



Rep. Michael J. Zalewski

Filed: 12/2/2013

09800SB1227ham003

LRB098 07937 JWD 50214 a

1 AMENDMENT TO SENATE BILL 1227

2 AMENDMENT NO. _____. Amend Senate Bill 1227, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 1. Short title. This Act may be cited as the
6 Direct Broadcast Satellite Service Providers Fee Act.

7 Section 5. Definitions.

8 "Department" means the Department of Revenue of the State
9 of Illinois.

10 "Direct broadcast satellite service" means the
11 distribution or broadcasting of video programming or services
12 by satellite to receiving equipment located at a subscriber's
13 or customer's premises, including, but not limited to, the
14 provision of premium channels, the provision of music or other
15 audio services or channels, and any other service received in
16 connection with the provision of that video programming or

1 those services. However, "direct broadcast satellite service"
2 does not include satellite radio service or subscription radio
3 service whereby a digital radio signal is broadcast without any
4 corresponding or related video programming or services.

5 "Gross revenue" means all consideration of any kind or
6 nature received by a provider, or an affiliate of the provider,
7 in connection with the provision of direct broadcast satellite
8 service to subscribers or customers, including recurring
9 monthly charges for direct broadcast satellite service and
10 pay-per-view, video-on-demand, and other event-based charges
11 for direct broadcast satellite service; provided, however,
12 that gross revenues shall not include:

13 (1) revenue not actually received, regardless of
14 whether it is billed, including, but not limited to, bad
15 debts;

16 (2) revenue received by an affiliate or other person in
17 exchange for supplying goods and services used by a
18 provider;

19 (3) refunds, rebates, or discounts made to subscribers
20 or customers, to advertisers, or to other persons;

21 (4) revenue from any service that is subject to tax
22 under the Service Occupation Tax Act, Retailers'
23 Occupation Tax Act, Service Use Tax Act, or Use Tax Act;

24 (5) the fee imposed by this Act or any tax of general
25 applicability imposed on a provider or a purchaser of
26 direct broadcast satellite service, by a federal, State, or

1 local governmental entity and required to be collected by a
2 person and remitted to the taxing entity;

3 (6) charges, other than those charges specifically
4 described in this Act, that are aggregated or bundled with
5 such specifically-described charges on a subscriber or
6 customer's bill, if the provider can reasonably identify
7 the charges in its books and records kept in the regular
8 course of business;

9 (7) revenue from advertising services; or

10 (8) charges that may not be taxed pursuant to the
11 Internet Tax Freedom Act.

12 "Person" means any natural individual, firm, trust,
13 estate, partnership, association, joint stock company, joint
14 venture, corporation, limited liability company, or a
15 receiver, trustee, guardian, or other representative appointed
16 by order of any court, the federal government and State
17 governments, including State universities created by statute
18 or any city, town, county, or other political subdivision of
19 this State.

20 "Provider" means a person who transmits, broadcasts,
21 sells, or distributes direct broadcast satellite service to
22 subscribers or customers in the State.

23 "Subscriber" or "customer" means a member of the general
24 public who receives direct broadcast satellite service from a
25 provider and does not further distribute such service in the
26 ordinary course of business.

1 "Video programming" means programming provided by, or
2 programming comparable to programming provided by, a
3 television broadcast station or multichannel video service
4 provider, including, but not limited to, video programming
5 provided by local networks, national broadcast networks, and
6 all forms of pay-per-view video entertainment.

7 Section 10. Imposition of a service provider fee.

8 (a) A fee is imposed upon the act or privilege of providing
9 direct broadcast satellite service to a subscriber or customer
10 in this State by any provider at the rate of 5% of the
11 provider's gross revenues derived from or attributable to that
12 customer or subscriber.

13 (b) The fee imposed by subsection (a) may be passed through
14 to, and collected from, the provider's customers in Illinois.
15 To the extent allowed under federal or State law, a provider
16 may identify as a separate line item on each regular bill
17 issued to a subscriber or customer the amount of the total bill
18 assessed as a fee under this Act.

