



Rep. Marcus C. Evans, Jr.

Filed: 3/19/2013

09800HB3157ham001

LRB098 10600 HLH 43121 a

1 AMENDMENT TO HOUSE BILL 3157

2 AMENDMENT NO. _____. Amend House Bill 3157 on page 1, line
3 5, by replacing line 5 with the following:

4 "changing Sections 304, 305, 307, 308, 502, and 709.5 as
5 follows:"; and

6 on page 65, by replacing lines 7 and 8 with the following:

7 "(f) For taxable years ending prior to December 31, 2014,
8 the ~~The~~ Department may promulgate regulations to permit"; and

9 by replacing everything from line 18 on page 65 through line 3
10 on page 66 with the following:

11 "individual income tax payments. For taxable years ending prior
12 to December 31, 2014, the ~~The~~ Department may by regulation also
13 permit such composite returns to include the income tax owed by
14 Illinois residents attributable to their income from
15 partnerships, Subchapter S corporations, insurance businesses
16 organized under a Lloyds plan of operation, or limited

1 liability companies that are treated as partnership under
2 Section 1501(a)(16) of this Act, in which case such Illinois
3 residents will be permitted to claim credits on their
4 individual returns for their shares of the composite tax
5 payments. This paragraph of subsection (f) applies to taxable
6 years ending on or after December 31, 1987 and ending prior to
7 December 31, 2014."; and

8 by replacing everything from line 18 on page 67 through line 16
9 on page 95 with the following:

10 "(35 ILCS 5/709.5)

11 Sec. 709.5. Withholding by partnerships, Subchapter S
12 corporations, and trusts.

13 (a) In general. For each taxable year ending on or after
14 December 31, 2008, every partnership (other than a publicly
15 traded partnership under Section 7704 of the Internal Revenue
16 Code or investment partnership), Subchapter S corporation, and
17 trust must withhold from each nonresident partner,
18 shareholder, or beneficiary (other than a partner,
19 shareholder, or beneficiary who is exempt from tax under
20 Section 501(a) of the Internal Revenue Code or under Section
21 205 of this Act, who is included on a composite return filed by
22 the partnership or Subchapter S corporation for the taxable
23 year under subsection (f) of Section 502 of this Act), or who
24 is a retired partner, to the extent that partner's

1 distributions are exempt from tax under Section 203(a)(2)(F) of
2 this Act) an amount equal to the sum distributable share of (i)
3 the share of business income of the partnership, Subchapter S
4 corporation, or trust apportionable to Illinois plus (ii) for
5 taxable years ending on or after December 31, 2014, the share
6 of nonbusiness income of the partnership, Subchapter S
7 corporation, or trust allocated to Illinois under Section 303
8 of this Act (other than an amount allocated to the commercial
9 domicile of the taxpayer under Section 303 of this Act) that is
10 distributable to ~~of~~ that partner, shareholder, or beneficiary
11 under Sections 702 and 704 and Subchapter S of the Internal
12 Revenue Code, whether or not distributed, (2) multiplied by the
13 applicable rates of tax for that partner, ~~or~~ shareholder, or
14 beneficiary under subsections (a) through (d) of Section 201 of
15 this Act, and (3) net of the share of any credit under Article
16 2 of this Act that is distributable by the partnership,
17 Subchapter S corporation, or trust and allowable against the
18 tax liability of that partner, shareholder, or beneficiary for
19 a taxable year ending on or after December 31, 2014.

20 (b) Credit for taxes withheld. Any amount withheld under
21 subsection (a) of this Section and paid to the Department shall
22 be treated as a payment of the estimated tax liability or of
23 the liability for withholding under this Section of the
24 partner, shareholder, or beneficiary to whom the income is
25 distributable for the taxable year in which that person
26 incurred a liability under this Act with respect to that

1 income. The Department shall adopt rules pursuant to which a
2 partner, shareholder, or beneficiary may claim a credit against
3 its obligation for withholding under this Section for amounts
4 withheld under this Section with respect to income
5 distributable to it by a partnership, Subchapter S corporation,
6 or trust and allowing its partners, shareholders, or
7 beneficiaries to claim a credit under this subsection (b) for
8 those withheld amounts.

9 (c) Exemption from withholding.

10 (1) A partnership, Subchapter S corporation, or trust
11 shall not be required to withhold tax under subsection (a)
12 of this Section with respect to any nonresident partner,
13 shareholder, or beneficiary (other than an individual)
14 from whom the partnership, S corporation, or trust has
15 received a certificate, completed in the form and manner
16 prescribed by the Department, stating that such
17 nonresident partner, shareholder, or beneficiary shall:

18 (A) file all returns that the partner,
19 shareholder, or beneficiary is required to file under
20 Section 502 of this Act and make timely payment of all
21 taxes imposed under Section 201 of this Act or under
22 this Section on the partner, shareholder, or
23 beneficiary with respect to income of the partnership,
24 S corporation, or trust; and

25 (B) be subject to personal jurisdiction in this
26 State for purposes of the collection of income taxes,

1 together with related interest and penalties, imposed
2 on the partner, shareholder, or beneficiary with
3 respect to the income of the partnership, S
4 corporation, or trust.

5 (2) The Department may revoke the exemption provided by
6 this subsection (c) at any time that it determines that the
7 nonresident partner, shareholder, or beneficiary is not
8 abiding by the terms of the certificate. The Department
9 shall notify the partnership, S corporation, or trust that
10 it has revoked a certificate by notice left at the usual
11 place of business of the partnership, S corporation, or
12 trust or by mail to the last known address of the
13 partnership, S corporation, or trust.

14 (3) A partnership, S corporation, or trust that
15 receives a certificate under this subsection (c) properly
16 completed by a nonresident partner, shareholder, or
17 beneficiary shall not be required to withhold any amount
18 from that partner, shareholder, or beneficiary, the
19 payment of which would be due under Section 711(a-5) of
20 this Act after the receipt of the certificate and no
21 earlier than 60 days after the Department has notified the
22 partnership, S corporation, or trust that the certificate
23 has been revoked.

24 (4) Certificates received by a the partnership, S
25 corporation, or trust under this subsection (c) must be
26 retained by the partnership, S corporation, or trust and a

1 record of such certificates must be provided to the
2 Department, in a format in which the record is available
3 for review by the Department, upon request by the
4 Department. The Department may, by rule, require the record
5 of certificates to be maintained and provided to the
6 Department electronically.

7 (Source: P.A. 97-507, eff. 8-23-11.)".