HB1543

LRB09802829HLH32838 b

# 98TH GENERAL ASSEMBLY

# State of Illinois

# 2013 and 2014

## HB1543

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.

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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 made under

10   this paragraph (1) of subsection (c) must be made by

11   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  depositary 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 the 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 July 1, 2013, in an

26  amount equal to $2,000 for each employee of the taxpayer who is

1   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. 96-834, eff. 12-14-09; 96-888, eff. 4-13-10;

14  96-905, eff. 6-4-10; 96-1027, eff. 7-12-10; 97-333, eff.

15  8-12-11; 97-507, eff. 8-23-11.)


16      Section 99. Effective date. This Act takes effect upon

17  becoming law.