

**SB0068**



**101ST GENERAL ASSEMBLY**

**State of Illinois**

**2019 and 2020**

**SB0068**

Introduced 1/23/2019, by Sen. Julie A. Morrison

**SYNOPSIS AS INTRODUCED:**

35 ILCS 5/704A

Amends the Illinois Income Tax Act. Provides for a credit against withholding taxes in an amount equal to 25% of the wages or salary paid by a private employer to an Illinois employee while the employee is on organ donation leave if the employer grants all of its employees the option of taking a paid leave of absence of at least 30 days for the purpose of serving as an organ donor or bone marrow donor. Provides that the credit may not exceed \$20,833.33 for each employee who takes organ donation leave. Provides that such a leave of absence must be taken without loss of pay, vacation time, compensatory time, personal days, or sick time for at least the first 30 days of the leave of absence. Effective immediately.

LRB101 04743 HLH 49752 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 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  
17 that quarter.

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

20 (1) Semi-weekly payments. For each calendar year, each  
21 employer who withheld or was required to withhold more than  
22 \$12,000 during the one-year period ending on June 30 of the  
23 immediately preceding calendar year, payment must be made:

1 (A) on or before each Friday of the calendar year,  
2 for taxes withheld or required to be withheld on the  
3 immediately preceding Saturday, Sunday, Monday, or  
4 Tuesday;

5 (B) on or before each Wednesday of the calendar  
6 year, for taxes withheld or required to be withheld on  
7 the immediately preceding Wednesday, Thursday, or  
8 Friday.

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

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

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

23 (4) Payments with returns. Each employer shall pay to  
24 the Department, on or before the due date for each return  
25 required to be filed under this Section, any tax withheld  
26 or required to be withheld during the period for which the

1 return is due and not previously paid to the Department.

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

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

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

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

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

25 (e) Annual return and payment. Every employer who deducts  
26 and withholds or is required to deduct and withhold tax from a

1 person engaged in domestic service employment, as that term is  
2 defined in Section 3510 of the Internal Revenue Code, may  
3 comply with the requirements of this Section with respect to  
4 such employees by filing an annual return and paying the taxes  
5 required to be deducted and withheld on or before the 15th day  
6 of the fourth month following the close of the employer's  
7 taxable year. The Department may allow the employer's return to  
8 be submitted with the employer's individual income tax return  
9 or to be submitted with a return due from the employer under  
10 Section 1400.2 of the Unemployment Insurance Act.

11 (f) Magnetic media and electronic filing. With respect to  
12 taxes withheld in calendar years prior to 2017, any W-2 Form  
13 that, under the Internal Revenue Code and regulations  
14 promulgated thereunder, is required to be submitted to the  
15 Internal Revenue Service on magnetic media or electronically  
16 must also be submitted to the Department on magnetic media or  
17 electronically for Illinois purposes, if required by the  
18 Department.

19 With respect to taxes withheld in 2017 and subsequent  
20 calendar years, the Department may, by rule, require that any  
21 return (including any amended return) under this Section and  
22 any W-2 Form that is required to be submitted to the Department  
23 must be submitted on magnetic media or electronically.

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

26 (g) For amounts deducted or withheld after December 31,

1 2009, a taxpayer who makes an election under subsection (f) of  
2 Section 5-15 of the Economic Development for a Growing Economy  
3 Tax Credit Act for a taxable year shall be allowed a credit  
4 against payments due under this Section for amounts withheld  
5 during the first calendar year beginning after the end of that  
6 taxable year equal to the amount of the credit for the  
7 incremental income tax attributable to full-time employees of  
8 the taxpayer awarded to the taxpayer by the Department of  
9 Commerce and Economic Opportunity under the Economic  
10 Development for a Growing Economy Tax Credit Act for the  
11 taxable year and credits not previously claimed and allowed to  
12 be carried forward under Section 211(4) of this Act as provided  
13 in subsection (f) of Section 5-15 of the Economic Development  
14 for a Growing Economy Tax Credit Act. The credit or credits may  
15 not reduce the taxpayer's obligation for any payment due under  
16 this Section to less than zero. If the amount of the credit or  
17 credits exceeds the total payments due under this Section with  
18 respect to amounts withheld during the calendar year, the  
19 excess may be carried forward and applied against the  
20 taxpayer's liability under this Section in the succeeding  
21 calendar years as allowed to be carried forward under paragraph  
22 (4) of Section 211 of this Act. The credit or credits shall be  
23 applied to the earliest year for which there is a tax  
24 liability. If there are credits from more than one taxable year  
25 that are available to offset a liability, the earlier credit  
26 shall be applied first. Each employer who deducts and withholds

