

Illinois Department of Revenue
1500 South Ninth Street
Springfield, Illinois 62708

INFORMATION BULLETIN FY83-1

TO: State of Illinois Withholding Agents

RE: IL-W-3 Requirements

Emergency Amendment to Income Tax Regulation Section 702-2:
Withholding Exemption Certificate: Effective April 8, 1982

IL-W-3 REQUIREMENTS

On or before February 28 of each year, you as a withholding agent must file with the Illinois Department of Revenue an annual reconciliation of payments of tax which you withheld from employees and other recipients of payments subject to withholding. You must file this reconciliation on: (1) Form IL-W-3 for withholding from payments of wages made by employers to employees; (2) Form IL-W-3G for withholding from payments of gambling winnings to residents; and (3) Form IL-W-3NR for withholding from payments under certain personal service contracts pursuant to Section 708 of the Illinois Income Tax Act and for withholding from payments of certain prizes and awards pursuant to Section 709 of the same Act.

The IL-W-3 (-3G and -3NR) copy one of the W-2 (IL-W-2G and IL-W-2NR) furnished to each employee (or other recipient of payment subject to withholding) and a list (preferably in the form of an adding machine tape) summing the amounts reported as withheld on the attached forms. In lieu of attaching the forms and the adding machine tape, you may provide the Department with computer produced magnetic tape or punch cards containing the necessary information. For further information on tape and punch card reporting, contact Illinois Department of Revenue, Computer Services Division, 1901 So. 11th St., Springfield, IL 62708.

You may not provide a computer generate tape for the IL-W-3 (-3G or -3NR). You must file the "hard copy" of this form.

If the Internal Revenue Service extends the due date for filing the federal Form W-3 or W-3G, we will similarly extend the due date for the comparable Illinois forms. If you file your IL-W-3 or -3G after the original due date pursuant to a federal extension, you must attach to your Illinois form(s) a copy of the approved federal extension in order to avoid the assessment of a penalty.(See below)

FAILURE-TO-FILE PENALTIES

Any employer, officer, or employee who willfully fails or refuses to make a return or statement or pay over withholding taxes for which he is accountable is subject to penalties. Under Section 1004 of the

Illinois Income Tax Act, effective January 1, 1982, any employer or other withholding agent failing to file a quarterly return (Form IL-941, Form IL-941G, or Form IL-941NR) or annual reconciliation statement (Form IL-W-3, Form IL-W-3G, or Form IL-W-3NR) may be subject to civil penalty of \$50.00 to \$200.00 for each such item not filed.

Certain federal withholding regulations, to which the above, referenced Illinois regulation is in part keyed, were revised as part of their permanent federal adoption on January 21, 1982. Many of the obligations imposed by the Illinois Withholding Regulations are defined in terms of requirements of the federal rules. Therefore, Illinois Income Tax Regulation Section 702-2 was amended on an emergency basis effective April 8, 1982, so as to match with the federal regulations. In addition, certain changes were made to provide accurate citations to the federal regulations and one minor change was made in the procedure an employee may utilize in seeking to nullify a Department notice rendering the employee's withholding certificate invalid.

The specific changes to the Illinois regulations are as follows:

- 1) IIT Reg. Section 702-2 (c)(1)(B) cites a federal regulation. The citation has been changed and is now the following: IRS Reg. Section 31.3402(f)(2)-1(g)(5).
- 2) IIT Reg. Section 702-2(h)(1) provides that employers must refer to the Department all Illinois withholding exemption certificates that meet each of three criteria. Formerly, one of the criteria was that the exemption certificate claimed in excess of none (9) exemptions. Under the regulation as amended, this criterion is changed so as to include only certificates claiming in excess of fourteen (14) exemptions. Additionally, one of the criteria refers to a federal regulation. The citation for that regulation has been changed and is now the following: IRS Reg. Section 31.3401(f)(2)-1(g).
- 3) IIT Reg. Section 702-2(h)(3) provides that once the Department of Revenue has informed an employer by notice of the number of exemptions to which a particular employee is properly entitled, the employer may not withhold amounts on a basis of exemptions in excess of the number specified in the notice. The regulation further provides that any employee may submit a new withholding certificate and explanatory statement to the employer to be forwarded to the Department when there are new facts which support a greater number of exemptions than specified in the Department's notice to the employer. This provision has been changed and now states that the employee may EITHER submit a statement to the employer who must then promptly submit it to the Department, or the employee may submit a statement to the Department directly addressed to Taxpayer Correspondence Section, Post Office Box 4565, Springfield, Illinois 62708.

The above changes became effective on an emergency April 8, 1982. Identical permanent amendments became EFFECTIVE JULY 26, 1982.

Issued: September, 1982

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