19 Section 15. Remittances.

20 (a) On or before the twentieth day of each calendar month,
21 every provider of direct broadcast satellite service to a
22 subscriber or customer in this State during the preceding
23 calendar month shall file a return with the Department, in a
24 form prescribed by the Department, stating:

- 1 (1) the name of the provider;
- 2 (2) the address of the provider's principal place of
3 business;
- 4 (3) total amount of gross revenues received by the
5 provider during the preceding calendar month, quarter, or
6 year, as the case may be, from the provision of direct
7 broadcast satellite service during that preceding calendar
8 month, quarter, or year and upon the basis of which the fee
9 is imposed;
- 10 (4) the amount of fee due;
- 11 (5) the signature of the provider; and
- 12 (6) such other reasonable information as the
13 Department may require.
- 14 (b) If a provider fails to sign a return within 30 days
15 after the proper notice and demand for signature by the
16 Department is received by the provider, the return shall be
17 considered valid and any amount shown to be due on the return
18 shall be deemed assessed.
- 19 (c) If the provider is otherwise required to file a monthly
20 return, and if the provider's average monthly fee liability to
21 the Department under this Act does not exceed \$200, the
22 Department may authorize the provider's returns to be filed on
23 a quarter annual basis, with the return for January, February,
24 and March of a given year being due by April 20 of that year;
25 with the return for April, May, and June of a given year being
26 due by July 20 of that year; with the return for July, August,

1 and September of a given year being due by October 20 of that
2 year; and with the return for October, November, and December
3 of a given year being due by January 20 of the following year.

4 (d) If the provider is otherwise required to file a monthly
5 or quarterly return, and if the provider's average monthly fee
6 liability with the Department under this Act does not exceed
7 \$50, the Department may authorize the provider's returns to be
8 filed on an annual basis, with the return for a given year
9 being due by January 20 of the following year.

10 (e) Those quarterly and annual returns shall be subject to
11 the same requirements as to form and substance as monthly
12 returns.

13 (f) A provider who has a fee liability that exceeds the
14 amount set forth in subsection (b) of Section 2505-210 of the
15 Department of Revenue Law for tax liabilities shall make all
16 payments required by rules of the Department by electronic
17 funds transfer.

18 (g) Any provider not required to make payments by
19 electronic funds transfer may make payments by electronic funds
20 transfer with the permission of the Department.

21 (h) All providers required to make payment by electronic
22 funds transfer and any providers authorized to voluntarily make
23 payments by electronic funds transfer shall make those payments
24 in the manner authorized by the Department.

1 (a) A provider on whom a fee is imposed by this Act shall
2 maintain the necessary records, and any other information
3 required by the Department, to determine the amount of the fee
4 that the provider is required to remit and any credit that the
5 provider is entitled to claim under this Act.

6 (b) The records shall be open at all times to inspection by
7 the Department.

8 Section 25. Distribution of proceeds. The proceeds of the
9 fee collected shall be deposited into the Education Assistance
10 Fund.

11 Section 30. Department's authority to adopt rules. The
12 Department is authorized to make, promulgate, and enforce such
13 reasonable rules, and to prescribe such forms relating to the
14 administration and enforcement of this Act, as it may deem
15 appropriate.

16 Section 35. Applicability. This Act becomes operative on
17 July 1, 2014, and applies to the provision of direct broadcast
18 satellite service on or after that date.

19 Section 50. The Economic Development for a Growing Economy
20 Tax Credit Act is amended by changing Section 5-15 as follows:

21 (35 ILCS 10/5-15)

1 Sec. 5-15. Tax Credit Awards. Subject to the conditions set
2 forth in this Act, a Taxpayer is entitled to a Credit against
3 or, as described in subsection (g) of this Section, a payment
4 towards taxes imposed pursuant to subsections (a) and (b) of
5 Section 201 of the Illinois Income Tax Act that may be imposed
6 on the Taxpayer for a taxable year beginning on or after
7 January 1, 1999, if the Taxpayer is awarded a Credit by the
8 Department under this Act for that taxable year.

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

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

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

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

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

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

1 under Section 704A of the Illinois Income Tax Act.

