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Research and Development Credits

Illinois Gov. Enacts Law Providing Relief To Financial Exchange, Sears, R& D Firms

By Michael Bologna

CHICAGO—Illinois Gov. Pat Quinn (D) signed legislation significantly cutting the tax burdens of two large employers and extending a menu of modest relief options to dozens of other corporate taxpayers. **[S.B. 397, enacted 12/16/11]**

Quinn signed Senate Bill 397 (Public Act 97-636), which targets CME Group and Sears Holdings Corp. for tax relief valued at approximately$100 million annually. CME, which owns and operates the Chicago Mercantile Exchange and the Chicago Board of Trade, and Sears, the nation's fourth-largest retailer, had both threatened to relocate to neighboring states if Illinois lawmakers failed to provide a package of tax incentives.

Following Quinn's action, CME said it would drop all plans to relocate. The new law permits CME to adjust the formula by which it sources revenues to Illinois. Currently all revenues are sourced to Illinois despite the global nature of the CME's exchanges. The change would permit CME to source approximately 27.5 percent of its revenues to Illinois and cut its income tax liability by $85 million.

Praise From CME Group, Sears

“We are pleased that Illinois Governor Pat Quinn and the state legislature have addressed the inequitable distribution of corporate taxes currently levied on CME Group,” Terry Duffy, CME's chairman, said in a statement. “This necessary adjustment to the Illinois corporate tax laws will put CME Group on more equal footing with other Illinois companies and other global exchanges.”

Similar praise came from Lou D'Ambrosio, chief executive officer and president of Sears. S.B. 397 permits the retailer to annually retain$15 million of withholding taxes over 10 years.

“Clearly state leaders recognize our impact on the state of Illinois and have taken the step necessary to keep Sears Holdings an Illinois company,” D'Ambrosio said in a statement. “Sears Holdings employs 20,000 people in Illinois alone, we work with 9,100 local vendors, contractors and businesses that provide services and goods to the company and we are a significant taxpayer to the state.”

S.B. 397 also creates a tax benefit for UCI International Inc., an Indiana maker of automobile replacement parts. The company would receive$3.5 million in tax benefits over 10 years in return for a commitment to invest $4 million in Illinois and create 250 new jobs.

R& D Tax Credit Extended

Quinn touted a component of the new law extending the research and development tax credit for five years, with a five-year carryforward rule retroactive to the beginning of 2011.

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“Big companies and smaller companies really need that to come up with new products and new services that can have a world market and create new jobs,” Quinn said in a briefing with the media.

Other key provisions within S.B. 397 include reinstatement of the net operating loss provision effective Jan. 1, 2012, with a $100,000 cap; a bump in the estate tax deduction from $2 million to $4 million over two years; the establishment of an independent tax tribunal to hear contested cases with the Department of Revenue; a five-year extension of all sunsets and credits set to expire in 2011 to 2013, including an employer credit for hiring veterans; and establishment of a live theater production tax credit.

The legislation takes effect June 1, 2012.

Full text of the legislation is available at http://www.ilga.gov/legislation/publicacts/97/PDF/097-0636.pdf.

For a discussion of the research and development tax credit in Illinois, see 1460-2nd T.M., Credits and Incentives: Idaho Through Mississippi, at 1460.07.D.