

SB3165



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3165

Introduced 2/9/2010, by Sen. Bill Brady

SYNOPSIS AS INTRODUCED:

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

Amends the Illinois Income Tax Act. Creates an income tax credit for taxpayers, other than taxpayers that receive credits under the Economic Development for a Growing Economy Tax Credit Act, in an amount equal to \$2,100 for each new employee who is (i) hired by the taxpayer on and after the effective date of the amendatory Act and (ii) employed by the taxpayer for a period of exactly 12 consecutive months at any point during the taxable year. Provides that all or a portion of the credit may be used as a credit against the taxpayer's withholding tax liability. Provides that the credit may be carried forward. Effective immediately.

LRB096 15788 HLH 31028 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 704A and by adding Section 219 as follows:

6 (35 ILCS 5/219 new)

7 Sec. 219. New employee credit. For taxable years ending on
8 or after December 31, 2010, each taxpayer, other than a
9 taxpayer that receives credits under the Economic Development
10 for a Growing Economy Tax Credit Act during the taxable year,
11 is entitled to a credit against (i) the tax imposed by
12 subsections (a) and (b) of Section 201 or (ii) the taxpayer's
13 withholding tax liability under Article 7 of this Act, in an
14 amount equal to \$2,100 for each new employee who is (i) hired
15 by the taxpayer on and after the effective date of this
16 amendatory Act of the 96th General Assembly and (ii) employed
17 by the taxpayer for a period of exactly 12 consecutive months
18 at any point during the taxable year. If the amount of the
19 credit awarded exceeds the taxpayer's income tax liability for
20 that taxable year, then the excess may be carried forward and
21 applied to the tax liability of the next taxable year until the
22 entire amount of the credit has been claimed. If there are
23 credits for more than one taxable year that are available to

1 offset a liability, the earlier credit shall be applied first.

2 In addition, the taxpayer may elect to use all or a portion
3 of the credit awarded under this Section as a credit against
4 its withholding tax liability under Article 7 of this Act. Such
5 an election shall be made in the form and manner prescribed by
6 the Department by rule and, once made, shall be irrevocable.

7 For the purposes of this Section, "new employee" means a
8 full-time employee of the taxpayer who is hired to perform a
9 job that was not previously performed by another employee. The
10 term "new employee" does not include (i) an employee of the
11 taxpayer who was previously employed in Illinois by a related
12 member of the taxpayer and whose employment was shifted to the
13 taxpayer during the taxable year or (ii) a child, grandchild,
14 parent, or spouse, other than a spouse who is legally separated
15 from the individual, of any individual who has a direct or an
16 indirect ownership interest of at least 5% in the profits,
17 capital, or value of the taxpayer.

18 For the purposes of this Section, the term "related member"
19 means:

20 (1) an individual stockholder, if the stockholder and
21 the members of the stockholder's family (as defined in
22 Section 318 of the Internal Revenue Code) own directly,
23 indirectly, beneficially, or constructively, in the
24 aggregate, at least 50% of the value of the taxpayer's
25 outstanding stock;

26 (2) a partnership, estate, or trust and any partner or

1 beneficiary, if the partnership, estate, or trust, and its
2 partners or beneficiaries own directly, indirectly,
3 beneficially, or constructively, in the aggregate, at
4 least 50% of the profits, capital, stock, or value of the
5 taxpayer;

6 (3) a corporation, and any party related to the
7 corporation in a manner that would require an attribution
8 of stock from the corporation to the party or from the
9 party to the corporation under the attribution rules of
10 Section 318 of the Internal Revenue Code, if the taxpayer
11 owns directly, indirectly, beneficially, or constructively
12 at least 50% of the value of the corporation's outstanding
13 stock;

14 (4) a corporation and any party related to that
15 corporation in a manner that would require an attribution
16 of stock from the corporation to the party or from the
17 party to the corporation under the attribution rules of
18 Section 318 of the Internal Revenue Code, if the
19 corporation and all such related parties own in the
20 aggregate at least 50% of the profits, capital, stock, or
21 value of the taxpayer; or

22 (5) a person to or from whom there is attribution of
23 stock ownership in accordance with Section 1563(e) of the
24 Internal Revenue Code, except, for purposes of determining
25 whether a person is a related member under this paragraph,
26 20% shall be substituted for 5% wherever 5% appears in

1 Section 1563(e) of the Internal Revenue Code.

2 (35 ILCS 5/704A)

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

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

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

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

16 (1) Semi-weekly payments. For each calendar year, each
17 employer who withheld or was required to withhold more than
18 \$12,000 during the one-year period ending on June 30 of the
19 immediately preceding calendar year, payment must be made:

20 (A) on or before each Friday of the calendar year,
21 for taxes withheld or required to be withheld on the
22 immediately preceding Saturday, Sunday, Monday, or
23 Tuesday;

24 (B) on or before each Wednesday of the calendar
25 year, for taxes withheld or required to be withheld on

1 the immediately preceding Wednesday, Thursday, or
2 Friday.

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

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

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

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

20 (1) If the aggregate amounts required to be withheld
21 under this Article 7 do not exceed \$1,000 for the calendar
22 year, permit employers, in lieu of the requirements of
23 subsections (b) and (c), to file annual returns due on or
24 before January 31 of the following year for taxes withheld
25 or required to be withheld during that calendar year and to
26 pay the taxes required to be shown on each such return no

1 later than the due date for such return.

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

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

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

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

26 (f) Magnetic media and electronic filing. Any W-2 Form

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

7 (g) For amounts deducted or withheld after December 31,
8 2009, a taxpayer who makes an election under Section 5-15(f) of
9 the Economic Development for a Growing Economy Act for a
10 taxable year shall be allowed a credit against payments due
11 under this Section for amounts withheld during the first
12 calendar year beginning after the end of that taxable year
13 equal to the amount of the credit awarded to the taxpayer by
14 the Department of Commerce and Economic Opportunity under the
15 Economic Development for a Growing Economy Act for the taxable
16 year. The credit may not reduce the taxpayer's obligation for
17 any payment due under this Section to less than zero. If the
18 amount of the credit exceeds the total payments due under this
19 Section with respect to amounts withheld during the calendar
20 year, the excess may be carried forward and applied against the
21 taxpayer's liability under this Section in the 5 succeeding
22 calendar years. The credit shall be applied to the earliest
23 year for which there is a tax liability. If there are credits
24 from more than one taxable year that are available to offset a
25 liability, the earlier credit shall be applied first. This
26 Section is exempt from the provisions of Section 250 of this

1 Act.

2 (h) A taxpayer may elect to claim all or a part of the
3 credit awarded under Section 219 of this Act as a credit
4 against payments due under this Section. Such an election shall
5 be made in the form and manner prescribed by the Department by
6 rule. If, in any payment period, the amount of the credit that
7 is eligible to be applied toward the taxpayer's withholding tax
8 liability exceeds the amount required to be withheld by the
9 taxpayer for that payment period, then the excess may carried
10 forward to the next payment period until the entire amount has
11 been applied . If there are credits from more than one payment
12 period that are available to offset a liability, the earlier
13 credit shall be applied first.

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

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