

# SB3719



## 102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3719

Introduced 1/21/2022, by Sen. Donald P. DeWitte

### SYNOPSIS AS INTRODUCED:

35 ILCS 5/232 new  
35 ILCS 5/704A

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

LRB102 24145 HLH 33371 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 232 and by changing Section 704A as follows:

6 (35 ILCS 5/232 new)

7 Sec. 232. Commercial driver's license employment tax  
8 credit.

9 (a) For tax years beginning on and after January 1, 2022  
10 and ending on or before December 31, 2024, a taxpayer that  
11 hires 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 an individual taxpayer who is  
14 employed as a driver in a position in which a commercial  
15 driver's license is required, is 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) In order to qualify for the credit, the duties of the  
10 employee must be primarily, greater than 50%, driving a  
11 vehicle for which a 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 enforce and administer this  
21 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 102nd 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 (h) An employer may claim a credit against payments due  
23 under this Section for amounts withheld during the first  
24 calendar year ending after the date on which a tax credit  
25 certificate was issued under Section 35 of the Small Business  
26 Job Creation Tax Credit Act. The credit shall be equal to the

1 amount shown on the certificate, but may not reduce the  
2 taxpayer's obligation for any payment due under this Section  
3 to less than zero. If the amount of the credit exceeds the  
4 total payments due under this Section with respect to amounts  
5 withheld during the calendar year, the excess may be carried  
6 forward and applied against the taxpayer's liability under  
7 this Section in the 5 succeeding calendar years. The credit  
8 shall be applied to the earliest year for which there is a tax  
9 liability. If there are credits from more than one calendar  
10 year that are available to offset a liability, the earlier  
11 credit shall be applied first. This Section is exempt from the  
12 provisions of Section 250 of this Act.

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

1 employer who deducts and withholds or is required to deduct  
2 and withhold tax under this Act and who retains income tax  
3 withholdings under this subsection must make a return with  
4 respect to such taxes and retained amounts in the form and  
5 manner that the Department, by rule, requires and pay to the  
6 Department or to a depository designated by the Department  
7 those withheld taxes not retained by the employer.

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

20 For purposes of this subsection (i):

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

23 "Employer" and "employee" have the meaning ascribed to  
24 those terms in the Minimum Wage Law, except that "employee"  
25 also includes employees who work for an employer with fewer  
26 than 4 employees. Employers that operate more than one

1 establishment pursuant to a franchise agreement or that  
2 constitute members of a unitary business group shall aggregate  
3 their employees for purposes of determining eligibility for  
4 the credit.

5 "Full-time equivalent employees" means the ratio of the  
6 number of paid hours during the reporting period and the  
7 number of working hours in that period.

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

21 (1) 25% for reporting periods beginning on or after  
22 January 1, 2020 and ending on or before December 31, 2020;

23 (2) 21% for reporting periods beginning on or after  
24 January 1, 2021 and ending on or before December 31, 2021;

25 (3) 17% for reporting periods beginning on or after  
26 January 1, 2022 and ending on or before December 31, 2022;

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

3 (5) 9% for reporting periods beginning on or after  
4 January 1, 2024 and ending on or before December 31, 2024;

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

7 The amount computed under this subsection may continue to  
8 be claimed for reporting periods beginning on or after January  
9 1, 2026 and:

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

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

14 "Qualified employee" means an employee who is paid not  
15 more than the required minimum wage and has an average wage  
16 paid per hour by the employer during the reporting period  
17 equal to or greater than his or her average wage paid per hour  
18 by the employer during each reporting period for the  
19 immediately preceding 12 months. A new qualified employee is  
20 deemed to have earned the required minimum wage in the  
21 preceding reporting period.

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

24 (j) An employer may claim a credit against payments due  
25 under this Section as provided in Section 232.

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

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