

1 AN ACT concerning employment.

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 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 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) Each employer that does not employ more than 50
24 employees at any time during the applicable payment period may
25 claim a credit against payments due under this Section for each
26 qualified employee, in an amount equal to the maximum credit

1 multiplied by the number of hours the employee worked during
2 the reporting period. The credit or credits may be taken
3 against payments due for reporting periods that begin on or
4 after January 1, 2018 and end on or before either: (1) December
5 31, 2025 for employers that employ more than 5 employees during
6 the applicable payment period; or (2) December 31, 2027 for
7 employers that employ no more than 5 employees during the
8 applicable payment period. An employer may not claim a credit
9 for an employee who has worked less than 90 consecutive days
10 immediately preceding the reporting period; however, such
11 credits may accrue during that 90-day period and be claimed
12 against payments under this Section for future reporting
13 periods after the employee has worked for the employer at least
14 90 consecutive days.

15 For each reporting period, the employer may not claim a
16 credit or credits for more employees than the number of
17 employees making less than the minimum or reduced wage for the
18 current calendar year during the last reporting period of the
19 preceding calendar year. Notwithstanding any other provision
20 of this subsection, an employer shall not be eligible for
21 credits for a reporting period unless the average wage paid by
22 the employer per employee for all employees making less than
23 \$55,000 during the reporting period is greater than the average
24 wage paid by the employer per employee for all employees making
25 less than \$55,000 during the same reporting period of the prior
26 calendar year.

1 The credit or credits may not reduce the employer's
2 obligation for any payment due under this Section by more than
3 (i) 25% for reporting periods that begin during calendar year
4 2018, (ii) 20% for reporting periods that begin during calendar
5 year 2019, (iii) 15% for reporting periods that begin during
6 calendar year 2020, (iv) 10% for reporting periods that begin
7 during calendar year 2021, and (v) 5% for reporting periods
8 that begin during calendar year 2022. For calendar years 2023
9 through (1) December 31, 2025 for employers that employ more
10 than 5 employees during the applicable payment period or (2)
11 December 31, 2027 for employers that employ no more than 5
12 employees during the applicable payment period, the total
13 amount of credits awarded to a taxpayer in each calendar year
14 shall be equal to the total amount of credits awarded to that
15 taxpayer in calendar year 2022. The taxpayer may apply all or a
16 portion of the total credit amount for any such calendar year
17 to any reporting period or periods in that calendar year,
18 provided that the total amount of credits claimed by the
19 taxpayer in that taxable year does not exceed the total amount
20 of credits awarded to that taxpayer in calendar year 2022. Each
21 employer who deducts and withholds or is required to deduct and
22 withhold tax under this Act and who retains income tax
23 withholdings under this subsection must make a return with
24 respect to such taxes and retained amounts in the form and
25 manner that the Department, by rule, requires and pay to the
26 Department or to a depository designated by the Department

1 those withheld taxes not retained by the employer.

2 For the purposes of this subsection (i):

3 (1) "Category of employee" means:

4 (A) employees who are under 18 years of age;

5 (B) employees who are 18 years of age or older, but
6 who qualify for a reduced minimum wage as provided
7 under paragraph (2) of subsection (a) of Section 4 of
8 the Minimum Wage Law;

9 (C) employees who are engaged in an occupation in
10 which gratuities have customarily and usually
11 constituted, and have been recognized as part of, the
12 remuneration for hire purposes, as provided in
13 subsection (c) of Section 4 of the Minimum Wage Law;

14 (D) employees who are 18 years of age or older, but
15 who qualify for a reduced minimum wage under Section 5
16 of the Minimum Wage Law;

17 (E) employees who are 18 years of age or older, but
18 who qualify for a reduced minimum wage under Section 6
19 of the Minimum Wage Law; and

20 (F) employees who are 18 years of age or older and
21 do not qualify under paragraph (B), (C), (D), or (E) of
22 this item (1).

23 (2) "Employer" and "employee" have the meanings
24 ascribed to those terms in the Minimum Wage Law, except
25 that "employee" also includes employees who work for an
26 employer employing fewer than 4 employees. "Employer" does

1 not include an employer that owns or operates 4 or more
2 establishments in the aggregate nationally pursuant to a
3 franchise agreement.

