



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB5833

Introduced 2/10/2010, by Rep. Barbara Flynn Currie

#### SYNOPSIS AS INTRODUCED:

20 ILCS 2505/2505-210  
35 ILCS 5/704A  
35 ILCS 120/2d

was 20 ILCS 2505/39c-1  
from Ch. 120, par. 441d

Amends the Department of Revenue Law of the Civil Administrative Code of Illinois to provide that a taxpayer who has an annual tax liability of \$20,000 (instead of \$200,000) or more shall make all payments of that tax to the Department by electronic funds transfer. Amends the Illinois Income Tax Act to provide that employer returns with respect to withholding shall be filed for each calendar year on or before January 31 of the following year (instead of filing quarterly). Amends the Retailers' Occupation Tax Act to provide that the tax paid by motor fuel retailers to the distributor, supplier, or other reseller shall be an amount equal to \$0.10 (instead of \$0.06) per gallon of the motor fuel, except gasohol which shall be an amount equal to \$0.09 (instead of \$0.05) per gallon. Makes other changes. Effective immediately.

LRB096 19186 HLH 34577 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Department of Revenue Law of the Civil  
5 Administrative Code of Illinois is amended by changing Section  
6 2505-210 as follows:

7 (20 ILCS 2505/2505-210) (was 20 ILCS 2505/39c-1)

8 Sec. 2505-210. Electronic funds transfer.

9 (a) The Department may provide means by which persons  
10 having a tax liability under any Act administered by the  
11 Department may use electronic funds transfer to pay the tax  
12 liability.

13 (b) Mandatory payment by electronic funds transfer.  
14 Beginning on October 1, 2002, and through September 30, 2010, a  
15 taxpayer who has an annual tax liability of \$200,000 or more  
16 shall make all payments of that tax to the Department by  
17 electronic funds transfer. Beginning October 1, 2010, a  
18 taxpayer who has an annual tax liability of \$20,000 or more  
19 shall make all payments of that tax to the Department by  
20 electronic funds transfer. Before August 1 of each year,  
21 beginning in 2002, the Department shall notify all taxpayers  
22 required to make payments by electronic funds transfer. All  
23 taxpayers required to make payments by electronic funds

1 transfer shall make those payments for a minimum of one year  
2 beginning on October 1. For purposes of this subsection (b),  
3 the term "annual tax liability" means, except as provided in  
4 subsections (c) and (d) of this Section, the sum of the  
5 taxpayer's liabilities under a tax Act administered by the  
6 Department, except the Motor Fuel Tax Law and the Environmental  
7 Impact Fee Law, for the immediately preceding calendar year.

8 (c) For purposes of subsection (b), the term "annual tax  
9 liability" means, for a taxpayer that incurs a tax liability  
10 under the Retailers' Occupation Tax Act, Service Occupation Tax  
11 Act, Use Tax Act, Service Use Tax Act, or any other State or  
12 local occupation or use tax law that is administered by the  
13 Department, the sum of the taxpayer's liabilities under the  
14 Retailers' Occupation Tax Act, Service Occupation Tax Act, Use  
15 Tax Act, Service Use Tax Act, and all other State and local  
16 occupation and use tax laws administered by the Department for  
17 the immediately preceding calendar year.

18 (d) For purposes of subsection (b), the term "annual tax  
19 liability" means, for a taxpayer that incurs an Illinois income  
20 tax liability, the greater of:

21 (1) the amount of the taxpayer's tax liability under  
22 Article 7 of the Illinois Income Tax Act for the  
23 immediately preceding calendar year; or

24 (2) the taxpayer's estimated tax payment obligation  
25 under Article 8 of the Illinois Income Tax Act for the  
26 immediately preceding calendar year.

1 (e) The Department shall adopt such rules as are necessary  
2 to effectuate a program of electronic funds transfer and the  
3 requirements of this Section.

4 (Source: P.A. 91-239, eff. 1-1-00; 92-492, eff. 1-1-02.)

5 Section 10. The Illinois Income Tax Act is amended by  
6 changing Section 704A as follows:

7 (35 ILCS 5/704A)

8 Sec. 704A. Employer's return and payment of tax withheld.

9 (a) In general, every employer who deducts and withholds or  
10 is required to deduct and withhold tax under this Act on or  
11 after January 1, 2008 shall make those payments and returns as  
12 provided in this Section.

