

January 12, 2015

To the Honorable Members of the  
Illinois Senate, 98<sup>th</sup> General Assembly:

In accordance with Article IV, Section 9(e) of the Illinois constitution of 1970, I hereby return Senate Bill 3397 with a specific recommendation for change.

The General Assembly enacted this legislation during its fall session late last year. The purpose of the legislation is to eliminate the sales tax liability of retail merchants for transactions in which customer purchases an item using the retailer's "private label" credit card, but later fails to make the required payments and defaults on that credit card. A "private label" credit card is a credit account that may only be used for transactions at a specific retail merchant. "General purpose" credit card accounts, in contrast, enable the customer to transact with a wide universe of different merchants.

Under current law, merchants must pay the State the total amount of sales tax due at the time of a retail transaction. The proponents of this legislation complain that retailers are suffering economic harm because current law makes no provision for the retailer to recover sales tax payments in the situation where the customer used a private label credit card to purchase an item but later defaulted by failing to make the required payments.

Essentially the retail merchant incurs two losses – (1) the merchant has already paid the whole amount of the sale tax due at the time of the transaction, even though (2) it has never been and likely never will be paid for the retail transaction by the customer. The proponents argue that the law should regard these transactions as having never occurred. Their proposed remedy, accordingly, as set forth in Senate Bill 3397, is to provide retailers in this situation a deduction or refund for the amount of sales tax payment once the account is deemed uncollectable.

Opponents of the legislation, however, point out that private label credit cards charge customers onerous interest rates on credit balances carried month-to-month, along with other high fees and charges for things such as late payments. The combination of very high rates of compound interest along with an array of high fees and charges make private label credit cards very lucrative for retailers and the financial institutions they partner with to create these products. Correspondingly, the effect to consumers is often to exponentially increase the overall cost for retail items purchased with the card.

The opponents of this measure further point out that these profits compensate the retail merchant for the economic cost of sales taxes paid for card purchases that later go uncollectable. In other words, in these situations, merchants effectively recover their losses through private label credit card profits.

Final passage of this legislation occurred on December 4, 2014. This was exactly one month after the November 4, 2014 general election in which the people of Illinois approved by an overwhelming majority a non-binding statewide referendum calling for an increase in the State's minimum wage to \$10 per hour beginning January 1, 2015.

Although the Illinois Senate responded to the unambiguous message of the electorate by passing a bill to increase the minimum wage, the House of Representatives failed to consider the measure during the fall veto session. Instead of even considering the Senate proposal the House instead adjourned *sine die*.

This is a great irony.

Despite overwhelming support from every part of the State for a measure that provides much needed assistance to working families raising children, the House of Representatives would not act. But the House of Representatives did find time – right before the holiday season - to give a lucrative tax benefit to retail merchants and the financial institutions they partner with, thus enabling this class of highly profitable businesses to become even more highly profitable.

It is questionable whether affording the deduction or refund provided for in Senate Bill 3397 is sound public policy. The extent of the uncompensated economic harm to these businesses resulting from customers defaulting on their private label credit cards is debatable: how much of the sales tax payments for uncollectable transactions are recovered through credit card profits?

What is clear, however, is that Illinois working families raising children deserve targeted tax relief. If the General Assembly can find the will to give a dubious tax break to profitable businesses, the General Assembly can and should find the will to provide meaningful tax relief to hardworking families living on modest incomes.

Accordingly, I propose a specific recommendation for changing this legislation by adding a new provision doubling the Earned Income Tax Credit from its current level of 10% of the federal credit to 20%, effective immediately.

By inserting on Page 1, immediately below line 3, the following:

“The Illinois Income Tax Act is amended by changing Section 212 as follows:

Sec. 212. Earned income tax credit.

(a) With respect to the federal earned income tax credit allowed for the taxable year under Section 32 of the federal Internal Revenue Code, 26 U.S.C. 32, each individual taxpayer is entitled to a credit against the tax imposed by subsections (a) and (b) of Section 201 in an amount equal to (i) 5% of the federal tax credit for each taxable year beginning on or after January 1, 2000 and ending prior to December 31, 2012, (ii) 7.5% of the federal tax credit for each taxable year beginning on or after January 1, 2012 and ending prior to December 31, 2013, and (iii) 10% of the federal tax credit for each taxable year beginning on or after January 1, 2013 and ending prior to December 31, 2015, (iv) 12% of the federal tax credit for each taxable year beginning on or after January 1, 2016; (v) 14% of the federal tax credit for each taxable year beginning on or after January 1, 2017; (vi) 16% of the federal tax credit for each taxable year beginning on or after January 1, 2018; (vii) 18% of the federal tax credit for each taxable year beginning on or after January 1, 2019; and (viii) 20% of the federal tax credit for each taxable year beginning on or after January 1, 2020.

For a non-resident or part-year resident, the amount of the credit under this Section shall be in proportion to the amount of income attributable to this State.

(b) For taxable years beginning before January 1, 2003, in no event shall a credit under this Section reduce the taxpayer's liability to less than zero. For each taxable year beginning on or after January 1, 2003, if the amount of

the credit exceeds the income tax liability for the applicable tax year, then the excess credit shall be refunded to the taxpayer. The amount of a refund shall not be included in the taxpayer's income or resources for the purposes of determining eligibility or benefit level in any means-tested benefit program administered by a governmental entity unless required by federal law.

(c) This Section is exempt from the provisions of Section 250.”

With this change, SB 3397 will have my approval. I respectfully request your concurrence.

Sincerely,

PAT QUINN  
Governor