

AN ACT concerning revenue.

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

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

(35 ILCS 5/704A)

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

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

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

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

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

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

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

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

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

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

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

(1) If the aggregate amounts required to be withheld

under this Article 7 do not exceed \$1,000 for the calendar year, permit employers, in lieu of the requirements of subsections (b) and (c), to file annual returns due on or before January 31 of the following year for taxes withheld or required to be withheld during that calendar year and to pay the taxes required to be shown on each such return no later than the due date for such return.

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

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

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

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

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

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

(g) For amounts deducted or withheld after December 31, 2009, a taxpayer who makes an election under subsection (f) of Section 5-15 ~~5-15(f)~~ of the Economic Development for a Growing Economy Tax Credit Act for a taxable year shall be allowed a credit against payments due under this Section for amounts withheld during the first calendar year beginning after the end of that taxable year equal to the amount of the credit for the incremental income tax attributable to full-time employees of the taxpayer awarded to the taxpayer by the Department of Commerce and Economic Opportunity under the Economic Development for a Growing Economy Tax Credit Act for the taxable year and credits not previously claimed and allowed to be carried forward under Section 211(4) of this Act as provided in subsection (f) of Section 5-15 of the Economic Development

for a Growing Economy Tax Credit Act. The credit or credits may not reduce the taxpayer's obligation for any payment due under this Section to less than zero. If the amount of the credit or credits exceeds the total payments due under this Section with respect to amounts withheld during the calendar year, the excess may be carried forward and applied against the taxpayer's liability under this Section in the ~~5~~ succeeding calendar years as allowed to be carried forward under paragraph (4) of Section 211 of this Act. The credit or credits shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one taxable year that are available to offset a liability, the earlier credit shall be applied first. Each employer who deducts and withholds or is required to deduct and withhold tax under this Act and who retains income tax withholdings under subsection (f) of Section 5-15 of the Economic Development for a Growing Economy Tax Credit Act must make a return with respect to such taxes and retained amounts in the form and manner that the Department, by rule, requires and pay to the Department or to a depository designated by the Department those withheld taxes not retained by the taxpayer. For purposes of this subsection (g), the term taxpayer shall include taxpayer and members of the taxpayer's unitary business group as defined under paragraph (27) of subsection (a) of Section 1501 of this Act. This Section is exempt from the provisions of Section 250 of this Act.

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

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

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

(35 ILCS 10/5-15)

Sec. 5-15. Tax Credit Awards. Subject to the conditions set forth in this Act, a Taxpayer is entitled to a Credit against

or, as described in subsection (g)~~(f)~~ of this Section, a payment towards taxes imposed pursuant to subsections (a) and (b) of Section 201 of the Illinois Income Tax Act that may be imposed on the Taxpayer for a taxable year beginning on or after January 1, 1999, if the Taxpayer is awarded a Credit by the Department under this Act for that taxable year.

(a) The Department shall make Credit awards under this Act to foster job creation and retention in Illinois.

(b) A person that proposes a project to create new jobs in Illinois must enter into an Agreement with the Department for the Credit under this Act.

(c) The Credit shall be claimed for the taxable years specified in the Agreement.

(d) The Credit shall not exceed the Incremental Income Tax attributable to the project that is the subject of the Agreement.

(e) Nothing herein shall prohibit a Tax Credit Award to an Applicant that uses a PEO if all other award criteria are satisfied.

(f) In lieu of the Credit allowed under this Act against the taxes imposed pursuant to subsections (a) and (b) of Section 201 of the Illinois Income Tax Act for any taxable year ending on or after December 31, 2009, the Taxpayer may elect to claim the Credit against its obligation to pay over withholding under Section 704A of the Illinois Income Tax Act.

(1) The election under this subsection (f) may be made

only by a Taxpayer that (i) is primarily engaged in one of the following business activities: motor vehicle metal stamping, automobile manufacturing, automobile and light duty motor vehicle manufacturing, motor vehicle manufacturing, light truck and utility vehicle manufacturing, heavy duty truck manufacturing, or motor vehicle body manufacturing and (ii) meets the following criteria:

(A) the Taxpayer (i) had an Illinois net loss or an Illinois net loss deduction under Section 207 of the Illinois Income Tax Act for the taxable year in which the Credit is awarded, (ii) employed a minimum of 1,000 full-time employees in this State during the taxable year in which the Credit is awarded, (iii) has an Agreement under this Act on December 14, 2009 (the effective date of Public Act 96-834) ~~this amendatory Act of the 96th General Assembly~~, and (iv) is in compliance with all provisions of that Agreement; ~~or~~

(B) the Taxpayer (i) had an Illinois net loss or an Illinois net loss deduction under Section 207 of the Illinois Income Tax Act for the taxable year in which the Credit is awarded, (ii) employed a minimum of 1,000 full-time employees in this State during the taxable year in which the Credit is awarded, and (iii) has applied for an Agreement within 365 ~~180~~ days after December 14, 2009 (the effective date of Public Act



~~96-834); or this amendatory Act of the 96th General Assembly.~~

(C) the Taxpayer (i) had an Illinois net operating loss carryforward under Section 207 of the Illinois Income Tax Act in a taxable year ending during calendar year 2008, (ii) has applied for an Agreement within 150 days after the effective date of this amendatory Act of the 96th General Assembly, (iii) creates at least 400 new jobs in Illinois, (iv) retains at least 2,000 jobs in Illinois that would have been at risk of relocation out of Illinois over a 10-year period, and (v) makes a capital investment of at least \$75,000,000.

(2) An election under this subsection shall allow the credit to be taken against payments otherwise due under Section 704A of the Illinois Income Tax Act during the first calendar year beginning after the end of the taxable year in which the credit is awarded under this Act.

(3) The election shall be made in the form and manner required by the Illinois Department of Revenue and, once made, shall be irrevocable.

(4) If a Taxpayer who meets the requirements of subparagraph (A) of paragraph (1) of this subsection (f) elects to claim the Credit against its withholdings as provided in this subsection (f), then, on and after the date of the election, the terms of the Agreement between the Taxpayer and the Department may not be further amended

during the term of the Agreement.

(g)~~(f)~~ A pass-through entity that has been awarded a credit under this Act, its shareholders, or its partners may treat some or all of the credit awarded pursuant to this Act as a tax payment for purposes of the Illinois Income Tax Act. The term "tax payment" means a payment as described in Article 6 or Article 8 of the Illinois Income Tax Act or a composite payment made by a pass-through entity on behalf of any of its shareholders or partners to satisfy such shareholders' or partners' taxes imposed pursuant to subsections (a) and (b) of Section 201 of the Illinois Income Tax Act. In no event shall the amount of the award credited pursuant to this Act exceed the Illinois income tax liability of the pass-through entity or its shareholders or partners for the taxable year.

(Source: P.A. 95-375, eff. 8-23-07; 96-834, eff. 12-14-09; 96-836, eff. 12-16-09; revised 12-21-09.)

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