

cally, the development assistance agreement must provide, among other things, that if the recipient discontinues operations at the specific project site during the five-year period after the beginning of the first tax year for which the department issues a tax credit certificate, the recipient must forfeit all credits taken by the recipient during such five-year period.

#### **River Edge Redevelopment Zone Credit**

For purposes of the River Edge Redevelopment Zone site remediation tax credit, this legislation removes the credit from the state's automatic sunset provision for income tax credits.

#### **Film Production Services Tax Credit Sunset**

For purposes of the Film Production Services Tax Credit Act of 2008, a taxpayer shall not be entitled to take a credit for tax years beginning on or after 10 years after May 6, 2011 (May 6, 2021). After the initial 10-year sunset, the General Assembly may extend the sunset date by five-year intervals. P.A. 97-0002 (S.B. 4) and P.A. 97-0003 (S.B. 398), Laws 2011, effective May 6, 2011

#### **S&U Tax: Trading-In of Motor Vehicles Not Titled in Illinois Discussed**

The Illinois Department of Revenue has issued a general information letter discussing sales tax rules for trade-ins of tangible personal property as applied to motor vehicles. Motor vehicles that are of like kind and character may qualify as a trade-in regardless of whether sales or use tax was incurred or paid when the vehicle was first purchased. Also, vehicles do not have to be titled in Illinois at the time of trade in Illinois. *General Information Letter ST 11-0025-GIL*, Illinois Department of Revenue, April 1, 2011

#### **S&U Tax: Guidance on Taxability of Telecommunications Issued**

The Illinois Department of Revenue has issued a general information letter discussing the application of the telecommunications excise tax to wireless services provided by wireless communications providers that give users Internet access over wireless carrier networks. "Telecommunications" includes cellular mobile telecommunications services. Telecommunications that are purchased, used or sold to a provider to enable users to connect to the Internet or to otherwise enable users to access content, information or other services offered over the Internet are exempt under the federal moratorium from state tax on Internet access. Telecommunications that do not meet

these criteria, including, for example, Voice over Internet Protocol (VoIP), are subject to the Illinois telecommunications excise tax.

Services that are nontaxable under Illinois regulations are not subject to telecommunications excise tax provided that the charges for such services are disaggregated and separately identified from other charges in the books and records of the telecommunications retailer. *General Information Letter ST 11-0028-GIL*, Illinois Department of Revenue, April 6, 2011

#### **S&U Tax: Tax on Nonrefundable Layaway Fees Not Deductible From Tax Liability**

Illinois sales tax collected and remitted on nonrefundable layaway fees charged by a retailer of consumer technology and entertainment products is not deductible when computing the retailer's sales tax liability. Sales tax paid by customers on nonrefundable layaway fees should not be refunded. *General Information Letter ST 11-0029-GIL*, Illinois Department of Revenue, April 8, 2011

### **INDIANA**

#### **Income Tax: Private School Deduction Enacted, Scholarship Credit Increased**

Indiana Gov. Mitch Daniels has signed legislation that (1) establishes a personal income tax deduction for a parent who sends a child to a private school or home-schools the child, and (2) expands the school scholarship credit against personal and corporate income taxes. The new deduction is equal to \$1,000 per dependent child for whom "unreimbursed education expenditures" are made. The term "unreimbursed education expenditures" includes any expenditures made in connection with enrollment, attendance, or participation of the taxpayer's dependent child in a private elementary or high school education program (including a home school), such as expenditures for tuition, fees, computer software, textbooks, workbooks, curricula, school supplies (other than personal computers), and other written materials used primarily for academic instruction or for academic tutoring, or both. The deduction applies to taxable years beginning in 2011 and thereafter.

In addition, effective July 1, 2011, the fiscal year aggregate cap on the school scholarship credits is increased from \$2.5 million to \$5 million and a scholarship-granting organization is prohibited from limiting the availability of scholarships to students of only one participating school. H.B. 1003, Laws 2011, effective as noted above