

SB2316



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2316

Introduced 2/10/2023, by Sen. Donald P. DeWitte

SYNOPSIS AS INTRODUCED:

35 ILCS 5/234 new
35 ILCS 5/704A

Amends the Illinois Income Tax Act. Creates an income tax credit for any taxpayers that hire a new employee for a position as a driver for which a commercial driver's license is required and any individual taxpayers who are employed as a driver in a position in which a commercial driver's license is required. Effective immediately.

LRB103 25038 HLH 51372 b

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 adding Section 234 and by changing Section 704A as follows:

6 (35 ILCS 5/234 new)

7 Sec. 234. Commercial driver's license employment tax
8 credit.

9 (a) For tax years beginning on or after January 1, 2024 and
10 ending on or before December 31, 2026, any taxpayers that hire
11 a new employee for a position as a driver for which a
12 commercial driver's license is required under Article V of the
13 Illinois Vehicle Code and any individual taxpayers who are
14 employed as a driver in a position in which a commercial
15 driver's license is required are entitled to a credit against
16 the taxes imposed under subsections (a) and (b) of Section 201
17 of this Section. The amount of the credit for the employer and
18 employee shall each be equal to 2.475% of the wages paid during
19 the taxable year to the full-time or part-time employee. In
20 lieu of the credit allowed under this Section against the
21 taxes imposed pursuant to subsections (a) and (b) of Section
22 201 of the Illinois Income Tax Act reported on the taxpayer's
23 annual return or the returns of partners or Subchapter S

1 corporation shareholders of the taxpayer, the employing
2 taxpayer may elect to claim the credit against its obligation
3 to pay over withholding under Section 704A of the Illinois
4 Income Tax Act. If requested by the employee taxpayer, the
5 employing taxpayer shall reduce the amount of withholding
6 required on wages under Section 704A of the Illinois Income
7 Tax Act on each paycheck by taking into account the employee
8 tax credit.

9 (b) To qualify for the credit, more than 50% of the
10 employee's duties must involve driving a vehicle for which a
11 commercial driver's license is required.

12 (c) If the taxpayer is a partnership, a Subchapter S
13 corporation, or a limited liability company that has elected
14 partnership tax treatment, the employing taxpayer's credit
15 shall be allowed to the partners, shareholders, or members in
16 accordance with the determination of income and distributive
17 share of income under Sections 702 and 704 and subchapter S of
18 the Internal Revenue Code, as applicable. The Department, in
19 cooperation with the Department of Commerce and Economic
20 Opportunity, shall adopt rules to implement and administer
21 this Section.

22 (d) As used in this Section, "new employee" means an
23 employee who is hired on or after the effective date of this
24 amendatory Act of the 103rd General Assembly for a new or
25 vacant position with the employer.

26 (e) This Section is exempt from the provisions of Section

1 250 of this Act.

2 (35 ILCS 5/704A)

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

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

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

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

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

21 (A) on or before each Friday of the calendar year,
22 for taxes withheld or required to be withheld on the
23 immediately preceding Saturday, Sunday, Monday, or
24 Tuesday;

25 (B) on or before each Wednesday of the calendar

1 year, for taxes withheld or required to be withheld on
2 the immediately preceding Wednesday, Thursday, or
3 Friday.

4 Beginning with calendar year 2011, payments made under
5 this paragraph (1) of subsection (c) must be made by
6 electronic funds transfer.

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

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

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

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

24 (1) Permit employers, in lieu of the requirements of
25 subsections (b) and (c), to file annual returns due on or
26 before January 31 of the year for taxes withheld or

1 required to be withheld during the previous calendar year
2 and, if the aggregate amounts required to be withheld by
3 the employer under this Article 7 (other than amounts
4 required to be withheld under Section 709.5) do not exceed
5 \$1,000 for the previous calendar year, to pay the taxes
6 required to be shown on each such return no later than the
7 due date for such return.

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

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

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

20 (e) Annual return and payment. Every employer who deducts
21 and withholds or is required to deduct and withhold tax from a
22 person engaged in domestic service employment, as that term is
23 defined in Section 3510 of the Internal Revenue Code, may
24 comply with the requirements of this Section with respect to
25 such employees by filing an annual return and paying the taxes
26 required to be deducted and withheld on or before the 15th day

1 of the fourth month following the close of the employer's
2 taxable year. The Department may allow the employer's return
3 to be submitted with the employer's individual income tax
4 return or to be submitted with a return due from the employer
5 under Section 1400.2 of the Unemployment Insurance Act.

