



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2900

by Rep. Anthony DeLuca

SYNOPSIS AS INTRODUCED:

35 ILCS 5/704A

Amends the Illinois Income Tax Act if and only if Senate Bill 1 of the 101st General Assembly becomes law. Provides that a withholding tax credit for full-time equivalent employees created in Senate Bill 1 applies for reporting periods that begin on or after January 1, 2020 (in the bill, reporting periods that begin on or after January 1, 2020 and end on or before December 31, 2027). Provides that the maximum credit is determined by the Metropolitan and Nonmetropolitan area of the State that is the base of operations of the employee, as those areas are determined as of May 2017. Makes changes concerning the amount of the credit based on the Metropolitan and Nonmetropolitan area of the State. Effective immediately.

LRB101 11158 HLH 56395 b

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. If and only if Senate Bill 1 of the 101st
5 General Assembly becomes law, the Illinois Income Tax Act is
6 amended by changing Section 704A as follows:

7 (35 ILCS 5/704A)

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

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

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

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

21 (1) Semi-weekly payments. For each calendar year, each
22 employer who withheld or was required to withhold more than
23 \$12,000 during the one-year period ending on June 30 of the

1 immediately preceding calendar year, payment must be made:

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

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

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

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

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

24 (4) Payments with returns. Each employer shall pay to
25 the Department, on or before the due date for each return
26 required to be filed under this Section, any tax withheld

1 or required to be withheld during the period for which the
2 return is due and not previously paid to the Department.

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

4 (1) Permit employers, in lieu of the requirements of
5 subsections (b) and (c), to file annual returns due on or
6 before January 31 of the year for taxes withheld or
7 required to be withheld during the previous calendar year
8 and, if the aggregate amounts required to be withheld by
9 the employer under this Article 7 (other than amounts
10 required to be withheld under Section 709.5) do not exceed
11 \$1,000 for the previous calendar year, to pay the taxes
12 required to be shown on each such return no later than the
13 due date for such return.

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

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

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

26 (e) Annual return and payment. Every employer who deducts

1 and withholds or is required to deduct and withhold tax from a
2 person engaged in domestic service employment, as that term is
3 defined in Section 3510 of the Internal Revenue Code, may
4 comply with the requirements of this Section with respect to
5 such employees by filing an annual return and paying the taxes
6 required to be deducted and withheld on or before the 15th day
7 of the fourth month following the close of the employer's
8 taxable year. The Department may allow the employer's return to
9 be submitted with the employer's individual income tax return
10 or to be submitted with a return due from the employer under
11 Section 1400.2 of the Unemployment Insurance Act.

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

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

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

1 (g) For amounts deducted or withheld after December 31,
2 2009, a taxpayer who makes an election under subsection (f) of
3 Section 5-15 of the Economic Development for a Growing Economy
4 Tax Credit Act for a taxable year shall be allowed a credit
5 against payments due under this Section for amounts withheld
6 during the first calendar year beginning after the end of that
7 taxable year equal to the amount of the credit for the
8 incremental income tax attributable to full-time employees of
9 the taxpayer awarded to the taxpayer by the Department of
10 Commerce and Economic Opportunity under the Economic
11 Development for a Growing Economy Tax Credit Act for the
12 taxable year and credits not previously claimed and allowed to
13 be carried forward under Section 211(4) of this Act as provided
14 in subsection (f) of Section 5-15 of the Economic Development
15 for a Growing Economy Tax Credit Act. The credit or credits may
16 not reduce the taxpayer's obligation for any payment due under
17 this Section to less than zero. If the amount of the credit or
18 credits exceeds the total payments due under this Section with
19 respect to amounts withheld during the calendar year, the
20 excess may be carried forward and applied against the
21 taxpayer's liability under this Section in the succeeding
22 calendar years as allowed to be carried forward under paragraph
23 (4) of Section 211 of this Act. The credit or credits shall be
24 applied to the earliest year for which there is a tax
25 liability. If there are credits from more than one taxable year
26 that are available to offset a liability, the earlier credit

1 shall be applied first. Each employer who deducts and withholds
2 or is required to deduct and withhold tax under this Act and
3 who retains income tax withholdings under subsection (f) of
4 Section 5-15 of the Economic Development for a Growing Economy
5 Tax Credit Act must make a return with respect to such taxes
6 and retained amounts in the form and manner that the
7 Department, by rule, requires and pay to the Department or to a
8 depository designated by the Department those withheld taxes
9 not retained by the taxpayer. For purposes of this subsection
10 (g), the term taxpayer shall include taxpayer and members of
11 the taxpayer's unitary business group as defined under
12 paragraph (27) of subsection (a) of Section 1501 of this Act.
13 This Section is exempt from the provisions of Section 250 of
14 this Act. No credit awarded under the Economic Development for
15 a Growing Economy Tax Credit Act for agreements entered into on
16 or after January 1, 2015 may be credited against payments due
17 under this Section.

