



Sen. Julie A. Morrison

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LRB101 04743 HLH 58887 a

1 AMENDMENT TO SENATE BILL 68

2 AMENDMENT NO. _____. Amend Senate Bill 68, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Income Tax Act is amended by
6 changing Section 704A as follows:

7 (35 ILCS 5/704A)

8 Sec. 704A. Employer's return and payment of tax withheld.

9 (a) In general, every employer who deducts and withholds or
10 is required to deduct and withhold tax under this Act on or
11 after January 1, 2008 shall make those payments and returns as
12 provided in this Section.

13 (b) Returns. Every employer shall, in the form and manner
14 required by the Department, make returns with respect to taxes
15 withheld or required to be withheld under this Article 7 for
16 each quarter beginning on or after January 1, 2008, on or

1 before the last day of the first month following the close of
2 that quarter.

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

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

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

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

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

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

26 (3) Monthly payments. Each employer, other than an

1 employer described in items (1) or (2) of this subsection,
2 shall pay to the Department, on or before the 15th day of
3 each month the taxes withheld or required to be withheld
4 during the immediately preceding month.

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

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

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

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

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

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

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

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

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

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

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

1 excess may be carried forward and applied against the
2 taxpayer's liability under this Section in the succeeding
3 calendar years as allowed to be carried forward under paragraph
4 (4) of Section 211 of this Act. The credit or credits shall be
5 applied to the earliest year for which there is a tax
6 liability. If there are credits from more than one taxable year
7 that are available to offset a liability, the earlier credit
8 shall be applied first. Each employer who deducts and withholds
9 or is required to deduct and withhold tax under this Act and
10 who retains income tax withholdings under subsection (f) of
11 Section 5-15 of the Economic Development for a Growing Economy
12 Tax Credit Act must make a return with respect to such taxes
13 and retained amounts in the form and manner that the
14 Department, by rule, requires and pay to the Department or to a
15 depository designated by the Department those withheld taxes
16 not retained by the taxpayer. For purposes of this subsection
17 (g), the term taxpayer shall include taxpayer and members of
18 the taxpayer's unitary business group as defined under
19 paragraph (27) of subsection (a) of Section 1501 of this Act.
20 This Section is exempt from the provisions of Section 250 of
21 this Act. No credit awarded under the Economic Development for
22 a Growing Economy Tax Credit Act for agreements entered into on
23 or after January 1, 2015 may be credited against payments due
24 under this Section.

25 (h) An employer may claim a credit against payments due
26 under this Section for amounts withheld during the first

1 calendar year ending after the date on which a tax credit
2 certificate was issued under Section 35 of the Small Business
3 Job Creation Tax Credit Act. The credit shall be equal to the
4 amount shown on the certificate, but may not reduce the
5 taxpayer's obligation for any payment due under this Section to
6 less than zero. If the amount of the credit exceeds the total
7 payments due under this Section with respect to amounts
8 withheld during the calendar year, the excess may be carried
9 forward and applied against the taxpayer's liability under this
10 Section in the 5 succeeding calendar years. The credit shall be
11 applied to the earliest year for which there is a tax
12 liability. If there are credits from more than one calendar
13 year that are available to offset a liability, the earlier
14 credit shall be applied first. This Section is exempt from the
15 provisions of Section 250 of this Act.

16 (i) Each employer with 50 or fewer full-time equivalent
17 employees during the reporting period may claim a credit
18 against the payments due under this Section for each qualified
19 employee in an amount equal to the maximum credit allowable.
20 The credit may be taken against payments due for reporting
21 periods that begin on or after January 1, 2020, and end on or
22 before December 31, 2027. An employer may not claim a credit
23 for an employee who has worked fewer than 90 consecutive days
24 immediately preceding the reporting period; however, such
25 credits may accrue during that 90-day period and be claimed
26 against payments under this Section for future reporting

1 periods after the employee has worked for the employer at least
2 90 consecutive days. In no event may the credit exceed the
3 employer's liability for the reporting period. Each employer
4 who deducts and withholds or is required to deduct and withhold
5 tax under this Act and who retains income tax withholdings
6 under this subsection must make a return with respect to such
7 taxes and retained amounts in the form and manner that the
8 Department, by rule, requires and pay to the Department or to a
9 depository designated by the Department those withheld taxes
10 not retained by the employer.

11 For each reporting period, the employer may not claim a
12 credit or credits for more employees than the number of
13 employees making less than the minimum or reduced wage for the
14 current calendar year during the last reporting period of the
15 preceding calendar year. Notwithstanding any other provision
16 of this subsection, an employer shall not be eligible for
17 credits for a reporting period unless the average wage paid by
18 the employer per employee for all employees making less than
19 \$55,000 during the reporting period is greater than the average
20 wage paid by the employer per employee for all employees making
21 less than \$55,000 during the same reporting period of the prior
22 calendar year.

23 For purposes of this subsection (i):

24 "Compensation paid in Illinois" has the meaning ascribed to
25 that term under Section 304(a)(2)(B) of this Act.

26 "Employer" and "employee" have the meaning ascribed to

1 those terms in the Minimum Wage Law, except that "employee"
2 also includes employees who work for an employer with fewer
3 than 4 employees. Employers that operate more than one
4 establishment pursuant to a franchise agreement or that
5 constitute members of a unitary business group shall aggregate
6 their employees for purposes of determining eligibility for the
7 credit.

