IITA Section 201(o) for sales of business assets.

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Sections 100.2198 and 100.7380

This rulemaking provides guidance regarding the election to apply certain EDGE credits or credits awarded under the Small Business Job Creation Tax Credit Act against liability for income tax withholding under IITA Sections 704A(g) and (h).

Section 100.2171

This rulemaking provides guidance regarding the Angel investment credit allowed under IITA Section 220.

Section 100.2657

This rulemaking provides guidance on the subtraction allowed under IITA Section 203(b)(2)(M-1) for interest on loans secured by property that qualifies for the High Impact Business Investment Credit.