18 (h) An employer may claim a credit against payments due
19 under this Section for amounts withheld during the first
20 calendar year ending after the date on which a tax credit
21 certificate was issued under Section 35 of the Small Business
22 Job Creation Tax Credit Act. The credit shall be equal to the
23 amount shown on the certificate, but may not reduce the
24 taxpayer's obligation for any payment due under this Section to
25 less than zero. If the amount of the credit exceeds the total
26 payments due under this Section with respect to amounts

1 withheld during the calendar year, the excess may be carried
2 forward and applied against the taxpayer's liability under this
3 Section in the 5 succeeding calendar years. The credit shall be
4 applied to the earliest year for which there is a tax
5 liability. If there are credits from more than one calendar
6 year that are available to offset a liability, the earlier
7 credit shall be applied first. This Section is exempt from the
8 provisions of Section 250 of this Act.

9 (i) Each employer with 50 or fewer full-time equivalent
10 employees during the reporting period may claim a credit
11 against the payments due under this Section for each qualified
12 employee in an amount equal to the maximum credit allowable.
13 The credit may be taken against payments due for reporting
14 periods that begin on or after January 1, 2020, ~~and end on or~~
15 ~~before December 31, 2027~~. An employer may not claim a credit
16 for an employee who has been employed ~~worked~~ fewer than 90
17 consecutive days immediately preceding the reporting period;
18 however, such credits may accrue during that 90-day period and
19 be claimed against payments under this Section for future
20 reporting periods after the employee has been employed by
21 ~~worked for~~ the employer at least 90 consecutive days. In no
22 event may the credit exceed the employer's liability for the
23 reporting period. Each employer who deducts and withholds or is
24 required to deduct and withhold tax under this Act and who
25 retains income tax withholdings under this subsection must make
26 a 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 employer.

4 For each reporting period, the employer may not claim a
5 credit or credits for more employees than the number of
6 employees making less than the minimum or reduced wage for the
7 current calendar year during the last reporting period of the
8 preceding calendar year. Notwithstanding any other provision
9 of this subsection, an employer shall not be eligible for
10 credits for a reporting period unless the average wage paid by
11 the employer per employee for all employees making less than
12 \$55,000 during the reporting period is greater than the average
13 wage paid by the employer per employee for all employees making
14 less than \$55,000 during the same reporting period of the prior
15 calendar year.

16 For purposes of this subsection (i):

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

19 "Employer" and "employee" have the meaning ascribed to
20 those terms in the Minimum Wage Law, except that "employee"
21 also includes employees who work for an employer with fewer
22 than 4 employees. Employers that operate more than one
23 establishment pursuant to a franchise agreement or that
24 constitute members of a unitary business group shall aggregate
25 their employees for purposes of determining eligibility for the
26 credit.

1 "Full-time equivalent employee" means an employee who
2 works a full-time equivalent job, as defined in subsection (i)
3 of Section 3 of the Illinois Enterprise Zone Act employees"
4 ~~means the ratio of the number of paid hours during the~~
5 ~~reporting period and the number of working hours in that~~
6 ~~period.~~

7 "Maximum credit" means the percentage listed below of the
8 difference between the amount of compensation paid in Illinois
9 to employees who are paid not more than the required minimum
10 wage reduced by the amount of compensation paid in Illinois to
11 employees who were paid less than the current required minimum
12 wage during the reporting period prior to each increase in the
13 required minimum wage on January 1. If an employer pays an
14 employee more than the required minimum wage and that employee
15 previously earned less than the required minimum wage, the
16 employer may include the portion that does not exceed the
17 required minimum wage as compensation paid in Illinois to
18 employees who are paid not more than the required minimum wage.

19 The maximum credit is determined by the Metropolitan and
20 Nonmetropolitan area of the State that is the base of
21 operations of the employee. The Metropolitan and
22 Nonmetropolitan areas of this State are those areas as defined
23 by the United States Bureau of Labor Statistics as of May 2017.

