



Sen. Toi W. Hutchinson

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1 AMENDMENT TO SENATE BILL 717

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 717 on page 1, line  
3 5, by replacing "Sections 203, 901, and 1501" with "Sections  
4 203, 804, and 1501"; and

5 on page 96, immediately below line 11, by inserting the  
6 following:

7 "(35 ILCS 5/804) (from Ch. 120, par. 8-804)

8 Sec. 804. Failure to Pay Estimated Tax.

9 (a) In general. In case of any underpayment of estimated  
10 tax by a taxpayer, except as provided in subsection (d) or (e),  
11 the taxpayer shall be liable to a penalty in an amount  
12 determined at the rate prescribed by Section 3-3 of the Uniform  
13 Penalty and Interest Act upon the amount of the underpayment  
14 (determined under subsection (b)) for each required  
15 installment.

16 (b) Amount of underpayment. For purposes of subsection (a),

1 the amount of the underpayment shall be the excess of:

2 (1) the amount of the installment which would be  
3 required to be paid under subsection (c), over

4 (2) the amount, if any, of the installment paid on or  
5 before the last date prescribed for payment.

6 (c) Amount of Required Installments.

7 (1) Amount.

8 (A) In General. Except as provided in paragraphs  
9 (2) and (3), the amount of any required installment  
10 shall be 25% of the required annual payment.

11 (B) Required Annual Payment. For purposes of  
12 subparagraph (A), the term "required annual payment"  
13 means the lesser of:

14 (i) 90% of the tax shown on the return for the  
15 taxable year, or if no return is filed, 90% of the  
16 tax for such year;

17 (ii) for installments due prior to February 1,  
18 2011, and after January 31, 2012, 100% of the tax  
19 shown on the return of the taxpayer for the  
20 preceding taxable year if a return showing a  
21 liability for tax was filed by the taxpayer for the  
22 preceding taxable year and such preceding year was  
23 a taxable year of 12 months; or

24 (iii) for installments due after January 31,  
25 2011, and prior to February 1, 2012, 150% of the  
26 tax shown on the return of the taxpayer for the

1 preceding taxable year if a return showing a  
2 liability for tax was filed by the taxpayer for the  
3 preceding taxable year and such preceding year was  
4 a taxable year of 12 months.

5 (2) Lower Required Installment where Annualized Income  
6 Installment is Less Than Amount Determined Under Paragraph  
7 (1).

8 (A) In General. In the case of any required  
9 installment if a taxpayer establishes that the  
10 annualized income installment is less than the amount  
11 determined under paragraph (1),

12 (i) the amount of such required installment  
13 shall be the annualized income installment, and

14 (ii) any reduction in a required installment  
15 resulting from the application of this  
16 subparagraph shall be recaptured by increasing the  
17 amount of the next required installment determined  
18 under paragraph (1) by the amount of such  
19 reduction, and by increasing subsequent required  
20 installments to the extent that the reduction has  
21 not previously been recaptured under this clause.

22 (B) Determination of Annualized Income  
23 Installment. In the case of any required installment,  
24 the annualized income installment is the excess, if  
25 any, of:

26 (i) an amount equal to the applicable

1 percentage of the tax for the taxable year computed  
 2 by placing on an annualized basis the net income  
 3 for months in the taxable year ending before the  
 4 due date for the installment, over

5 (ii) the aggregate amount of any prior  
 6 required installments for the taxable year.

7 (C) Applicable Percentage.

8	In the case of the following	The applicable
9	required installments:	percentage is:
10	1st.....	22.5%
11	2nd.....	45%
12	3rd.....	67.5%
13	4th.....	90%

14 (D) Annualized Net Income; Individuals. For  
 15 individuals, net income shall be placed on an  
 16 annualized basis by:

17 (i) multiplying by 12, or in the case of a  
 18 taxable year of less than 12 months, by the number  
 19 of months in the taxable year, the net income  
 20 computed without regard to the standard exemption  
 21 for the months in the taxable year ending before  
 22 the month in which the installment is required to  
 23 be paid;

24 (ii) dividing the resulting amount by the  
 25 number of months in the taxable year ending before  
 26 the month in which such installment date falls; and

1           (iii) deducting from such amount the standard  
2           exemption allowable for the taxable year, such  
3           standard exemption being determined as of the last  
4           date prescribed for payment of the installment.