13 (b) Returns. Every employer shall, in the form and manner  
14 required by the Department, make returns with respect to taxes  
15 withheld or required to be withheld under this Article 7 (i)  
16 for each quarter beginning on or after January 1, 2008, and  
17 beginning before January 1, 2011, on or before the last day of  
18 the first month following the close of that quarter and (ii)  
19 for each calendar year beginning on or after January 1, 2011,  
20 on or before January 31 of the following year.

21 (c) Payments. With respect to amounts withheld or required  
22 to be withheld on or after January 1, 2008:

23 (1) Semi-weekly payments. For each calendar year, each  
24 employer who withheld or was required to withhold more than

1           \$12,000 during the one-year period ending on June 30 of the  
2 immediately preceding calendar year, payment must be made:

3           (A) on or before each Friday of the calendar year,  
4 for taxes withheld or required to be withheld on the  
5 immediately preceding Saturday, Sunday, Monday, or  
6 Tuesday;

7           (B) on or before each Wednesday of the calendar  
8 year, for taxes withheld or required to be withheld on  
9 the immediately preceding Wednesday, Thursday, or  
10 Friday.

11           (2) Semi-weekly payments. Any employer who withholds  
12 or is required to withhold more than \$12,000 in any quarter  
13 of a calendar year is required to make payments on the  
14 dates set forth under item (1) of this subsection (c) for  
15 each remaining quarter of that calendar year and for the  
16 subsequent calendar year.

17           (3) Monthly payments. Each employer, other than an  
18 employer described in items (1) or (2) of this subsection,  
19 shall pay to the Department, on or before the 15th day of  
20 each month the taxes withheld or required to be withheld  
21 during the immediately preceding month.

22           (4) Payments with returns. Each employer shall pay to  
23 the Department, on or before the due date for each return  
24 required to be filed under this Section, any tax withheld  
25 or required to be withheld during the period for which the  
26 return is due and not previously paid to the Department.

1 (d) Regulatory authority. The Department may, by rule:

2 (1) If the aggregate amounts required to be withheld  
3 under this Article 7 (other than amounts required to be  
4 withheld under Section 709.5) do not exceed \$1,000 for the  
5 calendar year, permit employers, in lieu of the  
6 requirements of subsections (b) and (c), to file annual  
7 returns due on or before January 31 of the following year  
8 for taxes withheld or required to be withheld during that  
9 calendar year and to pay the taxes required to be shown on  
10 each such return no later than the due date for such  
11 return.

12 (2) Provide that any payment required to be made under  
13 subsection (c)(1) or (c)(2) is deemed to be timely to the  
14 extent paid by electronic funds transfer on or before the  
15 due date for deposit of federal income taxes withheld from,  
16 or federal employment taxes due with respect to, the wages  
17 from which the Illinois taxes were withheld.

18 (3) Designate one or more depositories to which payment  
19 of taxes required to be withheld under this Article 7 must  
20 be paid by some or all employers.

21 (4) Increase the threshold dollar amounts at which  
22 employers are required to make semi-weekly payments under  
23 subsection (c)(1) or (c)(2).

24 (e) Annual return and payment. Every employer who deducts  
25 and withholds or is required to deduct and withhold tax from a  
26 person engaged in domestic service employment, as that term is

1 defined in Section 3510 of the Internal Revenue Code, may  
2 comply with the requirements of this Section with respect to  
3 such employees by filing an annual return and paying the taxes  
4 required to be deducted and withheld on or before the 15th day  
5 of the fourth month following the close of the employer's  
6 taxable year. The Department may allow the employer's return to  
7 be submitted with the employer's individual income tax return  
8 or to be submitted with a return due from the employer under  
9 Section 1400.2 of the Unemployment Insurance Act.

10 (f) Magnetic media and electronic filing. Any W-2 Form  
11 that, under the Internal Revenue Code and regulations  
12 promulgated thereunder, is required to be submitted to the  
13 Internal Revenue Service on magnetic media or electronically  
14 must also be submitted to the Department on magnetic media or  
15 electronically for Illinois purposes, if required by the  
16 Department.

