



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5739

Introduced 2/9/2010, by Rep. Bill Mitchell - Ron Stephens

SYNOPSIS AS INTRODUCED:

35 ILCS 5/219 new
35 ILCS 5/704A

Amends the Illinois Income Tax Act. Creates an income tax credit in an amount equal to \$210 for each employee hired by the taxpayer during the taxable year to fill a newly created position multiplied by the number of consecutive months during which the employee is employed by the taxpayer. Provides that the taxpayer may elect to use all or a portion of the credit against its withholding tax liability. Provides that, if the amount of the credit exceeds the taxpayer's liability for the taxable year, the credit may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. Effective immediately.

LRB096 15125 HLH 30177 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 adding
5 Section 219 and by changing Section 704A as follows:

6 (35 ILCS 5/219 new)

7 Sec. 219. New employee credit.

8 (a) For taxable years beginning on or after January 1, 2010
9 and ending on or before December 31, 2011, each taxpayer that
10 operates a business within the State is entitled to a credit
11 against the taxes imposed under subsections (a) and (b) of
12 Section 201 of this Act in an amount equal to \$210 for each
13 employee hired by the taxpayer during the taxable year to fill
14 a newly created position multiplied by the number of
15 consecutive months during which the employee is employed by the
16 taxpayer. For partners, shareholders of Subchapter S
17 corporations, and owners of limited liability companies, if the
18 limited liability company is treated as a partnership for
19 purposes of federal and State income taxation, there shall be
20 allowed a credit under this Section to be determined in
21 accordance with the determination of income and distributive
22 share of income under Sections 702 and 704 and Subchapter S of
23 the Internal Revenue Code.

1 (b) In addition, the taxpayer may elect to use all or a
2 portion of the credit awarded under this Section as a credit
3 against its withholding tax liability under Article 7 of this
4 Act. The withholding tax credit shall be applied beginning with
5 the first payment due date occurring on or after the last day
6 of the taxable year. Such an election shall be made in the form
7 and manner prescribed by the Department by rule and, once made,
8 shall be irrevocable.

9 (c) In no event shall a credit under this Section reduce
10 the taxpayer's liability to less than zero. If the amount of
11 the credit exceeds the tax liability for the year, the excess
12 may be carried forward and applied to the tax liability of the
13 5 taxable years following the excess credit year. The tax
14 credit shall be applied to the earliest year for which there is
15 a tax liability. If there are credits for more than one year
16 that are available to offset a liability, the earlier credit
17 shall be applied first.

18 (35 ILCS 5/704A)

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

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

24 (b) Returns. Every employer shall, in the form and manner
25 required by the Department, make returns with respect to taxes

1 withheld or required to be withheld under this Article 7 for
2 each quarter beginning on or after January 1, 2008, on or
3 before the last day of the first month following the close of
4 that quarter.

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

7 (1) Semi-weekly payments. For each calendar year, each
8 employer who withheld or was required to withhold more than
9 \$12,000 during the one-year period ending on June 30 of the
10 immediately preceding calendar year, payment must be made:

11 (A) on or before each Friday of the calendar year,
12 for taxes withheld or required to be withheld on the
13 immediately preceding Saturday, Sunday, Monday, or
14 Tuesday;

15 (B) on or before each Wednesday of the calendar
16 year, for taxes withheld or required to be withheld on
17 the immediately preceding Wednesday, Thursday, or
18 Friday.

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

25 (3) Monthly payments. Each employer, other than an
26 employer described in items (1) or (2) of this subsection,

1 shall pay to the Department, on or before the 15th day of
2 each month the taxes withheld or required to be withheld
3 during the immediately preceding month.

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

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

10 (1) If the aggregate amounts required to be withheld
11 under this Article 7 do not exceed \$1,000 for the calendar
12 year, permit employers, in lieu of the requirements of
13 subsections (b) and (c), to file annual returns due on or
14 before January 31 of the following year for taxes withheld
15 or required to be withheld during that calendar year and to
16 pay the taxes required to be shown on each such return no
17 later than the due date for such return.

18 (2) Provide that any payment required to be made under
19 subsection (c)(1) or (c)(2) is deemed to be timely to the
20 extent paid by electronic funds transfer on or before the
21 due date for deposit of federal income taxes withheld from,
22 or federal employment taxes due with respect to, the wages
23 from which the Illinois taxes were withheld.

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

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

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

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

23 (g) For amounts deducted or withheld after December 31,
24 2009, a taxpayer who makes an election under Section 5-15(f) of
25 the Economic Development for a Growing Economy Act for a
26 taxable year shall be allowed a credit against payments due

1 under this Section for amounts withheld during the first
2 calendar year beginning after the end of that taxable year
3 equal to the amount of the credit awarded to the taxpayer by
4 the Department of Commerce and Economic Opportunity under the
5 Economic Development for a Growing Economy Act for the taxable
6 year. The credit may not reduce the taxpayer's obligation for
7 any payment due under this Section to less than zero. If the
8 amount of the credit exceeds the total payments due under this
9 Section with respect to amounts withheld during the calendar
10 year, the excess may be carried forward and applied against the
11 taxpayer's liability under this Section in the 5 succeeding
12 calendar years. The credit shall be applied to the earliest
13 year for which there is a tax liability. If there are credits
14 from more than one taxable year that are available to offset a
15 liability, the earlier credit shall be applied first. This
16 Section is exempt from the provisions of Section 250 of this
17 Act.

18 (h) A taxpayer may elect to claim all or a part of the
19 credit awarded under Section 219 of this Act as a credit
20 against payments due under this Section. Such an election shall
21 be made in the form and manner prescribed by the Department by
22 rule. If, in any payment period, the amount of the credit that
23 is eligible to be applied toward the taxpayer's withholding tax
24 liability exceeds the amount required to be withheld by the
25 taxpayer for that payment period, then the excess may carried
26 forward to the next payment period until the entire amount has

1 been applied. If there are credits from more than one payment
2 period that are available to offset a liability, the earlier
3 credit shall be applied first.

4 (Source: P.A. 95-8, eff. 6-29-07; 95-707, eff. 1-11-08; 96-834,
5 eff. 12-14-09.)

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