5           (E) Annualized Net Income; Corporations. For  
6           corporations, net income shall be placed on an  
7           annualized basis by multiplying by 12 the taxable  
8           income

9           (i) for the first 3 months of the taxable year,  
10          in the case of the installment required to be paid  
11          in the 4th month,

12          (ii) for the first 3 months or for the first 5  
13          months of the taxable year, in the case of the  
14          installment required to be paid in the 6th month,

15          (iii) for the first 6 months or for the first 8  
16          months of the taxable year, in the case of the  
17          installment required to be paid in the 9th month,  
18          and

19          (iv) for the first 9 months or for the first 11  
20          months of the taxable year, in the case of the  
21          installment required to be paid in the 12th month  
22          of the taxable year,

23          then dividing the resulting amount by the number of  
24          months in the taxable year (3, 5, 6, 8, 9, or 11 as the  
25          case may be).

26          (3) Notwithstanding any other provision of this

1 subsection (c), in the case of a federally regulated  
2 exchange that elects to apportion its income under Section  
3 304(c-1) of this Act, the amount of each required  
4 installment due prior to June 30 of the first taxable year  
5 to which the election applies shall be 25% of the tax that  
6 would have been shown on the return for that taxable year  
7 if the taxpayer had not made such election.

8 (d) Exceptions. Notwithstanding the provisions of the  
9 preceding subsections, the penalty imposed by subsection (a)  
10 shall not be imposed if the taxpayer was not required to file  
11 an Illinois income tax return for the preceding taxable year,  
12 or, for individuals, if the taxpayer had no tax liability for  
13 the preceding taxable year and such year was a taxable year of  
14 12 months. The penalty imposed by subsection (a) shall also not  
15 be imposed on any underpayments of estimated tax due before the  
16 effective date of this amendatory Act of 1998 which  
17 underpayments are solely attributable to the change in  
18 apportionment from subsection (a) to subsection (h) of Section  
19 304. The provisions of this amendatory Act of 1998 apply to tax  
20 years ending on or after December 31, 1998.

21 (e) The penalty imposed for underpayment of estimated tax  
22 by subsection (a) of this Section shall not be imposed to the  
23 extent that the Director or his or her designate determines,  
24 pursuant to Section 3-8 of the Uniform Penalty and Interest Act  
25 that the penalty should not be imposed.

26 (f) Definition of tax. For purposes of subsections (b) and

1 (c), the term "tax" means the excess of the tax imposed under  
2 Article 2 of this Act, over the amounts credited against such  
3 tax under Sections 601(b) (3) and (4).

4 (g) Application of Section in case of tax withheld under  
5 Article 7. For purposes of applying this Section:

6 (1) tax withheld from compensation for the taxable year  
7 shall be deemed a payment of estimated tax, and an equal  
8 part of such amount shall be deemed paid on each  
9 installment date for such taxable year, unless the taxpayer  
10 establishes the dates on which all amounts were actually  
11 withheld, in which case the amounts so withheld shall be  
12 deemed payments of estimated tax on the dates on which such  
13 amounts were actually withheld;

14 (2) amounts timely paid by a partnership, Subchapter S  
15 corporation, or trust on behalf of a partner, shareholder,  
16 or beneficiary pursuant to subsection (f) of Section 502 or  
17 Section 709.5 and claimed as a payment of estimated tax  
18 shall be deemed a payment of estimated tax made on the last  
19 day of the taxable year of the partnership, Subchapter S  
20 corporation, or trust for which the income from the  
21 withholding is made was computed; and

22 (3) all other amounts pursuant to Article 7 shall be  
23 deemed a payment of estimated tax on the date the payment  
24 is made to the taxpayer of the amount from which the tax is  
25 withheld.

26 (g-5) Amounts withheld under the State Salary and Annuity

1 Withholding Act. An individual who has amounts withheld under  
2 paragraph (10) of Section 4 of the State Salary and Annuity  
3 Withholding Act may elect to have those amounts treated as  
4 payments of estimated tax made on the dates on which those  
5 amounts are actually withheld.

6 (g-10) Notwithstanding any other provision of law, no  
7 penalty shall apply with respect to an underpayment of  
8 estimated tax for the first, second, or third quarter of any  
9 taxable year ending on or after December 31, 2015 and ending  
10 prior to December 31, 2016 if (i) the underpayment was due to  
11 the changes made by this amendatory Act of the 99th General  
12 Assembly, (ii) the payment was otherwise timely made, and (iii)  
13 the balance due is included with the taxpayer's estimated tax  
14 payment for the fourth quarter.

15 (i) Short taxable year. The application of this Section to  
16 taxable years of less than 12 months shall be in accordance  
17 with regulations prescribed by the Department.

18 The changes in this Section made by Public Act 84-127 shall  
19 apply to taxable years ending on or after January 1, 1986.

20 (Source: P.A. 96-1496, eff. 1-13-11; 97-507, eff. 8-23-11;  
21 97-636, eff. 6-1-12.)"; and

22 by deleting everything from line 12 on page 96 through line 14  
23 on page 108; and

24 by deleting everything from line 18 on page 135 through line 18



1 on page 136.