17 (g) For amounts deducted or withheld after December 31,  
18 2009, a taxpayer who makes an election under Section 5-15(f) of  
19 the Economic Development for a Growing Economy Act for a  
20 taxable year shall be allowed a credit against payments due  
21 under this Section for amounts withheld during the first  
22 calendar year beginning after the end of that taxable year  
23 equal to the amount of the credit awarded to the taxpayer by  
24 the Department of Commerce and Economic Opportunity under the  
25 Economic Development for a Growing Economy Act for the taxable  
26 year. The credit may not reduce the taxpayer's obligation for

1 any payment due under this Section to less than zero. If the  
2 amount of the credit exceeds the total payments due under this  
3 Section with respect to amounts withheld during the calendar  
4 year, the excess may be carried forward and applied against the  
5 taxpayer's liability under this Section in the 5 succeeding  
6 calendar years. The credit shall be applied to the earliest  
7 year for which there is a tax liability. If there are credits  
8 from more than one taxable year that are available to offset a  
9 liability, the earlier credit shall be applied first. This  
10 Section is exempt from the provisions of Section 250 of this  
11 Act.

12 (Source: P.A. 95-8, eff. 6-29-07; 95-707, eff. 1-11-08; 96-834,  
13 eff. 12-14-09.)

14 Section 15. The Retailers' Occupation Tax Act is amended by  
15 changing Section 2d as follows:

16 (35 ILCS 120/2d) (from Ch. 120, par. 441d)

17 Sec. 2d. Tax prepayment by motor fuel retailer. Any person  
18 engaged in the business of selling motor fuel at retail, as  
19 defined in the Motor Fuel Tax Law, and who is not a licensed  
20 distributor or supplier, as defined in the Motor Fuel Tax Law,  
21 shall prepay to his or her distributor, supplier, or other  
22 reseller of motor fuel a portion of the tax imposed by this Act  
23 if the distributor, supplier, or other reseller of motor fuel  
24 is registered under Section 2a or Section 2c of this Act. The

1 prepayment requirement provided for in this Section does not  
2 apply to liquid propane gas.

3 Beginning on July 1, 2000 and through December 31, 2000,  
4 the Retailers' Occupation Tax paid to the distributor,  
5 supplier, or other reseller shall be an amount equal to \$0.01  
6 per gallon of the motor fuel, except gasohol as defined in  
7 Section 2-10 of this Act which shall be an amount equal to  
8 \$0.01 per gallon, purchased from the distributor, supplier, or  
9 other reseller.

10 Before July 1, 2000 and then beginning on January 1, 2001  
11 and through June 30, 2003, the Retailers' Occupation Tax paid  
12 to the distributor, supplier, or other reseller shall be an  
13 amount equal to \$0.04 per gallon of the motor fuel, except  
14 gasohol as defined in Section 2-10 of this Act which shall be  
15 an amount equal to \$0.03 per gallon, purchased from the  
16 distributor, supplier, or other reseller.

17 Beginning July 1, 2003 and and through June 30, 2010  
18 ~~thereafter~~, the Retailers' Occupation Tax paid to the  
19 distributor, supplier, or other reseller shall be an amount  
20 equal to \$0.06 per gallon of the motor fuel, except gasohol as  
21 defined in Section 2-10 of this Act which shall be an amount  
22 equal to \$0.05 per gallon, purchased from the distributor,  
23 supplier, or other reseller.

24 Beginning July 1, 2010 and thereafter, the Retailers'  
25 Occupation Tax paid to the distributor, supplier, or other  
26 reseller shall be an amount equal to \$0.10 per gallon of the

1 motor fuel, except gasohol as defined in Section 2-10 of this  
2 Act which shall be an amount equal to \$0.09 per gallon,  
3 purchased from the distributor, supplier, or other reseller.

4 Any person engaged in the business of selling motor fuel at  
5 retail shall be entitled to a credit against tax due under this  
6 Act in an amount equal to the tax paid to the distributor,  
7 supplier, or other reseller.

8 Every distributor, supplier, or other reseller registered  
9 as provided in Section 2a or Section 2c of this Act shall remit  
10 the prepaid tax on all motor fuel that is due from any person  
11 engaged in the business of selling at retail motor fuel with  
12 the returns filed under Section 2f or Section 3 of this Act,  
13 but the vendors discount provided in Section 3 shall not apply  
14 to the amount of prepaid tax that is remitted. Any distributor  
15 or supplier who fails to properly collect and remit the tax  
16 shall be liable for the tax. For purposes of this Section, the  
17 prepaid tax is due on invoiced gallons sold during a month by  
18 the 20th day of the following month.

19 (Source: P.A. 93-32, eff. 6-20-03.)

20 Section 99. Effective date. This Act takes effect upon  
21 becoming law.