



Sen. Don Harmon

Filed: 3/13/2007

09500SB1395sam001

LRB095 07487 BDD 33291 a

1 AMENDMENT TO SENATE BILL 1395

2 AMENDMENT NO. _____. Amend Senate Bill 1395 by replacing
3 everything after the enacting clause with the following:

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,

1 pursuant to regulations prescribed by the Department, the taxes
2 so required to be deducted and withheld, whenever the aggregate
3 amount withheld by such employer (together with amounts
4 previously withheld and not paid to the Department) exceeds
5 \$1,000. For purposes of this Section, Saturdays, Sundays, legal
6 holidays and local bank holidays are not banking days. A
7 quarter monthly period, for purposes of this subsection, ends
8 on the 7th, 15th, 22nd and last day of each calendar month.
9 Every such employer shall for each calendar quarter, on or
10 before the last day of the first month following the close of
11 such quarter, and for the calendar year, on or before January
12 31 of the succeeding calendar year, make a return with respect
13 to such taxes in such form and manner as the Department may by
14 regulations prescribe, and pay to the Department or to a
15 depository designated by the Department all withheld taxes not
16 previously paid to the Department.

17 (c) Monthly Payments: Returns. Every employer required to
18 deduct and withhold tax under this Act shall, on or before the
19 15th day of the second and third months of each calendar
20 quarter, and on or before the last day of the month following
21 the last month of each such quarter, pay to the Department or
22 to a depository designated by the Department, pursuant to
23 regulations prescribed by the Department, the taxes so required
24 to be deducted and withheld, whenever the aggregate amount
25 withheld by such employer (together with amounts previously
26 withheld and not paid to the Department) exceeds \$500 but does

1 not exceed \$1,000. Every such employer shall for each calendar
2 quarter, on or before the last day of the first month following
3 the close of such quarter, and for the calendar year, on or
4 before January 31 of the succeeding calendar year, make a
5 return with respect to such taxes in such form and manner as
6 the Department may by regulations prescribe, and pay to the
7 Department or to a depository designated by the Department all
8 withheld taxes not previously paid to the Department.

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

16 (e) Annual Return. The Department may, as it deems
17 appropriate, prescribe by regulation for the filing of annual
18 returns in lieu of quarterly returns described in subsections
19 (b) and (c).

20 (e-5) Annual Return and Payment. On and after January 1,
21 1998, notwithstanding subsections (b) through (d) of this
22 Section, every employer who deducts and withholds or is
23 required to deduct and withhold tax from a person engaged in
24 domestic service employment, as that term is defined in Section
25 3510 of the Internal Revenue Code, may comply with the
26 requirements of this Section by filing an annual return and

1 paying the taxes required to be deducted and withheld on or
2 before the 15th day of the fourth month following the close of
3 the employer's taxable year. The annual return may be submitted
4 with the employer's individual income tax return.

5 (f) Magnetic Media Filing. Forms W-2 that, pursuant to the
6 Internal Revenue Code and regulations promulgated thereunder,
7 are required to be submitted to the Internal Revenue Service on
8 magnetic media, must also be submitted to the Department on
9 magnetic media for Illinois purposes, if required by the
10 Department.

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

12 (35 ILCS 5/704A new)

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

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

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

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

25 (1) Semi-weekly payments. For each calendar year, each

1 employer who withheld or was required to withhold more than
2 \$12,000 during the one-year period ending on June 30 of the
3 immediately preceding calendar year, payment 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) 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) If the aggregate amounts required to be withheld
4 under this Article 7 do not exceed \$1,000 for the calendar
5 year, permit employers, in lieu of the requirements of
6 subsections (b) and (c), to file annual returns due on or
7 before January 31 of the following year for taxes withheld
8 or required to be withheld during that calendar year and to
9 pay the taxes required to be shown on each such return no
10 later than the due date for such return.

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

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

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

23 (5) Require electronic filing of any return due under
24 this Section or payment by electronic funds transfer of any
25 amount that is required to be withheld under this Article 7
26 by an employer required to make semi-weekly payments under

1 subsection (c) (1) or (c) (2).

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

14 (f) Magnetic media and electronic filing. Any W-2 Form
15 that, under the Internal Revenue Code and regulations
16 promulgated thereunder, is required to be submitted to the
17 Internal Revenue Service on magnetic media or electronically
18 must also be submitted to the Department on magnetic media or
19 electronically for Illinois purposes, if required by the
20 Department.

21 Section 99. Effective date. This Act takes effect upon
22 becoming law."