



Sen. Toi W. Hutchinson

Filed: 3/9/2016

09900SB3297sam001

LRB099 16655 HLH 45659 a

1 AMENDMENT TO SENATE BILL 3297

2 AMENDMENT NO. _____. Amend Senate Bill 3297 on page 2,
3 immediately below line 14, by inserting the following:

4 "Section 10. 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

1 that quarter.

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

4 (1) Semi-weekly payments. For each calendar year, each
5 employer who withheld or was required to withhold more than
6 \$12,000 during the one-year period ending on June 30 of the
7 immediately preceding calendar year, payment must be made:

8 (A) on or before each Friday of the calendar year,
9 for taxes withheld or required to be withheld on the
10 immediately preceding Saturday, Sunday, Monday, or
11 Tuesday;

12 (B) on or before each Wednesday of the calendar
13 year, for taxes withheld or required to be withheld on
14 the immediately preceding Wednesday, Thursday, or
15 Friday.

16 Beginning with calendar year 2011, payments made under
17 this paragraph (1) of subsection (c) must be made by
18 electronic funds transfer.

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

25 (3) Monthly payments. Each employer, other than an
26 employer described in items (1) or (2) of this subsection,

1 shall pay to the Department, on or before the 15th day of
2 each month the taxes withheld or required to be withheld
3 during the immediately preceding month.

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

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

10 (1) Permit employers, in lieu of the requirements of
11 subsections (b) and (c), to file annual returns due on or
12 before January 31 of the year for taxes withheld or
13 required to be withheld during the previous calendar year
14 and, if the aggregate amounts required to be withheld by
15 the employer under this Article 7 (other than amounts
16 required to be withheld under Section 709.5) do not exceed
17 \$1,000 for the previous calendar year, to pay the taxes
18 required to be shown on each such return no later than the
19 due date for such return.

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

26 (3) Designate one or more depositories to which payment

1 of taxes required to be withheld under this Article 7 must
2 be paid by some or all employers.

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

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

18 (f) Magnetic media and electronic filing.

19 With respect to taxes withheld in calendar years prior to
20 2017, any ~~Any~~ W-2 Form that, under the Internal Revenue Code
21 and regulations promulgated thereunder, is required to be
22 submitted to the Internal Revenue Service on magnetic media or
23 electronically must also be submitted to the Department on
24 magnetic media or electronically for Illinois purposes, if
25 required by the Department.

26 With respect to taxes withheld in 2017 and subsequent

1 calendar years, the Department may, by rule, require that any
2 return (including any amended return) under this Section and
3 any W-2 Form that is required to be submitted to the Department
4 must be submitted on magnetic media or electronically.

5 The due date for submitting W-2 Forms shall be as
6 prescribed by the Department by rule.

7 (g) For amounts deducted or withheld after December 31,
8 2009, a taxpayer who makes an election under subsection (f) of
9 Section 5-15 of the Economic Development for a Growing Economy
10 Tax Credit Act for a taxable year shall be allowed a credit
11 against payments due under this Section for amounts withheld
12 during the first calendar year beginning after the end of that
13 taxable year equal to the amount of the credit for the
14 incremental income tax attributable to full-time employees of
15 the taxpayer awarded to the taxpayer by the Department of
16 Commerce and Economic Opportunity under the Economic
17 Development for a Growing Economy Tax Credit Act for the
18 taxable year and credits not previously claimed and allowed to
19 be carried forward under Section 211(4) of this Act as provided
20 in subsection (f) of Section 5-15 of the Economic Development
21 for a Growing Economy Tax Credit Act. The credit or credits may
22 not reduce the taxpayer's obligation for any payment due under
23 this Section to less than zero. If the amount of the credit or
24 credits exceeds the total payments due under this Section with
25 respect to amounts withheld during the calendar year, the
26 excess may be carried forward and applied against the

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

21 (h) An employer may claim a credit against payments due
22 under this Section for amounts withheld during the first
23 calendar year ending after the date on which a tax credit
24 certificate was issued under Section 35 of the Small Business
25 Job Creation Tax Credit Act. The credit shall be equal to the
26 amount shown on the certificate, but may not reduce the

1 taxpayer's obligation for any payment due under this Section to
2 less than zero. If the amount of the credit exceeds the total
3 payments due under this Section with respect to amounts
4 withheld during the calendar year, the excess may be carried
5 forward and applied against the taxpayer's liability under this
6 Section in the 5 succeeding calendar years. The credit shall be
7 applied to the earliest year for which there is a tax
8 liability. If there are credits from more than one calendar
9 year that are available to offset a liability, the earlier
10 credit shall be applied first. This Section is exempt from the
11 provisions of Section 250 of this Act.

12 (Source: P.A. 96-834, eff. 12-14-09; 96-888, eff. 4-13-10;
13 96-905, eff. 6-4-10; 96-1027, eff. 7-12-10; 97-333, eff.
14 8-12-11; 97-507, eff. 8-23-11.)".