8 "Full-time equivalent employees" means the ratio of the
9 number of paid hours during the reporting period and the number
10 of working hours in that period.

11 "Maximum credit" means the percentage listed below of the
12 difference between the amount of compensation paid in Illinois
13 to employees who are paid not more than the required minimum
14 wage reduced by the amount of compensation paid in Illinois to
15 employees who were paid less than the current required minimum
16 wage during the reporting period prior to each increase in the
17 required minimum wage on January 1. If an employer pays an
18 employee more than the required minimum wage and that employee
19 previously earned less than the required minimum wage, the
20 employer may include the portion that does not exceed the
21 required minimum wage as compensation paid in Illinois to
22 employees who are paid not more than the required minimum wage.

23 (1) 25% for reporting periods beginning on or after
24 January 1, 2020 and ending on or before December 31, 2020;

25 (2) 21% for reporting periods beginning on or after
26 January 1, 2021 and ending on or before December 31, 2021;

1 (3) 17% for reporting periods beginning on or after
2 January 1, 2022 and ending on or before December 31, 2022;

3 (4) 13% for reporting periods beginning on or after
4 January 1, 2023 and ending on or before December 31, 2023;

5 (5) 9% for reporting periods beginning on or after
6 January 1, 2024 and ending on or before December 31, 2024;

7 (6) 5% for reporting periods beginning on or after
8 January 1, 2025 and ending on or before December 31, 2025.

9 The amount computed under this subsection may continue to
10 be claimed for reporting periods beginning on or after January
11 1, 2026 and:

12 (A) ending on or before December 31, 2026 for employers
13 with more than 5 employees; or

14 (B) ending on or before December 31, 2027 for employers
15 with no more than 5 employees.

16 "Qualified employee" means an employee who is paid not more
17 than the required minimum wage and has an average wage paid per
18 hour by the employer during the reporting period equal to or
19 greater than his or her average wage paid per hour by the
20 employer during each reporting period for the immediately
21 preceding 12 months. A new qualified employee is deemed to have
22 earned the required minimum wage in the preceding reporting
23 period.

24 "Reporting period" means the quarter for which a return is
25 required to be filed under subsection (b) of this Section.

26 (j) For reporting periods beginning on or after January 1,

1 2020, if a private employer grants all of its employees the
2 option of taking a paid leave of absence of at least 30 days
3 for the purpose of serving as an organ donor or bone marrow
4 donor, then the private employer may take a credit against the
5 payments due under this Section in an amount equal to the
6 amount withheld under this Section with respect to wages paid
7 while the employee is on organ donation leave, not to exceed
8 \$1,000 in withholdings for each employee who takes organ
9 donation leave. To be eligible for the credit, such a leave of
10 absence must be taken without loss of pay, vacation time,
11 compensatory time, personal days, or sick time for at least the
12 first 30 days of the leave of absence. The private employer
13 shall adopt rules governing organ donation leave, including
14 rules that (i) establish conditions and procedures for
15 requesting and approving leave and (ii) require medical
16 documentation of the proposed organ or bone marrow donation
17 before leave is approved by the private employer. A private
18 employer must provide, in the manner required by the
19 Department, documentation from the employee's medical
20 provider, which the private employer receives from the
21 employee, that verifies the employee's organ donation. The
22 private employer must also provide, in the manner required by
23 the Department, documentation that shows that a qualifying
24 organ donor leave policy was in place and offered to all
25 qualifying employees at the time the leave was taken. For the
26 private employer to receive the tax credit, the employee taking

1 organ donor leave must allow for the applicable medical records
2 to be disclosed to the Department. If the private employer
3 cannot provide the required documentation to the Department,
4 then the private employer is ineligible for the credit under
5 this Section. A private employer must also provide, in the form
6 required by the Department, any additional documentation or
7 information required by the Department to administer the credit
8 under this Section. The credit under this subsection (j) shall
9 be taken within one year after the date upon which the organ
10 donation leave begins. If the leave taken spans into a second
11 tax year, the employer qualifies for the allowable credit in
12 the later of the 2 years. If the amount of credit exceeds the
13 tax liability for the year, the excess may be carried and
14 applied to the tax liability for the 3 taxable years following
15 the excess credit year. The tax credit shall be applied to the
16 earliest year for which there is a tax liability. If there are
17 credits for more than one year that are available to offset
18 liability, the earlier credit shall be applied first.

19 Nothing in this subsection (j) prohibits a private employer
20 from providing an unpaid leave of absence to its employees for
21 the purpose of serving as an organ donor or bone marrow donor;
22 however, if the employer's policy provides for fewer than 30
23 days of paid leave for organ or bone marrow donation, then the
24 employer shall not be eligible for the credit under this
25 Section.

26 As used in this subsection (j):

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

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

7 "Private employer" means a sole proprietorship,
8 corporation, partnership, limited liability company, or
9 other entity with one or more employees. "Private employer"
10 does not include a municipality, county, State agency, or
11 other public employer.

12 This subsection (j) is exempt from the provisions of
13 Section 250 of this Act.

14 (Source: P.A. 100-303, eff. 8-24-17; 100-511, eff. 9-18-17;
15 100-863, eff. 8-14-18; 101-1, eff. 2-19-19.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law."