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Pritzker Administration Targets $520 Million Corporate Tax Loopholes in Lame Duck Session

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CHICAGO — Due to the budget crisis caused by the ongoing COVID-19 pandemic, Governor JB Pritzker is freezing the implementation of a new set of state business tax credits and calling for a decoupling of Illinois tax law from recently enacted federal business tax changes that would cost Illinois in excess of $500 million.

The expanded state tax credits were authorized in 2019 as part of a series of tax changes contained in PA 101-9 and were scheduled to take effect January 1, 2021. The new, expanded credits are estimated to cost the state an additional $20 million annually.

The proposed decoupling would keep the Illinois income tax framework the same as it was before Congress amended the federal income tax law in March 2020 as part of the Coronavirus Aid, Relief and Economic Security (CARES) Act. The amendments substantially changed federal tax treatment of net operating losses and excess business losses, automatically causing the same change in Illinois tax treatment. Without decoupling, these federal tax changes could reduce Illinois income tax revenue by more than $500 million.

“My administration recognizes the many challenges facing businesses during this unique time, which is why we are going above and beyond the federal support program by providing hundreds of millions of dollars in support to our small businesses, our best job creators who have been impacted severely by COVID-19,” said Governor JB Pritzker. “Unfortunately, COVID also hit our state budget, requiring tough choices about what we can and cannot afford. Right now, we cannot afford to expand tax breaks to businesses that already receive tax breaks. As we recover from the pandemic, we must focus on job creation and balancing our state budget. I am confident in our ability to grow our economy and put our state on firmer fiscal footing.”

The state business incentives in PA 101-9 allow companies that already receive tax credits for relocating or expanding in Illinois through the State’s Enterprise Zone, River’s Edge Redevelopment Zone, Economic Development for a Growing Economy (EDGE), or High Impact Business tax credit programs, to qualify for even more credits based on wages paid to workers for construction associated with that relocation or expansion. Companies would be eligible for up to $20 million in credits across these four programs. These new credits will not be implemented while the state is working to overcome its current fiscal challenges.

The CARES Act repealed the federal tax law provision that limited net operating losses to 80% of taxable income and added another provision allowing a 5-year carryback of losses incurred after December 31, 2017 and before January 1, 2021. As a result, instead of the previous practice of limiting immediate deductibility and permitting deduction of such business losses gradually over a period of years using loss carryforwards, taxpayers are permitted to deduct such business losses immediately in tax year 2020. The decoupling will affect the tax treatment of such losses for owners of pass-through entities such as partnerships and limited liability companies.

The CARES Act also deferred until 2021 the federal tax law provision limiting the immediate deductibility of excess business losses for noncorporate taxpayers. Decoupling will reinstitute the previous limits.

The Governor said the two actions were necessary given Illinois' current fiscal challenges and are part of the Pritzker Administration's ongoing budget review. In December, the Governor announced $700 million in spending reductions for fiscal year 2021 that included a hiring freeze, grant reductions and operational savings. Today's announcement will get the state another step closer to balancing the budget.

"The recently announced budget cuts along with these new roll backs of corporate tax breaks are just the first steps in this budget process. More will be necessary. We will need to scrutinize and potentially roll back other corporate tax breaks – including those that have been on the books for many years. We hope to hear from members of the General Assembly on both sides of the aisle about their best ideas for progress in this regard."