6 (f) Magnetic media and electronic filing. With respect to
7 taxes withheld in calendar years prior to 2017, any W-2 Form
8 that, under the Internal Revenue Code and regulations
9 promulgated thereunder, is required to be submitted to the
10 Internal Revenue Service on magnetic media or electronically
11 must also be submitted to the Department on magnetic media or
12 electronically for Illinois purposes, if required by the
13 Department.

14 With respect to taxes withheld in 2017 and subsequent
15 calendar years, the Department may, by rule, require that any
16 return (including any amended return) under this Section and
17 any W-2 Form that is required to be submitted to the Department
18 must be submitted on magnetic media or electronically.

19 The due date for submitting W-2 Forms shall be as
20 prescribed by the Department by rule.

21 (g) For amounts deducted or withheld after December 31,
22 2009, a taxpayer who makes an election under subsection (f) of
23 Section 5-15 of the Economic Development for a Growing Economy
24 Tax Credit Act for a taxable year shall be allowed a credit
25 against payments due under this Section for amounts withheld
26 during the first calendar year beginning after the end of that

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

1 form and manner that the Department, by rule, requires and pay
2 to the Department or to a depository designated by the
3 Department those withheld taxes not retained by the taxpayer.
4 For purposes of this subsection (g), the term taxpayer shall
5 include taxpayer and members of the taxpayer's unitary
6 business group as defined under paragraph (27) of subsection
7 (a) of Section 1501 of this Act. This Section is exempt from
8 the provisions of Section 250 of this Act. No credit awarded
9 under the Economic Development for a Growing Economy Tax
10 Credit Act for agreements entered into on or after January 1,
11 2015 may be credited against payments due under this Section.

12 (g-1) For amounts deducted or withheld after December 31,
13 2024, a taxpayer who makes an election under the Reimagining
14 Electric Vehicles in Illinois Act shall be allowed a credit
15 against payments due under this Section for amounts withheld
16 during the first quarterly reporting period beginning after
17 the certificate is issued equal to the portion of the REV
18 Illinois Credit attributable to the incremental income tax
19 attributable to new employees and retained employees as
20 certified by the Department of Commerce and Economic
21 Opportunity pursuant to an agreement with the taxpayer under
22 the Reimagining Electric Vehicles in Illinois Act for the
23 taxable year. The credit or credits may not reduce the
24 taxpayer's obligation for any payment due under this Section
25 to less than zero. If the amount of the credit or credits
26 exceeds the total payments due under this Section with respect

1 to amounts withheld during the quarterly reporting period, the
2 excess may be carried forward and applied against the
3 taxpayer's liability under this Section in the succeeding
4 quarterly reporting period as allowed to be carried forward
5 under paragraph (4) of Section 211 of this Act. The credit or
6 credits shall be applied to the earliest quarterly reporting
7 period for which there is a tax liability. If there are credits
8 from more than one quarterly reporting period that are
9 available to offset a liability, the earlier credit shall be
10 applied first. Each employer who deducts and withholds or is
11 required to deduct and withhold tax under this Act and who
12 retains income tax withholdings this subsection must make a
13 return with respect to such taxes and retained amounts in the
14 form and manner that the Department, by rule, requires and pay
15 to the Department or to a depository designated by the
16 Department those withheld taxes not retained by the taxpayer.
17 For purposes of this subsection (g-1), the term taxpayer shall
18 include taxpayer and members of the taxpayer's unitary
19 business group as defined under paragraph (27) of subsection
20 (a) of Section 1501 of this Act. This Section is exempt from
21 the provisions of Section 250 of this Act.

22 (g-2) For amounts deducted or withheld after December 31,
23 2024, a taxpayer who makes an election under the Manufacturing
24 Illinois Chips for Real Opportunity (MICRO) Act shall be
25 allowed a credit against payments due under this Section for
26 amounts withheld during the first quarterly reporting period