2 (1) The election under this subsection (f) may be made
3 only by a Taxpayer that (i) is primarily engaged in one of
4 the following business activities: water purification and
5 treatment, motor vehicle metal stamping, automobile
6 manufacturing, automobile and light duty motor vehicle
7 manufacturing, motor vehicle manufacturing, light truck
8 and utility vehicle manufacturing, heavy duty truck
9 manufacturing, motor vehicle body manufacturing, cable
10 television infrastructure design or manufacturing, or
11 wireless telecommunication or computing terminal device
12 design or manufacturing for use on public networks and (ii)
13 meets the following criteria:

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

23 (B) the Taxpayer (i) had an Illinois net loss or an
24 Illinois net loss deduction under Section 207 of the
25 Illinois Income Tax Act for the taxable year in which
26 the Credit is awarded, (ii) employed a minimum of 1,000

1 full-time employees in this State during the taxable
2 year in which the Credit is awarded, and (iii) has
3 applied for an Agreement within 365 days after December
4 14, 2009 (the effective date of Public Act 96-834);

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

15 (D) the Taxpayer (i) had an Illinois net operating
16 loss carryforward under Section 207 of the Illinois
17 Income Tax Act in a taxable year ending during calendar
18 year 2009, (ii) has applied for an Agreement within 150
19 days after the effective date of this amendatory Act of
20 the 96th General Assembly, (iii) creates at least 150
21 new jobs, (iv) retains at least 1,000 jobs in Illinois
22 that would have been at risk of relocation out of
23 Illinois over a 10-year period, and (v) makes a capital
24 investment of at least \$57,000,000; or

25 (E) the Taxpayer (i) employed at least 2,500
26 full-time employees in the State during the year in

1 which the Credit is awarded, (ii) commits to make at
2 least \$500,000,000 in combined capital improvements
3 and project costs under the Agreement, (iii) applies
4 for an Agreement between January 1, 2011 and June 30,
5 2011, (iv) executes an Agreement for the Credit during
6 calendar year 2011, and (v) was incorporated no more
7 than 5 years before the filing of an application for an
8 Agreement.

9 (1.5) The election under this subsection (f) may also
10 be made by a Taxpayer for any Credit awarded pursuant to an
11 agreement that was executed between January 1, 2011 and
12 June 30, 2011, if the Taxpayer (i) is primarily engaged in
13 the manufacture of inner tubes or tires, or both, from
14 natural and synthetic rubber, (ii) employs a minimum of
15 2,400 full-time employees in Illinois at the time of
16 application, (iii) creates at least 350 full-time jobs and
17 retains at least 250 full-time jobs in Illinois that would
18 have been at risk of being created or retained outside of
19 Illinois, and (iv) makes a capital investment of at least
20 \$200,000,000 at the project location.

21 (1.6) The election under this subsection (f) may also
22 be made by a Taxpayer for any Credit awarded pursuant to an
23 agreement that was executed within 150 days after the
24 effective date of this amendatory Act of the 97th General
25 Assembly, if the Taxpayer (i) is primarily engaged in the
26 operation of a discount department store, (ii) maintains

1 its corporate headquarters in Illinois, (iii) employs a
2 minimum of 4,250 full-time employees at its corporate
3 headquarters in Illinois at the time of application, (iv)
4 retains at least 4,250 full-time jobs in Illinois that
5 would have been at risk of being relocated outside of
6 Illinois, (v) had a minimum of \$40,000,000,000 in total
7 revenue in 2010, and (vi) makes a capital investment of at
8 least \$300,000,000 at the project location.

9 (1.7) Notwithstanding any other provision of law, the
10 election under this subsection (f) may also be made by a
11 Taxpayer for any Credit awarded pursuant to an agreement
12 that was executed or applied for on or after July 1, 2011
13 and on or before March 31, 2012, if the Taxpayer is
14 primarily engaged in the manufacture of original and
15 aftermarket filtration parts and products for automobiles,
16 motor vehicles, light duty motor vehicles, light trucks and
17 utility vehicles, and heavy duty trucks, (ii) employs a
18 minimum of 1,000 full-time employees in Illinois at the
19 time of application, (iii) creates at least 250 full-time
20 jobs in Illinois, (iv) relocates its corporate
21 headquarters to Illinois from another state, and (v) makes
22 a capital investment of at least \$4,000,000 at the project
23 location.

