



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB6097

Introduced 2/11/2010, by Rep. Mark L. Walker

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/704A

Amends the Illinois Income Tax Act. Provides that if (i) an employer hires an employee on or after the effective date of the amendatory Act to fill a newly created full-time position, (ii) that employee's annualized salary attributable to the employer is at least \$22,000 but not more than \$40,000, and (iii) the employee is employed by the employer for 6 consecutive calendar months immediately after the date of hire, then, beginning with the first payment due after the end of that 6-month period, the employer may retain from the amount deducted and withheld for that employee an amount equal to 25% of the total amount deducted and withheld for that employee during that 6-month period. Provides that, if an employer is eligible to retain an amount that exceeds the amount that the employer is required to withhold for that employee for that payment period, then the excess may be carried forward until the entire amount has been retained. Provides that the amount retained must be recorded on the employer's withholding tax return. Provides that the Illinois income tax liability of every employee whose taxes are withheld and retained by his or her employer must be calculated as if the retained amounts had been paid to the Department. Effective immediately.

LRB096 19649 HLH 35045 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 (2) Semi-weekly payments. Any employer who withholds  
10 or is required to withhold more than \$12,000 in any quarter  
11 of a calendar year is required to make payments on the  
12 dates set forth under item (1) of this subsection (c) for  
13 each remaining quarter of that calendar year and for the  
14 subsequent calendar year.

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

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

25 (c-5) Notwithstanding any other provision of law, if (i) an  
26 employer hires an employee on or after the effective date of

1 this amendatory Act of the 96th General Assembly to fill a  
2 newly created full-time position, (ii) that employee's  
3 annualized salary attributable to the employer is at least  
4 \$22,000 but not more than \$40,000, and (iii) the employee is  
5 employed by the employer for 6 consecutive calendar months  
6 immediately after the date of hire, then, beginning with the  
7 first payment due after the end of that 6-month period, the  
8 employer may retain from the amount deducted and withheld for  
9 that employee an amount equal to 25% of the total amount  
10 deducted and withheld for that employee during that 6-month  
11 period. If an employer is eligible to retain an amount that  
12 exceeds the amount that the employer is required to withhold  
13 for that employee for that payment period, then the excess may  
14 be carried forward until the entire amount has been retained.  
15 Each employer must record the amount retained on the return  
16 required to be filed with the Department under this Section.  
17 The Illinois income tax liability of every employee whose taxes  
18 are withheld and retained by his or her employer under this  
19 Section must be calculated as if the retained amounts had been  
20 paid to the Department.

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

22 (1) If the aggregate amounts required to be withheld  
23 under this Article 7 do not exceed \$1,000 for the calendar  
24 year, permit employers, in lieu of the requirements of  
25 subsections (b) and (c), to file annual returns due on or  
26 before January 31 of the following year for taxes withheld

1 or required to be withheld during that calendar year and to  
2 pay the taxes required to be shown on each such return no  
3 later than the due date for such return.

4 (2) Provide that any payment required to be made under  
5 subsection (c)(1) or (c)(2) is deemed to be timely to the  
6 extent paid by electronic funds transfer on or before the  
7 due date for deposit of federal income taxes withheld from,  
8 or federal employment taxes due with respect to, the wages  
9 from which the Illinois taxes were withheld.

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

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

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

1 Section 1400.2 of the Unemployment Insurance Act.

2 (f) Magnetic media and electronic filing. Any W-2 Form  
3 that, under the Internal Revenue Code and regulations  
4 promulgated thereunder, is required to be submitted to the  
5 Internal Revenue Service on magnetic media or electronically  
6 must also be submitted to the Department on magnetic media or  
7 electronically for Illinois purposes, if required by the  
8 Department.

9 (g) For amounts deducted or withheld after December 31,  
10 2009, a taxpayer who makes an election under Section 5-15(f) of  
11 the Economic Development for a Growing Economy Act for a  
12 taxable year shall be allowed a credit against payments due  
13 under this Section for amounts withheld during the first  
14 calendar year beginning after the end of that taxable year  
15 equal to the amount of the credit awarded to the taxpayer by  
16 the Department of Commerce and Economic Opportunity under the  
17 Economic Development for a Growing Economy Act for the taxable  
18 year. The credit may not reduce the taxpayer's obligation for  
19 any payment due under this Section to less than zero. If the  
20 amount of the credit exceeds the total payments due under this  
21 Section with respect to amounts withheld during the calendar  
22 year, the excess may be carried forward and applied against the  
23 taxpayer's liability under this Section in the 5 succeeding  
24 calendar years. The credit shall be applied to the earliest  
25 year for which there is a tax liability. If there are credits  
26 from more than one taxable year that are available to offset a

1 liability, the earlier credit shall be applied first. This  
2 Section is exempt from the provisions of Section 250 of this  
3 Act.

4 (Source: P.A. 95-8, eff. 6-29-07; 95-707, eff. 1-11-08; 96-834,  
5 eff. 12-14-09.)

6 Section 99. Effective date. This Act takes effect upon  
7 becoming law.