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2011 Illinois income tax increase—An overview of the provisions of Public Act 96-1496 (SB 2505)

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The 96th Illinois General Assembly significantly raised the Illinois income tax rate for both individuals and corporations by passing Senate Bill 2505 on January 12, 2011. On January 13, 2011, Governor Quinn received and signed Senate Bill 2505, Public Act 96-1496, which became effective immediately. Provided below is a brief summary of some of the provisions of Public Act 96-1496:

Rate Increase For Individuals, Trusts & Estates—The Illinois income tax rate for individuals, trusts and estates is increased from 3 percent to 5 percent for taxable years beginning on or after January 1, 2011 and ending prior to January 1, 2015. The tax rate is scheduled to be reduced to 3.75 percent for taxable years beginning on or after January 1, 2015 and further reduced to 3.25 percent for taxable years beginning on or after January 1, 2025.

Rate Increase For Corporations—The Illinois income tax rate for corporations is increased from 4.8 percent to 7 percent for taxable years beginning on or after January 1, 2011 and ending prior to January 1, 2015. The tax rate is scheduled to be reduced to 5.25 percent for taxable years beginning on or after January 1, 2015 and further reduced back to 4.8 percent for taxable years beginning on or after January 1, 2025. The tax rates reflected above do not include the 2.5 percent Illinois personal property tax replacement income tax rate which is also imposed on corporations. Thus, the total new tax rate for corporations is 9.5 percent. The legislation also provides that corporations with taxable periods ending on days other than December 31st can calculate their tax using a ratio based on the number of days or make an irrevocable election attributing income and deduction items specifically to a respective portion of the taxable year.

State Spending Limitation—Section 201.5 (35 ILCS 5/201.5) expressly provides for State spending limitations for fiscal years 2012 through 2015. If the spending limitations are not adhered to and corrective action is not taken pursuant to Auditor General Reports, the income tax rates can revert back to the 3 percent rate for individuals, trusts and estates and 4.8 percent for corporations.

Net Loss Deduction Carryforward Suspension—Section 207 (35 ILCS 5/207) is amended to suspend certain corporate carryover deductions for any taxable year ending after December 31, 2010 and prior to December 31, 2014. Section 207 is also amended to provide that loss deductions disallowed during these years shall not be counted in the carryforward limitation.

Estimated Tax Payment—For income tax installment payments due after January 31, 2011 and before February 1, 2012, the safe harbor provision of 100 percent of the tax shown on the return for the preceding year is increased to 150 percent.

Estate Tax Reinstatement—The Illinois Estate and Generation-Skipping Transfer Tax Act, which expired on December 31, 2009, is reinstated for persons dying after December 31, 2010.

Additional Funds Established—The new legislation also provides for the establishment of the Fund for the Advancement of Education and the Commitment to Human Services Fund

The summary presented above is a brief overview of some of the provisions of Public Act 96-1496 which became effective January

13, 2011. Some issues that may result from the new legislation may impact taxpayers with fiscal year ends, net operating losses and deferred taxes. ■

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