



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB0171

Introduced 1/19/2007, by Rep. David Reis

#### 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.

LRB095 04352 BDD 24395 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 shall  
10 make such payments and returns as hereinafter provided.

11 (b) Quarter Monthly Payments: Returns. Every employer who  
12 deducts and withholds or is required to deduct and withhold tax  
13 under this Act shall, on or before the third banking day  
14 following the close of a quarter monthly period, pay to the  
15 Department or to a depository designated by the Department,  
16 pursuant to regulations prescribed by the Department, the taxes  
17 so required to be deducted and withheld, whenever the aggregate  
18 amount withheld by such employer (together with amounts  
19 previously withheld and not paid to the Department) exceeds  
20 \$1,000. For purposes of this Section, Saturdays, Sundays, legal  
21 holidays and local bank holidays are not banking days. A  
22 quarter monthly period, for purposes of this subsection, ends  
23 on the 7th, 15th, 22nd and last day of each calendar month.

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

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

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

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

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

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

1 magnetic media for Illinois purposes, if required by the  
2 Department.

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

12 (Source: P.A. 90-374, eff. 8-14-97; 90-562, eff. 12-16-97.)

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

15 (35 ILCS 10/5-16 new)

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

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

24 (b) Each employee whose taxes were withheld by an employer

1 who retains amounts under this subsection must receive credit  
2 for 100% of the taxes withheld from his or her pay.

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

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