24 (1.8) Notwithstanding any other provision of law, the
25 election under this subsection (f) may also be made by a
26 Taxpayer for any Credit awarded pursuant to an agreement

1 that was executed within 150 days after the effective date
2 of this amendatory Act of the 98th General Assembly if the
3 Taxpayer (i) is primarily engaged in agricultural
4 processing, (ii) maintains its corporate headquarters in
5 Illinois, and (iii) exported at least \$1,000,000,000 of
6 goods produced in Illinois in 2012, and the agreement
7 requires the Taxpayer:

8 (A) to employ and maintain from among its
9 employment base in Illinois a minimum of 200 full-time
10 employees at a global corporate headquarters
11 established in Illinois by the Taxpayer after the
12 effective date of this amendatory Act of the 98th
13 General Assembly; at least 100 of those employees shall
14 be new hires in full-time equivalent jobs; the
15 remainder of those employees shall be employed by the
16 Taxpayer in jobs which would have been at risk of being
17 relocated outside of Illinois;

18 (B) to relocate, within 5 years after the effective
19 date of this amendatory Act of the 98th General
20 Assembly, at least 100 full-time equivalent positions
21 from a location outside of Illinois to a location in
22 the municipality where the Taxpayer's global corporate
23 headquarters were located on the effective date of this
24 amendatory Act of the 98th General Assembly and which
25 will remain the Taxpayer's North American
26 headquarters; those positions may be filled by new

1 hires or by current employees of the Taxpayer;

2 (C) in addition to the positions specified in
3 paragraph (D), to hire at least 100 full-time
4 equivalent employees annually for a period of 5 years
5 after the effective date of this amendatory Act of the
6 98th General Assembly, in positions that are new, open,
7 or vacated, in order to support employment levels in
8 the municipality where the Taxpayer's global corporate
9 headquarters were located on the effective date of this
10 amendatory Act of the 98th General Assembly and which
11 will remain the Taxpayer's North American
12 headquarters;

13 (D) to establish and maintain an internal
14 committee for a period of 5 years after the effective
15 date of this amendatory Act of the 98th General
16 Assembly to facilitate and promote the creation of
17 positions for new employees and new employment in the
18 municipality where its global corporate headquarters
19 were located on the effective date of this amendatory
20 Act of the 98th General Assembly and which will remain
21 the Taxpayer's North American headquarters; and

22 (E) to incur at least \$20,000,000 in a combination
23 of capital and relocation expenses in connection with
24 the relocation of its global corporate headquarters.

25 (2) An election under this subsection shall allow the
26 credit to be taken against payments otherwise due under

1 Section 704A of the Illinois Income Tax Act during the
2 first calendar year beginning after the end of the taxable
3 year in which the credit is awarded under this Act.

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

7 (4) If a Taxpayer who meets the requirements of
8 subparagraph (A) of paragraph (1) of this subsection (f)
9 elects to claim the Credit against its withholdings as
10 provided in this subsection (f), then, on and after the
11 date of the election, the terms of the Agreement between
12 the Taxpayer and the Department may not be further amended
13 during the term of the Agreement.

14 (g) A pass-through entity that has been awarded a credit
15 under this Act, its shareholders, or its partners may treat
16 some or all of the credit awarded pursuant to this Act as a tax
17 payment for purposes of the Illinois Income Tax Act. The term
18 "tax payment" means a payment as described in Article 6 or
19 Article 8 of the Illinois Income Tax Act or a composite payment
20 made by a pass-through entity on behalf of any of its
21 shareholders or partners to satisfy such shareholders' or
22 partners' taxes imposed pursuant to subsections (a) and (b) of
23 Section 201 of the Illinois Income Tax Act. In no event shall
24 the amount of the award credited pursuant to this Act exceed
25 the Illinois income tax liability of the pass-through entity or
26 its shareholders or partners for the taxable year.

1 (Source: P.A. 96-834, eff. 12-14-09; 96-836, eff. 12-16-09;
2 96-905, eff. 6-4-10; 96-1000, eff. 7-2-10; 96-1534, eff.
3 3-4-11; 97-2, eff. 5-6-11; 97-636, eff. 6-1-12.)

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.".