4 (3) "Maximum credit" means: (A) \$0.45 per hour for
5 qualified employees for whom the employer receives an
6 allowance for gratuities under subsection (c) of Section 4
7 of the Minimum Wage Law; (B) \$0.53 per hour for employees
8 who receive a reduced minimum wage under Section 6 of the
9 Minimum Wage Law; and (C) \$0.75 per hour for all other
10 qualified employees.

11 (4) "Qualified employee" means an employee who: (i)
12 makes no more per hour than an amount equal to the minimum
13 wage or reduced minimum wage for that category of employee
14 plus \$0.25; and (ii) has an average wage paid per hour by
15 the employer during the reporting period equal to or
16 greater than his or her average wage paid per hour by the
17 employer during each reporting period for the immediately
18 preceding 12 months.

19 (Source: P.A. 96-834, eff. 12-14-09; 96-888, eff. 4-13-10;
20 96-905, eff. 6-4-10; 96-1027, eff. 7-12-10; 97-333, eff.
21 8-12-11; 97-507, eff. 8-23-11.)

22 Section 10. The Minimum Wage Law is amended by changing
23 Section 4 as follows:

24 (820 ILCS 105/4) (from Ch. 48, par. 1004)

1 Sec. 4. (a)(1) Every employer shall pay to each of his
2 employees in every occupation wages of not less than \$2.30 per
3 hour or in the case of employees under 18 years of age wages of
4 not less than \$1.95 per hour, except as provided in Sections 5
5 and 6 of this Act, and on and after January 1, 1984, every
6 employer shall pay to each of his employees in every occupation
7 wages of not less than \$2.65 per hour or in the case of
8 employees under 18 years of age wages of not less than \$2.25
9 per hour, and on and after October 1, 1984 every employer shall
10 pay to each of his employees in every occupation wages of not
11 less than \$3.00 per hour or in the case of employees under 18
12 years of age wages of not less than \$2.55 per hour, and on or
13 after July 1, 1985 every employer shall pay to each of his
14 employees in every occupation wages of not less than \$3.35 per
15 hour or in the case of employees under 18 years of age wages of
16 not less than \$2.85 per hour, and from January 1, 2004 through
17 December 31, 2004 every employer shall pay to each of his or
18 her employees who is 18 years of age or older in every
19 occupation wages of not less than \$5.50 per hour, and from
20 January 1, 2005 through June 30, 2007 every employer shall pay
21 to each of his or her employees who is 18 years of age or older
22 in every occupation wages of not less than \$6.50 per hour, and
23 from July 1, 2007 through June 30, 2008 every employer shall
24 pay to each of his or her employees who is 18 years of age or
25 older in every occupation wages of not less than \$7.50 per
26 hour, and from July 1, 2008 through June 30, 2009 every

1 employer shall pay to each of his or her employees who is 18
2 years of age or older in every occupation wages of not less
3 than \$7.75 per hour, and from July 1, 2009 through June 30,
4 2010 every employer shall pay to each of his or her employees
5 who is 18 years of age or older in every occupation wages of
6 not less than \$8.00 per hour, and from ~~on and after~~ July 1,
7 2010 through December 31, 2017 every employer shall pay to each
8 of his or her employees who is 18 years of age or older in every
9 occupation wages of not less than \$8.25 per hour, and from
10 January 1, 2018 to December 31, 2018 every employer shall pay
11 to each of his or her employees who is 18 years of age or older
12 in every occupation wages of not less than \$9 per hour, and
13 from January 1, 2019 to December 31, 2019 every employer shall
14 pay to each of his or her employees who is 18 years of age or
15 older in every occupation wages of not less than \$10 per hour,
16 and from January 1, 2020 to December 31, 2020 every employer
17 shall pay to each of his or her employees who is 18 years of age
18 or older in every occupation wages of not less than \$11.25 per
19 hour, and from January 1, 2021 to December 31, 2021 every
20 employer shall pay to each of his or her employees who is 18
21 years of age or older in every occupation wages of not less
22 than \$13 per hour, and on and after January 1, 2022 every
23 employer shall pay to each of his or her employees who is 18
24 years of age or older in every occupation wages of not less
25 than \$15 per hour.