24 The maximum credit for the City of Chicago and Cook County
25 portion of the City of Chicago-Naperville-Elgin region is:

26 (1) 30% ~~25%~~ for reporting periods beginning on or after

1 January 1, 2020 and ending on or before December 31, 2020;

2 (2) 30% ~~21%~~ for reporting periods beginning on or after
3 January 1, 2021 and ending on or before December 31, 2021;

4 (3) 35% ~~17%~~ for reporting periods beginning on or after
5 January 1, 2022 and ending on or before December 31, 2022;

6 (4) 35% ~~13%~~ for reporting periods beginning on or after
7 January 1, 2023 and ending on or before December 31, 2023;

8 (5) 40% ~~9%~~ for reporting periods beginning on or after
9 January 1, 2024 and ending on or before December 31, 2024;

10 (6) 40% ~~5%~~ for reporting periods beginning on or after
11 January 1, 2025 and thereafter ~~ending on or before December~~
12 ~~31, 2025.~~

13 The maximum credit for the City of
14 Chicago-Naperville-Elgin region excluding Chicago and Cook
15 County is:

16 (1) 30% for reporting periods beginning on or after
17 January 1, 2020 and ending on or before December 31, 2020;

18 (2) 35% for reporting periods beginning on or after
19 January 1, 2021 and ending on or before December 31, 2021;

20 (3) 35% for reporting periods beginning on or after
21 January 1, 2022 and ending on or before December 31, 2022;

22 (4) 40% for reporting periods beginning on or after
23 January 1, 2023;

24 The maximum credit for the Bloomington, Champaign-Urbana,
25 and Springfield regions is:

26 (1) 35% for reporting periods beginning on or after

1 January 1, 2020 and ending on or before December 31, 2020;

2 (2) 35% for reporting periods beginning on or after

3 January 1, 2021 and ending on or before December 31, 2021;

4 (3) 40% for reporting periods beginning on or after

5 January 1, 2022 and ending on or before December 31, 2022;

6 (4) 45% for reporting periods beginning on or after

7 January 1, 2023;

8 The maximum credit for the Cape Girardeau,
9 Carbondale-Marion, Davenport-Moline-Rock Island, Peoria, and
10 St. Louis MO-IL regions is:

11 (1) 40% for reporting periods beginning on or after
12 January 1, 2020 and ending on or before December 31, 2020;

13 (2) 40% for reporting periods beginning on or after
14 January 1, 2021 and ending on or before December 31, 2021;

15 (3) 45% for reporting periods beginning on or after
16 January 1, 2022 and ending on or before December 31, 2022;

17 (4) 50% for reporting periods beginning on or after
18 January 1, 2023;

19 The maximum credit for the Danville, Decatur, Kankakee, and
20 Rockford regions is:

21 (1) 40% for reporting periods beginning on or after
22 January 1, 2020 and ending on or before December 31, 2020;

23 (2) 40% for reporting periods beginning on or after
24 January 1, 2021 and ending on or before December 31, 2021;

25 (3) 45% for reporting periods beginning on or after
26 January 1, 2022 and ending on or before December 31, 2022;

1 (4) 50% for reporting periods beginning on or after
2 January 1, 2023;

3 The maximum credit for the Northwest Illinois, West Central
4 Illinois, East Central Illinois, and South Illinois
5 nonmetropolitan areas is;

6 (1) 45% for reporting periods beginning on or after
7 January 1, 2020 and ending on or before December 31, 2020;

8 (2) 45% for reporting periods beginning on or after
9 January 1, 2021 and ending on or before December 31, 2021;

10 (3) 55% for reporting periods beginning on or after
11 January 1, 2022 and ending on or before December 31, 2022;

12 (4) 60% for reporting periods beginning on or after
13 January 1, 2023;

14 ~~The amount computed under this subsection may continue to~~
15 ~~be claimed for reporting periods beginning on or after January~~
16 ~~1, 2026 and:~~

17 ~~(A) ending on or before December 31, 2026 for employers~~
18 ~~with more than 5 employees; or~~

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

21 "Qualified employee" means an employee who is paid not more
22 than the required minimum wage and has an average wage paid per
23 hour by the employer during the reporting period equal to or
24 greater than his or her average wage paid per hour by the
25 employer during each reporting period for the immediately
26 preceding 12 months. A new qualified employee is deemed to have

1 earned the required minimum wage in the preceding reporting
2 period.

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

5 (Source: 101SB0001eng.)

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