



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1536

Introduced 2/15/2011, by Rep. Keith Farnham

SYNOPSIS AS INTRODUCED:

35 ILCS 5/704A

Amends the Illinois Income Tax Act. Provides for a credit against the withholding tax liability of an employer with fewer than 15 full-time employees in an amount equal to \$2,000 for each employee who is moved from part-time to full-time employment status and who maintains that full-time employment status for a period of 12 consecutive calendar months. Effective immediately.

LRB097 06553 HLH 46637 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 Illinois Income Tax Act is amended by
5 changing Section 704A as follows:

6 (35 ILCS 5/704A)

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

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

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

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

20 (1) Semi-weekly payments. For each calendar year, each
21 employer who withheld or was required to withhold more than
22 \$12,000 during the one-year period ending on June 30 of the
23 immediately preceding calendar year, payment must be made:

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

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

9 Beginning with calendar year 2011, payments ~~payment~~
10 made under this paragraph (1) of subsection (c) must be
11 made by electronic funds transfer.

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

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

23 (4) Payments with returns. Each employer shall pay to
24 the Department, on or before the due date for each return
25 required to be filed under this Section, any tax withheld
26 or required to be withheld during the period for which the

1 return is due and not previously paid to the Department.

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

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

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

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

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

25 (e) Annual return and payment. Every employer who deducts
26 and withholds or is required to deduct and withhold tax from a

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

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

18 (g) For amounts deducted or withheld after December 31,
19 2009, a taxpayer who makes an election under subsection (f) of
20 Section 5-15 of the Economic Development for a Growing Economy
21 Tax Credit Act for a taxable year shall be allowed a credit
22 against payments due under this Section for amounts withheld
23 during the first calendar year beginning after the end of that
24 taxable year equal to the amount of the credit for the
25 incremental income tax attributable to full-time employees of
26 the taxpayer awarded to the taxpayer by the Department of

1 Commerce and Economic Opportunity under the Economic
2 Development for a Growing Economy Tax Credit Act for the
3 taxable year and credits not previously claimed and allowed to
4 be carried forward under Section 211(4) of this Act as provided
5 in subsection (f) of Section 5-15 of the Economic Development
6 for a Growing Economy Tax Credit Act. The credit or credits may
7 not reduce the taxpayer's obligation for any payment due under
8 this Section to less than zero. If the amount of the credit or
9 credits exceeds the total payments due under this Section with
10 respect to amounts withheld during the calendar year, the
11 excess may be carried forward and applied against the
12 taxpayer's liability under this Section in the succeeding
13 calendar years as allowed to be carried forward under paragraph
14 (4) of Section 211 of this Act. The credit or credits shall be
15 applied to the earliest year for which there is a tax
16 liability. If there are credits from more than one taxable year
17 that are available to offset a liability, the earlier credit
18 shall be applied first. Each employer who deducts and withholds
19 or is required to deduct and withhold tax under this Act and
20 who retains income tax withholdings under subsection (f) of
21 Section 5-15 of the Economic Development for a Growing Economy
22 Tax Credit Act must make a return with respect to such taxes
23 and retained amounts in the form and manner that the
24 Department, by rule, requires and pay to the Department or to a
25 depository designated by the Department those withheld taxes
26 not retained by the taxpayer. For purposes of this subsection

1 (g), the term taxpayer shall include taxpayer and members of
2 the taxpayer's unitary business group as defined under
3 paragraph (27) of subsection (a) of Section 1501 of this Act.
4 This Section is exempt from the provisions of Section 250 of
5 this Act.

6 (h) An employer may claim a credit against payments due
7 under this Section for amounts withheld during the first
8 calendar year ending after date on which a tax credit
9 certificate was issued under Section 35 of the Small Business
10 Job Creation Tax Credit Act. The credit shall be equal to the
11 amount shown on the certificate, but may not reduce the
12 taxpayer's obligation for any payment due under this Section to
13 less than zero. If the amount of the credit exceeds the total
14 payments due under this Section with respect to amounts
15 withheld during the calendar year, the excess may be carried
16 forward and applied against the taxpayer's liability under this
17 Section in the 5 succeeding calendar years. The credit shall be
18 applied to the earliest year for which there is a tax
19 liability. If there are credits from more than one calendar
20 year that are available to offset a liability, the earlier
21 credit shall be applied first. This Section is exempt from the
22 provisions of Section 250 of this Act.

23 (i) An employer with fewer than 15 full-time employees may
24 claim a credit against payments due under this Section for
25 amounts required to be withheld on or after January 1, 2012, in
26 an amount equal to \$2,000 for each employee of the taxpayer who

1 is moved from part-time to full-time employment status and who
2 maintains that full-time employment status for a period of 12
3 consecutive calendar months. The credit may not reduce the
4 taxpayer's obligation for any payment due under this Section to
5 less than zero. If the amount of the credit exceeds the amount
6 of the payment due under this Section, the excess credit
7 amounts may be carried forward to each payment due in the 12
8 calendar months to occur after the credit is initially claimed.
9 If there are credits from more than one payment period that are
10 available to offset a liability, the earlier credit shall be
11 applied first. This Section is exempt from the provisions of
12 Section 250 of this Act.

13 (Source: P.A. 95-8, eff. 6-29-07; 95-707, eff. 1-11-08; 96-834,
14 eff. 12-14-09; 96-888, eff. 4-13-10; 96-905, eff. 6-4-10;
15 96-1027, eff. 7-12-10; revised 9-16-10.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.