

SB1395



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1395

Introduced 2/9/2007, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

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

from Ch. 120, par. 7-704

Amends the Illinois Income Tax Act. Sets forth procedures for employers who are required to deduct and withhold tax after January 1, 2008. Sets forth dates by which returns and payments must be made to the Department of Revenue for both quarterly and annual filings. Sets forth the regulatory authority of the Department concerning the returns and payments. Effective immediately.

LRB095 07487 BDD 27631 b

FISCAL NOTE ACT
MAY APPLY

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 changing Section 704 and by adding Section 704A 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 prior to
10 January 1, 2008, shall make such payments and returns as
11 ~~hereinafter~~ provided in this Section.

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

1 on the 7th, 15th, 22nd and last day of each calendar month.
2 Every such employer shall for each calendar quarter, on or
3 before the last day of the first month following the close of
4 such quarter, and for the calendar year, on or before January
5 31 of the succeeding calendar year, make a return with respect
6 to such taxes in such form and manner as the Department may by
7 regulations prescribe, and pay to the Department or to a
8 depository designated by the Department all withheld taxes not
9 previously paid to the Department.

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

1 withheld taxes not previously paid to the Department.

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

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

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

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

1 magnetic media, must also be submitted to the Department on
2 magnetic media for Illinois purposes, if required by the
3 Department.

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

5 (35 ILCS 5/704A new)

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

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

11 (b) Returns. Every employer shall, in the form and manner
12 required by the Department, make returns with respect to taxes
13 withheld or required to be withheld under this Article 7:

14 (1) for taxes withheld or required to be withheld
15 during each calendar quarter beginning on or after January
16 1, 2008, on or before the 15th day of the first month
17 following the close of that quarter; and

18 (2) for taxes withheld or required to be withheld
19 during calendar year 2008 and each subsequent calendar
20 year, on or before January 31 of the following year.

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

23 (1) For each calendar year, each employer who withheld
24 or was required to withhold more than \$3,000 during any of
25 the first, second, or third quarters of the immediately

1 preceding calendar year or of the fourth quarter of the
2 calendar year immediately preceding that year, payment
3 must be made:

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

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

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

17 (3) Each employer shall pay to the Department, on or
18 before the due date for each return required to be filed
19 under this Section, any tax withheld or required to be
20 withheld during the period for which the return is due and
21 not previously paid to the Department.

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

23 (1) Permit employers, as it deems appropriate in lieu
24 of the requirements of subsections (b) and (c), to file
25 annual returns due on or before January 31 each year for
26 taxes withheld or required to be withheld during the

1 preceding calendar year and to pay the taxes required to be
2 shown on each such return no later than the due date for
3 such return.

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

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

13 (e) Annual return and payment. Every employer who deducts
14 and withholds or is required to deduct and withhold tax from a
15 person engaged in domestic service employment, as that term is
16 defined in Section 3510 of the Internal Revenue Code, may
17 comply with the requirements of this Section with respect to
18 such employees by filing an annual return and paying the taxes
19 required to be deducted and withheld on or before the 15th day
20 of the fourth month following the close of the employer's
21 taxable year. The Department may allow the employer's return to
22 be submitted with the employer's individual income tax return
23 or to be submitted with a return due from the employer under
24 Section 1400.2 of the Unemployment Insurance Act.

25 (f) Magnetic media and electronic filing. Any W-2 Form
26 that, under the Internal Revenue Code and regulations

1 promulgated thereunder, is required to be submitted to the
2 Internal Revenue Service on magnetic media or electronically
3 must also be submitted to the Department on magnetic media or
4 electronically for Illinois purposes, if required by the
5 Department.

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