1 or is required to deduct and withhold tax under this Act and  
2 who retains income tax withholdings under subsection (f) of  
3 Section 5-15 of the Economic Development for a Growing Economy  
4 Tax Credit Act must make a return with respect to such taxes  
5 and retained amounts in the form and manner that the  
6 Department, by rule, requires and pay to the Department or to a  
7 depository designated by the Department those withheld taxes  
8 not retained by the taxpayer. For purposes of this subsection  
9 (g), the term taxpayer shall include taxpayer and members of  
10 the taxpayer's unitary business group as defined under  
11 paragraph (27) of subsection (a) of Section 1501 of this Act.  
12 This Section is exempt from the provisions of Section 250 of  
13 this Act. No credit awarded under the Economic Development for  
14 a Growing Economy Tax Credit Act for agreements entered into on  
15 or after January 1, 2015 may be credited against payments due  
16 under this Section.

17 (h) An employer may claim a credit against payments due  
18 under this Section for amounts withheld during the first  
19 calendar year ending after the date on which a tax credit  
20 certificate was issued under Section 35 of the Small Business  
21 Job Creation Tax Credit Act. The credit shall be equal to the  
22 amount shown on the certificate, but may not reduce the  
23 taxpayer's obligation for any payment due under this Section to  
24 less than zero. If the amount of the credit exceeds the total  
25 payments due under this Section with respect to amounts  
26 withheld during the calendar year, the excess may be carried

1 forward and applied against the taxpayer's liability under this  
2 Section in the 5 succeeding calendar years. The credit shall be  
3 applied to the earliest year for which there is a tax  
4 liability. If there are credits from more than one calendar  
5 year that are available to offset a liability, the earlier  
6 credit shall be applied first. This Section is exempt from the  
7 provisions of Section 250 of this Act.

8 (i) If a private employer grants all of its employees the  
9 option of taking a paid leave of absence of at least 30 days  
10 for the purpose of serving as an organ donor or bone marrow  
11 donor, then the private employer may take a credit against the  
12 payments due under this Section in an amount equal to 25% of  
13 the wages or salary paid to an Illinois employee while the  
14 employee is on organ donation leave, not to exceed \$20,833.33  
15 for each employee who takes organ donation leave. To be  
16 eligible for the credit, such a leave of absence must be taken  
17 without loss of pay, vacation time, compensatory time, personal  
18 days, or sick time for at least the first 30 days of the leave  
19 of absence. The private employer is encouraged to adopt rules  
20 governing organ donation leave, including rules that (i)  
21 establish conditions and procedures for requesting and  
22 approving leave and (ii) require medical documentation of the  
23 proposed organ or bone marrow donation before leave is approved  
24 by the private employer. The credit under this subsection (i)  
25 shall be taken within one year after the date upon which the  
26 organ donation leave begins.



1       Nothing in this subsection (i) prohibits a private employer  
2 from providing an unpaid leave of absence to its employees for  
3 the purpose of serving as an organ donor or bone marrow donor;  
4 however, if the employer's policy provides for fewer than 30  
5 days of paid leave for organ or bone marrow donation, then the  
6 employer shall not be eligible for the credit under this  
7 Section.

8       As used in this subsection (i):

9       "Organ" means any biological tissue of the human body  
10 that may be donated by a living donor, including, but not  
11 limited to, the kidney, liver, lung, pancreas, intestine,  
12 bone, skin, or any subpart of those organs.

13       "Organ donor" means a person from whose body an organ  
14 is taken to be transferred to the body of another person.

15       "Private employer" means a sole proprietorship,  
16 corporation, partnership, limited liability company, or  
17 other entity with one or more employees. "Private employer"  
18 does not include a municipality, county, State agency, or  
19 other public employer.

20       This subsection (i) is exempt from the provisions of  
21 Section 250 of this Act.

22       (Source: P.A. 100-303, eff. 8-24-17; 100-511, eff. 9-18-17;  
23 100-863, eff. 8-14-18.)

24       Section 99. Effective date. This Act takes effect upon  
25 becoming law.