

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 704A as follows:

6 (35 ILCS 5/704A)

7 Sec. 704A. 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 on or  
10 after January 1, 2008 shall make those payments and returns as  
11 provided in this Section.

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

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

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

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

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

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

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

20 (4) Payments with returns. Each employer shall pay to  
21 the Department, on or before the due date for each return  
22 required to be filed under this Section, any tax withheld  
23 or required to be withheld during the period for which the  
24 return is due and not previously paid to the Department.

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

26 (1) If the aggregate amounts required to be withheld

1 under this Article 7 do not exceed \$1,000 for the calendar  
2 year, permit employers, in lieu of the requirements of  
3 subsections (b) and (c), to file annual returns due on or  
4 before January 31 of the following year for taxes withheld  
5 or required to be withheld during that calendar year and to  
6 pay the taxes required to be shown on each such return no  
7 later than the 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 from,  
12 or federal employment taxes due with respect to, the wages  
13 from which the Illinois taxes were withheld.

14 (3) Designate one or more depositories to which payment  
15 of taxes required to be withheld under this Article 7 must  
16 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 to  
3 be submitted with the employer's individual income tax return  
4 or to be submitted with a return due from the employer under  
5 Section 1400.2 of the Unemployment Insurance Act.

6 (f) Magnetic media and electronic filing. Any W-2 Form  
7 that, under the Internal Revenue Code and regulations  
8 promulgated thereunder, is required to be submitted to the  
9 Internal Revenue Service on magnetic media or electronically  
10 must also be submitted to the Department on magnetic media or  
11 electronically for Illinois purposes, if required by the  
12 Department.

13 (g) For amounts deducted or withheld after December 31,  
14 2009, a taxpayer who makes an election under Section 5-15(f) of  
15 the Economic Development for a Growing Economy Act for a  
16 taxable year shall be allowed a credit against payments due  
17 under this Section for amounts withheld during the first  
18 calendar year beginning after the end of that taxable year  
19 equal to the amount of the credit awarded to the taxpayer by  
20 the Department of Commerce and Economic Opportunity under the  
21 Economic Development for a Growing Economy Act for the taxable  
22 year. The credit may not reduce the taxpayer's obligation for  
23 any payment due under this Section to less than zero. If the  
24 amount of the credit exceeds the total payments due under this  
25 Section with respect to amounts withheld during the calendar  
26 year, the excess may be carried forward and applied against the

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

8 (Source: P.A. 95-8, eff. 6-29-07; 95-707, eff. 1-11-08.)

9 Section 10. The Economic Development for a Growing Economy  
10 Tax Credit Act is amended by changing Section 5-15 as follows:

11 (35 ILCS 10/5-15)

12 Sec. 5-15. Tax Credit Awards. Subject to the conditions set  
13 forth in this Act, a Taxpayer is entitled to a Credit against  
14 taxes imposed pursuant to subsections (a) and (b) of Section  
15 201 of the Illinois Income Tax Act that may be imposed on the  
16 Taxpayer for a taxable year beginning on or after January 1,  
17 1999, if the Taxpayer is awarded a Credit by the Department  
18 under this Act for that taxable year.

19 (a) The Department shall make Credit awards under this Act  
20 to foster job creation and retention in Illinois.

21 (b) A person that proposes a project to create new jobs in  
22 Illinois must enter into an Agreement with the Department for  
23 the Credit under this Act.

24 (c) The Credit shall be claimed for the taxable years

1 specified in the Agreement.

2 (d) The Credit shall not exceed the Incremental Income Tax  
3 attributable to the project that is the subject of the  
4 Agreement.

5 (e) Nothing herein shall prohibit a Tax Credit Award to an  
6 Applicant that uses a PEO if all other award criteria are  
7 satisfied.

8 (f) In lieu of the Credit allowed under this Act against  
9 the taxes imposed pursuant to subsections (a) and (b) of  
10 Section 201 of the Illinois Income Tax Act for any taxable year  
11 ending on or after December 31, 2009, the Taxpayer may elect to  
12 claim the Credit against its obligation to pay over withholding  
13 under Section 704A of the Illinois Income Tax Act.

14 (1) The election under this subsection (f) may be made  
15 only by a Taxpayer that (i) is designated by the United  
16 States Department of Commerce, United States Census Bureau  
17 North American Industry Classification System Code 336120  
18 and (ii) has an Illinois net operating loss carryforward  
19 under Section 207 of the Illinois Income Tax Act in a  
20 taxable year ending during calendar year 2008, has applied  
21 for an Agreement within 150 days after the effective date  
22 of this amendatory Act of the 96th General Assembly,  
23 creates at least 800 new jobs in Illinois, retains at least  
24 2,000 jobs in Illinois that would have been at risk of  
25 relocation out of Illinois over a 10-year period, and makes  
26 a capital investment of at least \$50,000,000.

1           (2) An election under this subsection shall allow the  
2           credit to be taken against payments otherwise due under  
3           Section 704A of the Illinois Income Tax Act during the  
4           first calendar year beginning after the end of the taxable  
5           year in which the credit is awarded under this Act.

6           (3) The election shall be made in the form and manner  
7           required by the Illinois Department of Revenue and, once  
8           made, shall be irrevocable.

9           (4) A Taxpayer electing to claim a credit under this  
10           subsection (f) may not enter into an Agreement with any  
11           State agency to receive any other form of financial  
12           assistance or incentive from the State, including, but not  
13           limited to, grants and loans, during the term of the  
14           Agreement entered into under this Act. Nothing in this item

15           (4) prohibits a Taxpayer from receiving financial  
16           assistance from a unit of local government, including tax  
17           increment financing moneys.

18           (Source: P.A. 95-375, eff. 8-23-07.)

19           Section 99. Effective date. This Act takes effect upon  
20           becoming law.