26 (2) Unless an employee's wages are reduced under Section 6,

1 then in lieu of the rate prescribed in item (1) of this
2 subsection (a), an employer may pay an employee who is 18 years
3 of age or older, during the first 90 consecutive calendar days
4 after the employee is initially employed by the employer, a
5 wage that is not more than 50¢ less than the wage prescribed in
6 item (1) of this subsection (a); however, an employer shall pay
7 not less than the rate prescribed in item (1) of this
8 subsection (a) to:

9 (A) a day or temporary laborer, as defined in Section 5
10 of the Day and Temporary Labor Services Act, who is 18
11 years of age or older; and

12 (B) an employee who is 18 years of age or older and
13 whose employment is occasional or irregular and requires
14 not more than 90 days to complete.

15 (3) On or before December 31, 2017, at ~~At~~ no time shall the
16 wages paid to any employee under 18 years of age be more than
17 50¢ less than the wage required to be paid to employees who are
18 at least 18 years of age under item (1) of this subsection (a).
19 Beginning on or after January 1, 2018, every employer shall pay
20 to each of his or her employees who is under 18 years of age
21 that has worked more than 650 hours for the employer during any
22 calendar year a wage not less than the wage required for
23 employees who are 18 years of age or older under paragraph (1)
24 of subsection (a) of Section 4 of this Law. Every employer
25 shall pay to each of his or her employees who is under 18 years
26 of age that has not worked more than 650 hours for the employer

1 during any calendar year: (1) \$8 per hour from January 1, 2018
2 to December 31, 2018; (2) \$8.50 per hour from January 1, 2019
3 to December 31, 2019; (3) \$9.25 per hour from January 1, 2020
4 to December 31, 2020; (4) \$10.50 per hour from January 1, 2021
5 to December 31, 2021; and (5) \$12 per hour on and after January
6 1, 2022.

7 (b) No employer shall discriminate between employees on the
8 basis of sex or mental or physical disability, except as
9 otherwise provided in this Act by paying wages to employees at
10 a rate less than the rate at which he pays wages to employees
11 for the same or substantially similar work on jobs the
12 performance of which requires equal skill, effort, and
13 responsibility, and which are performed under similar working
14 conditions, except where such payment is made pursuant to (1) a
15 seniority system; (2) a merit system; (3) a system which
16 measures earnings by quantity or quality of production; or (4)
17 a differential based on any other factor other than sex or
18 mental or physical disability, except as otherwise provided in
19 this Act.

20 (c) Every employer of an employee engaged in an occupation
21 in which gratuities have customarily and usually constituted
22 and have been recognized as part of the remuneration for hire
23 purposes is entitled to an allowance for gratuities as part of
24 the hourly wage rate provided in Section 4, subsection (a) in
25 an amount not to exceed 40% of the applicable minimum wage
26 rate. The Director shall require each employer desiring an

1 allowance for gratuities to provide substantial evidence that
2 the amount claimed, which may not exceed 40% of the applicable
3 minimum wage rate, was received by the employee in the period
4 for which the claim of exemption is made, and no part thereof
5 was returned to the employer.

6 (d) No camp counselor who resides on the premises of a
7 seasonal camp of an organized not-for-profit corporation shall
8 be subject to the adult minimum wage if the camp counselor (1)
9 works 40 or more hours per week, and (2) receives a total
10 weekly salary of not less than the adult minimum wage for a
11 40-hour week. If the counselor works less than 40 hours per
12 week, the counselor shall be paid the minimum hourly wage for
13 each hour worked. Every employer of a camp counselor under this
14 subsection is entitled to an allowance for meals and lodging as
15 part of the hourly wage rate provided in Section 4, subsection
16 (a), in an amount not to exceed 25% of the minimum wage rate.

17 (e) A camp counselor employed at a day camp is not subject
18 to the adult minimum wage if the camp counselor is paid a
19 stipend on a onetime or periodic basis and, if the camp
20 counselor is a minor, the minor's parent, guardian or other
21 custodian has consented in writing to the terms of payment
22 before the commencement of such employment.

23 (Source: P.A. 99-143, eff. 7-27-15.)

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