



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5798

Introduced 2/16/2012, by Rep. Dwight Kay

SYNOPSIS AS INTRODUCED:

35 ILCS 5/704

from Ch. 120, par. 7-704

35 ILCS 10/5-16 new

Amends the Economic Development for a Growing Economy Tax Credit Act. Provides that an applicant who has been awarded a Credit under the Act may, in the applicant's sole discretion, opt to retain taxes withheld under the Illinois Income Tax Act in lieu of an income tax credit. Provides that the amount of withheld taxes retained by the applicant in a taxable year may not exceed the amount of the Credit awarded by the Department of Commerce and Economic Opportunity for that taxable year. Provides that each employee whose taxes were withheld by an employer who retains amounts under this subsection must receive credit for 100% of the taxes withheld from his or her pay. Requires the Department to report annually to the Governor and the General Assembly on the progress of the incentive payment program. Amends the Illinois Income Tax Act to make corresponding changes concerning tax withholding. Effective immediately.

LRB097 18203 HLH 63427 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning economic development.

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 704 as follows:

6 (35 ILCS 5/704) (from Ch. 120, par. 7-704)

7 Sec. 704. 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 prior to
10 January 1, 2008, shall make such payments and returns as
11 provided in this Section.

12 (b) Quarter Monthly Payments: Returns. Every employer who
13 deducts and withholds or is required to deduct and withhold tax
14 under this Act shall, on or before the third banking day
15 following the close of a quarter monthly period, pay to the
16 Department or to a depository designated by the Department,
17 pursuant to regulations prescribed by the Department, the taxes
18 so required to be deducted and withheld, whenever the aggregate
19 amount withheld by such employer (together with amounts
20 previously withheld and not paid to the Department) exceeds
21 \$1,000. For purposes of this Section, Saturdays, Sundays, legal
22 holidays and local bank holidays are not banking days. A
23 quarter monthly period, for purposes of this subsection, ends

1 on the 7th, 15th, 22nd and last day of each calendar month.
2 Every such employer shall for each calendar quarter, on or
3 before the last day of the first month following the close of
4 such quarter, and for the calendar year, on or before January
5 31 of the succeeding calendar year, make a return with respect
6 to such taxes in such form and manner as the Department may by
7 regulations prescribe, and pay to the Department or to a
8 depository designated by the Department all withheld taxes not
9 previously paid to the Department.

10 (c) Monthly Payments: Returns. Every employer required to
11 deduct and withhold tax under this Act shall, on or before the
12 15th day of the second and third months of each calendar
13 quarter, and on or before the last day of the month following
14 the last month of each such quarter, pay to the Department or
15 to a depository designated by the Department, pursuant to
16 regulations prescribed by the Department, the taxes so required
17 to be deducted and withheld, whenever the aggregate amount
18 withheld by such employer (together with amounts previously
19 withheld and not paid to the Department) exceeds \$500 but does
20 not exceed \$1,000. Every such employer shall for each calendar
21 quarter, on or before the last day of the first month following
22 the close of such quarter, and for the calendar year, on or
23 before January 31 of the succeeding calendar year, make a
24 return with respect to such taxes in such form and manner as
25 the Department may by regulations prescribe, and pay to the
26 Department or to a depository designated by the Department all

1 withheld taxes not previously paid to the Department.

2 (d) Annual Payments: Returns. Where the amount of
3 compensation paid by an employer is not sufficient to require
4 the withholding of tax from the compensation of any of its
5 employees (or where the aggregate amount withheld is less than
6 \$500), the Department may by regulation permit such employer to
7 file only an annual return and to pay the taxes required to be
8 deducted and withheld at the time of filing such annual return.

9 (e) Annual Return. The Department may, as it deems
10 appropriate, prescribe by regulation for the filing of annual
11 returns in lieu of quarterly returns described in subsections
12 (b) and (c).

13 (e-5) Annual Return and Payment. On and after January 1,
14 1998, notwithstanding subsections (b) through (d) of this
15 Section, every employer who deducts and withholds or is
16 required to deduct and withhold tax from a person engaged in
17 domestic service employment, as that term is defined in Section
18 3510 of the Internal Revenue Code, may comply with the
19 requirements of this Section by filing an annual return and
20 paying the taxes required to be deducted and withheld on or
21 before the 15th day of the fourth month following the close of
22 the employer's taxable year. The annual return may be submitted
23 with the employer's individual income tax return.

24 (f) Magnetic Media Filing. Forms W-2 that, pursuant to the
25 Internal Revenue Code and regulations promulgated thereunder,
26 are required to be submitted to the Internal Revenue Service on

1 magnetic media, must also be submitted to the Department on
2 magnetic media for Illinois purposes, if required by the
3 Department.

4 (g) EDGE Credit assistance. Every employer who deducts and
5 withholds or is required to deduct and withhold tax under this
6 Act who retains income tax withholdings under Section 5-16 of
7 the Economic Development for a Growing Economy Tax Credit Act
8 must make a return with respect to such taxes and retained
9 amounts in the form and manner that the Department, by rule,
10 requires and pay to the Department or to a depository
11 designated by the Department those withheld taxes not retained
12 by the taxpayer.

13 (Source: P.A. 95-8, eff. 6-29-07.)

14 Section 10. The Economic Development for a Growing Economy
15 Tax Credit Act is amended by adding Section 5-16 as follows:

16 (35 ILCS 10/5-16 new)

17 Sec. 5-16. Optional retention income tax withholding.

18 (a) An applicant who has been awarded a Credit under this
19 this Act may, in the applicant's sole discretion, opt to retain
20 taxes withheld under Article 7 of the Illinois Income Tax Act
21 in lieu of an income tax credit. The amount of withheld taxes
22 retained by the applicant in a taxable year may not exceed the
23 amount of the Credit awarded by the Department for that taxable
24 year.

1 (b) Each employee whose taxes were withheld by an employer
2 who retains amounts under this subsection must receive credit
3 for 100% of the taxes withheld from his or her pay.

4 (c) The Department shall file annual reports with the
5 General Assembly and the Governor on or before January 1 each
6 year concerning the applicants' retention of withheld taxes
7 during the previous year and regarding the progress this
8 assistance has made in advancing economic development in
9 Illinois and its various regions.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.