1 beginning after the certificate is issued equal to the portion
2 of the MICRO Illinois Credit attributable to the incremental
3 income tax attributable to new employees and retained
4 employees as certified by the Department of Commerce and
5 Economic Opportunity pursuant to an agreement with the
6 taxpayer under the Manufacturing Illinois Chips for Real
7 Opportunity (MICRO) Act for the taxable year. The credit or
8 credits may not reduce the taxpayer's obligation for any
9 payment due under this Section to less than zero. If the amount
10 of the credit or credits exceeds the total payments due under
11 this Section with respect to amounts withheld during the
12 quarterly reporting period, the excess may be carried forward
13 and applied against the taxpayer's liability under this
14 Section in the succeeding quarterly reporting period as
15 allowed to be carried forward under paragraph (4) of Section
16 211 of this Act. The credit or credits shall be applied to the
17 earliest quarterly reporting period for which there is a tax
18 liability. If there are credits from more than one quarterly
19 reporting period that are available to offset a liability, the
20 earlier credit shall be applied first. Each employer who
21 deducts and withholds or is required to deduct and withhold
22 tax under this Act and who retains income tax withholdings
23 this subsection must make a return with respect to such taxes
24 and retained amounts in the form and manner that the
25 Department, by rule, requires and pay to the Department or to a
26 depository designated by the Department those withheld taxes

1 not retained by the taxpayer. For purposes of this subsection,
2 the term taxpayer shall include taxpayer and members of the
3 taxpayer's unitary business group as defined under paragraph
4 (27) of subsection (a) of Section 1501 of this Act. This
5 Section is exempt from the provisions of Section 250 of this
6 Act.

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

24 (i) Each employer with 50 or fewer full-time equivalent
25 employees during the reporting period may claim a credit
26 against the payments due under this Section for each qualified

1 employee in an amount equal to the maximum credit allowable.
2 The credit may be taken against payments due for reporting
3 periods that begin on or after January 1, 2020, and end on or
4 before December 31, 2027. An employer may not claim a credit
5 for an employee who has worked fewer than 90 consecutive days
6 immediately preceding the reporting period; however, such
7 credits may accrue during that 90-day period and be claimed
8 against payments under this Section for future reporting
9 periods after the employee has worked for the employer at
10 least 90 consecutive days. In no event may the credit exceed
11 the employer's liability for the reporting period. Each
12 employer who deducts and withholds or is required to deduct
13 and withhold tax under this Act and who retains income tax
14 withholdings under this subsection must make a return with
15 respect to such taxes and retained amounts in the form and
16 manner that the Department, by rule, requires and pay to the
17 Department or to a depository designated by the Department
18 those withheld taxes not retained by the employer.

19 For each reporting period, the employer may not claim a
20 credit or credits for more employees than the number of
21 employees making less than the minimum or reduced wage for the
22 current calendar year during the last reporting period of the
23 preceding calendar year. Notwithstanding any other provision
24 of this subsection, an employer shall not be eligible for
25 credits for a reporting period unless the average wage paid by
26 the employer per employee for all employees making less than

1 \$55,000 during the reporting period is greater than the
2 average wage paid by the employer per employee for all
3 employees making less than \$55,000 during the same reporting
4 period of the prior calendar year.

5 For purposes of this subsection (i):

6 "Compensation paid in Illinois" has the meaning ascribed
7 to that term under Section 304(a) (2) (B) of this Act.

8 "Employer" and "employee" have the meaning ascribed to
9 those terms in the Minimum Wage Law, except that "employee"
10 also includes employees who work for an employer with fewer
11 than 4 employees. Employers that operate more than one
12 establishment pursuant to a franchise agreement or that
13 constitute members of a unitary business group shall aggregate
14 their employees for purposes of determining eligibility for
15 the credit.

16 "Full-time equivalent employees" means the ratio of the
17 number of paid hours during the reporting period and the
18 number of working hours in that period.

19 "Maximum credit" means the percentage listed below of the
20 difference between the amount of compensation paid in Illinois
21 to employees who are paid not more than the required minimum
22 wage reduced by the amount of compensation paid in Illinois to
23 employees who were paid less than the current required minimum
24 wage during the reporting period prior to each increase in the
25 required minimum wage on January 1. If an employer pays an
26 employee more than the required minimum wage and that employee

1 previously earned less than the required minimum wage, the
2 employer may include the portion that does not exceed the
3 required minimum wage as compensation paid in Illinois to
4 employees who are paid not more than the required minimum
5 wage.

6 (1) 25% for reporting periods beginning on or after
7 January 1, 2020 and ending on or before December 31, 2020;

8 (2) 21% for reporting periods beginning on or after
9 January 1, 2021 and ending on or before December 31, 2021;

10 (3) 17% for reporting periods beginning on or after
11 January 1, 2022 and ending on or before December 31, 2022;

12 (4) 13% for reporting periods beginning on or after
13 January 1, 2023 and ending on or before December 31, 2023;

14 (5) 9% for reporting periods beginning on or after
15 January 1, 2024 and ending on or before December 31, 2024;

16 (6) 5% for reporting periods beginning on or after
17 January 1, 2025 and ending on or before December 31, 2025.

