

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 subsection (f) of
15 Section 5-15 ~~5-15(f)~~ of the Economic Development for a Growing
16 Economy Tax Credit Act for a taxable year shall be allowed a
17 credit against payments due under this Section for amounts
18 withheld during the first calendar year beginning after the end
19 of that taxable year equal to the amount of the credit for the
20 incremental income tax attributable to full-time employees of
21 the taxpayer awarded to the taxpayer by the Department of
22 Commerce and Economic Opportunity under the Economic
23 Development for a Growing Economy Tax Credit Act for the
24 taxable year and credits not previously claimed and allowed to
25 be carried forward under Section 211(4) of this Act as provided
26 in subsection (f) of Section 5-15 of the Economic Development

1 for a Growing Economy Tax Credit Act. The credit or credits may
2 not reduce the taxpayer's obligation for any payment due under
3 this Section to less than zero. If the amount of the credit or
4 credits exceeds the total payments due under this Section with
5 respect to amounts withheld during the calendar year, the
6 excess may be carried forward and applied against the
7 taxpayer's liability under this Section in the ~~5~~ succeeding
8 calendar years as allowed to be carried forward under paragraph
9 (4) of Section 211 of this Act. The credit or credits shall be
10 applied to the earliest year for which there is a tax
11 liability. If there are credits from more than one taxable year
12 that are available to offset a liability, the earlier credit
13 shall be applied first. Each employer who deducts and withholds
14 or is required to deduct and withhold tax under this Act and
15 who retains income tax withholdings under subsection (f) of
16 Section 5-15 of the Economic Development for a Growing Economy
17 Tax Credit Act must make a return with respect to such taxes
18 and retained amounts in the form and manner that the
19 Department, by rule, requires and pay to the Department or to a
20 depository designated by the Department those withheld taxes
21 not retained by the taxpayer. For purposes of this subsection
22 (g), the term taxpayer shall include taxpayer and members of
23 the taxpayer's unitary business group as defined under
24 paragraph (27) of subsection (a) of Section 1501 of this Act.
25 This Section is exempt from the provisions of Section 250 of
26 this Act.

1 (h) An employer may claim a credit against payments due
2 under this Section for amounts withheld during the first
3 calendar year ending after date on which a tax credit
4 certificate was issued under Section 35 of the Small Business
5 Job Creation Tax Credit Act. The credit shall be equal to the
6 amount shown on the certificate, but may not reduce the
7 taxpayer's obligation for any payment due under this Section to
8 less than zero. If the amount of the credit exceeds the total
9 payments due under this Section with respect to amounts
10 withheld during the calendar year, the excess may be carried
11 forward and applied against the taxpayer's liability under this
12 Section in the 5 succeeding calendar years. The credit shall be
13 applied to the earliest year for which there is a tax
14 liability. If there are credits from more than one calendar
15 year that are available to offset a liability, the earlier
16 credit shall be applied first. This Section is exempt from the
17 provisions of Section 250 of this Act.

18 (Source: P.A. 95-8, eff. 6-29-07; 95-707, eff. 1-11-08; 96-834,
19 eff. 12-14-09; 96-888, eff. 4-13-10.)

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

22 (35 ILCS 10/5-15)

23 Sec. 5-15. Tax Credit Awards. Subject to the conditions set
24 forth in this Act, a Taxpayer is entitled to a Credit against

1 or, as described in subsection (g)~~(f)~~ of this Section, a
2 payment towards taxes imposed pursuant to subsections (a) and
3 (b) of Section 201 of the Illinois Income Tax Act that may be
4 imposed on the Taxpayer for a taxable year beginning on or
5 after January 1, 1999, if the Taxpayer is awarded a Credit by
6 the Department under this Act for that taxable year.

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

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

12 (c) The Credit shall be claimed for the taxable years
13 specified in the Agreement.

14 (d) The Credit shall not exceed the Incremental Income Tax
15 attributable to the project that is the subject of the
16 Agreement.

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

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

26 (1) The election under this subsection (f) may be made

1 only by a Taxpayer that (i) is primarily engaged in one of
2 the following business activities: motor vehicle metal
3 stamping, automobile manufacturing, automobile and light
4 duty motor vehicle manufacturing, motor vehicle
5 manufacturing, light truck and utility vehicle
6 manufacturing, heavy duty truck manufacturing, or motor
7 vehicle body manufacturing and (ii) meets the following
8 criteria:

9 (A) the Taxpayer (i) had an Illinois net loss or an
10 Illinois net loss deduction under Section 207 of the
11 Illinois Income Tax Act for the taxable year in which
12 the Credit is awarded, (ii) employed a minimum of 1,000
13 full-time employees in this State during the taxable
14 year in which the Credit is awarded, (iii) has an
15 Agreement under this Act on December 14, 2009 (the
16 effective date of Public Act 96-834) ~~this amendatory~~
17 ~~Act of the 96th General Assembly~~, and (iv) is in
18 compliance with all provisions of that Agreement; ~~or~~

19 (B) the Taxpayer (i) had an Illinois net loss or an
20 Illinois net loss deduction under Section 207 of the
21 Illinois Income Tax Act for the taxable year in which
22 the Credit is awarded, (ii) employed a minimum of 1,000
23 full-time employees in this State during the taxable
24 year in which the Credit is awarded, and (iii) has
25 applied for an Agreement within 365 ~~180~~ days after
26 December 14, 2009 (the effective date of Public Act

1 96-834); or this amendatory Act of the 96th General
2 Assembly.

3 (C) the Taxpayer (i) had an Illinois net operating
4 loss carryforward under Section 207 of the Illinois
5 Income Tax Act in a taxable year ending during calendar
6 year 2008, (ii) has applied for an Agreement within 150
7 days after the effective date of this amendatory Act of
8 the 96th General Assembly, (iii) creates at least 400
9 new jobs in Illinois, (iv) retains at least 2,000 jobs
10 in Illinois that would have been at risk of relocation
11 out of Illinois over a 10-year period, and (v) makes a
12 capital investment of at least \$75,000,000.

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

18 (3) The election shall be made in the form and manner
19 required by the Illinois Department of Revenue and, once
20 made, shall be irrevocable.

21 (4) If a Taxpayer who meets the requirements of
22 subparagraph (A) of paragraph (1) of this subsection (f)
23 elects to claim the Credit against its withholdings as
24 provided in this subsection (f), then, on and after the
25 date of the election, the terms of the Agreement between
26 the Taxpayer and the Department may not be further amended

1 during the term of the Agreement.

2 (g)~~(f)~~ A pass-through entity that has been awarded a credit
3 under this Act, its shareholders, or its partners may treat
4 some or all of the credit awarded pursuant to this Act as a tax
5 payment for purposes of the Illinois Income Tax Act. The term
6 "tax payment" means a payment as described in Article 6 or
7 Article 8 of the Illinois Income Tax Act or a composite payment
8 made by a pass-through entity on behalf of any of its
9 shareholders or partners to satisfy such shareholders' or
10 partners' taxes imposed pursuant to subsections (a) and (b) of
11 Section 201 of the Illinois Income Tax Act. In no event shall
12 the amount of the award credited pursuant to this Act exceed
13 the Illinois income tax liability of the pass-through entity or
14 its shareholders or partners for the taxable year.

15 (Source: P.A. 95-375, eff. 8-23-07; 96-834, eff. 12-14-09;
16 96-836, eff. 12-16-09; revised 12-21-09.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.