



Sen. John M. Sullivan

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1 AMENDMENT TO SENATE BILL 2194

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2194 on page 1,  
3 line 5, by replacing line 5 with the following:

4 "changing Sections 304, 305, 307, 308, 502, and 709.5 as  
5 follows:"; and

6 on page 65, by replacing lines 7 and 8 with the following:

7 "(f) For taxable years ending prior to December 31, 2014,  
8 the ~~The~~ Department may promulgate regulations to permit"; and

9 by replacing everything from line 18 on page 65 through line 3  
10 on page 66 with the following:

11 "individual income tax payments. For taxable years ending prior  
12 to December 31, 2014, the ~~The~~ Department may by regulation also  
13 permit such composite returns to include the income tax owed by  
14 Illinois residents attributable to their income from  
15 partnerships, Subchapter S corporations, insurance businesses  
16 organized under a Lloyds plan of operation, or limited

1 liability companies that are treated as partnership under  
2 Section 1501(a)(16) of this Act, in which case such Illinois  
3 residents will be permitted to claim credits on their  
4 individual returns for their shares of the composite tax  
5 payments. This paragraph of subsection (f) applies to taxable  
6 years ending on or after December 31, 1987 and ending prior to  
7 December 31, 2014."; and

8 by replacing everything from line 18 on page 67 through line 16  
9 on page 95 with the following:

10 "(35 ILCS 5/709.5)

11 Sec. 709.5. Withholding by partnerships, Subchapter S  
12 corporations, and trusts.

13 (a) In general. For each taxable year ending on or after  
14 December 31, 2008, every partnership (other than a publicly  
15 traded partnership under Section 7704 of the Internal Revenue  
16 Code or investment partnership), Subchapter S corporation, and  
17 trust must withhold from each nonresident partner,  
18 shareholder, or beneficiary (other than a partner,  
19 shareholder, or beneficiary who is exempt from tax under  
20 Section 501(a) of the Internal Revenue Code or under Section  
21 205 of this Act, who is included on a composite return filed by  
22 the partnership or Subchapter S corporation for the taxable  
23 year under subsection (f) of Section 502 of this Act), or who  
24 is a retired partner, to the extent that partner's

1 distributions are exempt from tax under Section 203(a)(2)(F) of  
2 this Act) an amount equal to the sum distributable share of (i)  
3 the share of business income of the partnership, Subchapter S  
4 corporation, or trust apportionable to Illinois plus (ii) for  
5 taxable years ending on or after December 31, 2014, the share  
6 of nonbusiness income of the partnership, Subchapter S  
7 corporation, or trust allocated to Illinois under Section 303  
8 of this Act (other than an amount allocated to the commercial  
9 domicile of the taxpayer under Section 303 of this Act) that is  
10 distributable to ~~of~~ that partner, shareholder, or beneficiary  
11 under Sections 702 and 704 and Subchapter S of the Internal  
12 Revenue Code, whether or not distributed, (2) multiplied by the  
13 applicable rates of tax for that partner, ~~or~~ shareholder, or  
14 beneficiary under subsections (a) through (d) of Section 201 of  
15 this Act, and (3) net of the share of any credit under Article  
16 2 of this Act that is distributable by the partnership,  
17 Subchapter S corporation, or trust and allowable against the  
18 tax liability of that partner, shareholder, or beneficiary for  
19 a taxable year ending on or after December 31, 2014.

20 (b) Credit for taxes withheld. Any amount withheld under  
21 subsection (a) of this Section and paid to the Department shall  
22 be treated as a payment of the estimated tax liability or of  
23 the liability for withholding under this Section of the  
24 partner, shareholder, or beneficiary to whom the income is  
25 distributable for the taxable year in which that person  
26 incurred a liability under this Act with respect to that

1 income. The Department shall adopt rules pursuant to which a  
2 partner, shareholder, or beneficiary may claim a credit against  
3 its obligation for withholding under this Section for amounts  
4 withheld under this Section with respect to income  
5 distributable to it by a partnership, Subchapter S corporation,  
6 or trust and allowing its partners, shareholders, or  
7 beneficiaries to claim a credit under this subsection (b) for  
8 those withheld amounts.

9 (c) Exemption from withholding.

10 (1) A partnership, Subchapter S corporation, or trust  
11 shall not be required to withhold tax under subsection (a)  
12 of this Section with respect to any nonresident partner,  
13 shareholder, or beneficiary (other than an individual)  
14 from whom the partnership, S corporation, or trust has  
15 received a certificate, completed in the form and manner  
16 prescribed by the Department, stating that such  
17 nonresident partner, shareholder, or beneficiary shall:

18 (A) file all returns that the partner,  
19 shareholder, or beneficiary is required to file under  
20 Section 502 of this Act and make timely payment of all  
21 taxes imposed under Section 201 of this Act or under  
22 this Section on the partner, shareholder, or  
23 beneficiary with respect to income of the partnership,  
24 S corporation, or trust; and

25 (B) be subject to personal jurisdiction in this  
26 State for purposes of the collection of income taxes,

1           together with related interest and penalties, imposed  
2           on the partner, shareholder, or beneficiary with  
3           respect to the income of the partnership, S  
4           corporation, or trust.

5           (2) The Department may revoke the exemption provided by  
6           this subsection (c) at any time that it determines that the  
7           nonresident partner, shareholder, or beneficiary is not  
8           abiding by the terms of the certificate. The Department  
9           shall notify the partnership, S corporation, or trust that  
10          it has revoked a certificate by notice left at the usual  
11          place of business of the partnership, S corporation, or  
12          trust or by mail to the last known address of the  
13          partnership, S corporation, or trust.

14          (3) A partnership, S corporation, or trust that  
15          receives a certificate under this subsection (c) properly  
16          completed by a nonresident partner, shareholder, or  
17          beneficiary shall not be required to withhold any amount  
18          from that partner, shareholder, or beneficiary, the  
19          payment of which would be due under Section 711(a-5) of  
20          this Act after the receipt of the certificate and no  
21          earlier than 60 days after the Department has notified the  
22          partnership, S corporation, or trust that the certificate  
23          has been revoked.

24          (4) Certificates received by a the partnership, S  
25          corporation, or trust under this subsection (c) must be  
26          retained by the partnership, S corporation, or trust and a

1 record of such certificates must be provided to the  
2 Department, in a format in which the record is available  
3 for review by the Department, upon request by the  
4 Department. The Department may, by rule, require the record  
5 of certificates to be maintained and provided to the  
6 Department electronically.

7 (Source: P.A. 97-507, eff. 8-23-11.)".