18 The amount computed under this subsection may continue to
19 be claimed for reporting periods beginning on or after January
20 1, 2026 and:

21 (A) ending on or before December 31, 2026 for
22 employers with more than 5 employees; or

23 (B) ending on or before December 31, 2027 for
24 employers with no more than 5 employees.

25 "Qualified employee" means an employee who is paid not
26 more than the required minimum wage and has an average wage

1 paid per hour by the employer during the reporting period
2 equal to or greater than his or her average wage paid per hour
3 by the employer during each reporting period for the
4 immediately preceding 12 months. A new qualified employee is
5 deemed to have earned the required minimum wage in the
6 preceding reporting period.

7 "Reporting period" means the quarter for which a return is
8 required to be filed under subsection (b) of this Section.

9 (j) For reporting periods beginning on or after January 1,
10 2023, if a private employer grants all of its employees the
11 option of taking a paid leave of absence of at least 30 days
12 for the purpose of serving as an organ donor or bone marrow
13 donor, then the private employer may take a credit against the
14 payments due under this Section in an amount equal to the
15 amount withheld under this Section with respect to wages paid
16 while the employee is on organ donation leave, not to exceed
17 \$1,000 in withholdings for each employee who takes organ
18 donation leave. To be eligible for the credit, such a leave of
19 absence must be taken without loss of pay, vacation time,
20 compensatory time, personal days, or sick time for at least
21 the first 30 days of the leave of absence. The private employer
22 shall adopt rules governing organ donation leave, including
23 rules that (i) establish conditions and procedures for
24 requesting and approving leave and (ii) require medical
25 documentation of the proposed organ or bone marrow donation
26 before leave is approved by the private employer. A private

1 employer must provide, in the manner required by the
2 Department, documentation from the employee's medical
3 provider, which the private employer receives from the
4 employee, that verifies the employee's organ donation. The
5 private employer must also provide, in the manner required by
6 the Department, documentation that shows that a qualifying
7 organ donor leave policy was in place and offered to all
8 qualifying employees at the time the leave was taken. For the
9 private employer to receive the tax credit, the employee
10 taking organ donor leave must allow for the applicable medical
11 records to be disclosed to the Department. If the private
12 employer cannot provide the required documentation to the
13 Department, then the private employer is ineligible for the
14 credit under this Section. A private employer must also
15 provide, in the form required by the Department, any
16 additional documentation or information required by the
17 Department to administer the credit under this Section. The
18 credit under this subsection (j) shall be taken within one
19 year after the date upon which the organ donation leave
20 begins. If the leave taken spans into a second tax year, the
21 employer qualifies for the allowable credit in the later of
22 the 2 years. If the amount of credit exceeds the tax liability
23 for the year, the excess may be carried and applied to the tax
24 liability for the 3 taxable years following the excess credit
25 year. The tax credit shall be applied to the earliest year for
26 which there is a tax liability. If there are credits for more

1 than one year that are available to offset liability, the
2 earlier credit shall be applied first.

3 Nothing in this subsection (j) prohibits a private
4 employer from providing an unpaid leave of absence to its
5 employees for the purpose of serving as an organ donor or bone
6 marrow donor; however, if the employer's policy provides for
7 fewer than 30 days of paid leave for organ or bone marrow
8 donation, then the employer shall not be eligible for the
9 credit under this Section.

10 As used in this subsection (j):

11 "Organ" means any biological tissue of the human body that
12 may be donated by a living donor, including, but not limited
13 to, the kidney, liver, lung, pancreas, intestine, bone, skin,
14 or any subpart of those organs.

15 "Organ donor" means a person from whose body an organ is
16 taken to be transferred to the body of another person.

17 "Private employer" means a sole proprietorship,
18 corporation, partnership, limited liability company, or other
19 entity with one or more employees. "Private employer" does not
20 include a municipality, county, State agency, or other public
21 employer.

22 This subsection (j) is exempt from the provisions of
23 Section 250 of this Act.

24 (k) An employer may claim a credit against payments due
25 under this Section as provided in Section 234.

26 (Source: P.A. 101-1, eff. 2-19-19; 102-669, eff. 11-16-21;

1 102-700, Article 30, Section 30-5, eff. 4-19-22; 102-700,
2 Article 110, Section 110-905, eff. 4-19-22; revised 6-1-22.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.