



Rep. Michael J. Zalewski

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1 AMENDMENT TO SENATE BILL 2279

2 AMENDMENT NO. _____. Amend Senate Bill 2279 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Department of Revenue Law of the Civil
5 Administrative Code of Illinois is amended by changing Section
6 2505-380 as follows:

7 (20 ILCS 2505/2505-380) (was 20 ILCS 2505/39b47)

8 Sec. 2505-380. Revocation of or refusal to issue or
9 reissue a certificate of registration, permit, or license.

10 (a) The Department has the power, after notice and an
11 opportunity for a hearing, to revoke a certificate of
12 registration, permit, or license issued by the Department if
13 the holder of the certificate of registration, permit, or
14 license fails to file a return, or to pay the tax, fee,
15 penalty, or interest shown in a filed return, or to pay any
16 final assessment of tax, fee, penalty, or interest, as

1 required by the tax or fee Act under which the certificate of
2 registration, permit, or license is required or any other tax
3 or fee Act administered by the Department.

4 (b) The Department may refuse to issue, reissue, or renew
5 a certificate of registration, permit, or license authorized
6 to be issued by the Department if a person who is named as the
7 owner, a partner, a corporate officer, or, in the case of a
8 limited liability company, a manager or member, of the
9 applicant on the application for the certificate of
10 registration, permit or license, is or has been named as the
11 owner, a partner, a corporate officer, or in the case of a
12 limited liability company, a manager or member, on the
13 application for the certificate of registration, permit, or
14 license of a person that is in default for moneys due under the
15 tax or fee Act upon which the certificate of registration,
16 permit, or license is required or any other tax or fee Act
17 administered by the Department. For purposes of this Section
18 only, in determining whether a person is in default for moneys
19 due, the Department shall include only amounts established as
20 a final liability within the 23 ~~20~~ years prior to the date of
21 the Department's notice of refusal to issue or reissue the
22 certificate of registration, permit, or license. For purposes
23 of this Section, "person" means any natural individual, firm,
24 partnership, association, joint stock company, joint
25 adventure, public or private corporation, limited liability
26 company, or a receiver, executor, trustee, guardian or other

1 representative appointed by order of any court.

2 (c) When revoking or refusing to issue or reissue a
3 certificate of registration, permit, or license issued by the
4 Department, the procedure for notice and hearing used shall be
5 the procedure provided under the Act pursuant to which the
6 certificate of registration, permit, or license was issued.

7 (Source: P.A. 98-496, eff. 1-1-14; 98-1055, eff. 1-1-16.)

8 Section 10. The Illinois Income Tax Act is amended by
9 changing Sections 211, 303, 304, 710, 902, and 905 as follows:

10 (35 ILCS 5/211)

11 Sec. 211. Economic Development for a Growing Economy Tax
12 Credit. For tax years beginning on or after January 1, 1999, a
13 Taxpayer who has entered into an Agreement (including a New
14 Construction EDGE Agreement) under the Economic Development
15 for a Growing Economy Tax Credit Act is entitled to a credit
16 against the taxes imposed under subsections (a) and (b) of
17 Section 201 of this Act in an amount to be determined in the
18 Agreement. If the Taxpayer is a partnership or Subchapter S
19 corporation, the credit shall be allowed to the partners or
20 shareholders in accordance with the determination of income
21 and distributive share of income under Sections 702 and 704
22 and subchapter S of the Internal Revenue Code. The Department,
23 in cooperation with the Department of Commerce and Economic
24 Opportunity, shall prescribe rules to enforce and administer

1 the provisions of this Section. This Section is exempt from
2 the provisions of Section 250 of this Act.

3 The credit shall be subject to the conditions set forth in
4 the Agreement and the following limitations:

5 (1) The tax credit shall not exceed the Incremental
6 Income Tax (as defined in Section 5-5 of the Economic
7 Development for a Growing Economy Tax Credit Act) with
8 respect to the project; additionally, the New Construction
9 EDGE Credit shall not exceed the New Construction EDGE
10 Incremental Income Tax (as defined in Section 5-5 of the
11 Economic Development for a Growing Economy Tax Credit
12 Act).

13 (2) The amount of the credit allowed during the tax
14 year plus the sum of all amounts allowed in prior years
15 shall not exceed 100% of the aggregate amount expended by
16 the Taxpayer during all prior tax years on approved costs
17 defined by Agreement.

18 (3) The amount of the credit shall be determined on an
19 annual basis. Except as applied in a carryover year
20 pursuant to Section 211(4) of this Act, the credit may not
21 be applied against any State income tax liability in more
22 than 10 taxable years; provided, however, that (i) an
23 eligible business certified by the Department of Commerce
24 and Economic Opportunity under the Corporate Headquarters
25 Relocation Act may not apply the credit against any of its
26 State income tax liability in more than 15 taxable years

1 and (ii) credits allowed to that eligible business are
2 subject to the conditions and requirements set forth in
3 Sections 5-35 and 5-45 of the Economic Development for a
4 Growing Economy Tax Credit Act and Section 5-51 as
5 applicable to New Construction EDGE Credits.

6 (4) The credit may not exceed the amount of taxes
7 imposed pursuant to subsections (a) and (b) of Section 201
8 of this Act. Any credit that is unused in the year the
9 credit is computed may be carried forward and applied to
10 the tax liability of the 5 taxable years following the
11 excess credit year. The credit shall be applied to the
12 earliest year for which there is a tax liability. If there
13 are credits from more than one tax year that are available
14 to offset a liability, the earlier credit shall be applied
15 first.

16 (5) No credit shall be allowed with respect to any
17 Agreement for any taxable year ending after the
18 Noncompliance Date. Upon receiving notification by the
19 Department of Commerce and Economic Opportunity of the
20 noncompliance of a Taxpayer with an Agreement, the
21 Department shall notify the Taxpayer that no credit is
22 allowed with respect to that Agreement for any taxable
23 year ending after the Noncompliance Date, as stated in
24 such notification. If any credit has been allowed with
25 respect to an Agreement for a taxable year ending after
26 the Noncompliance Date for that Agreement, any refund paid

1 to the Taxpayer for that taxable year shall, to the extent
2 of that credit allowed, be an erroneous refund within the
3 meaning of Section 912 of this Act.

4 If, during any taxable year, a taxpayer ceases
5 operations at a project location that is the subject of
6 that Agreement with the intent to terminate operations in
7 the State, the tax imposed under subsections (a) and (b)
8 of Section 201 of this Act for such taxable year shall be
9 increased by the amount of any credit allowed under the
10 Agreement for that project location prior to the date the
11 taxpayer ceases operations.

12 (6) For purposes of this Section, the terms
13 "Agreement", "Incremental Income Tax", "New Construction
14 EDGE Agreement", "New Construction EDGE Credit", "New
15 Construction EDGE Incremental Income Tax", and
16 "Noncompliance Date" have the same meaning as when used in
17 the Economic Development for a Growing Economy Tax Credit
18 Act.

19 (Source: P.A. 101-9, eff. 6-5-19.)

20 (35 ILCS 5/303) (from Ch. 120, par. 3-303)

21 Sec. 303. (a) In general. Any item of capital gain or loss,
22 and any item of income from rents or royalties from real or
23 tangible personal property, interest, dividends, and patent or
24 copyright royalties, and prizes awarded under the Illinois
25 Lottery Law, and, for taxable years ending on or after

1 December 31, 2019, wagering and gambling winnings from
2 Illinois sources as set forth in subsection (e-1) of this
3 Section, and, for taxable years ending on or after December
4 31, 2021, sports wagering and winnings from Illinois sources
5 as set forth in subsection (e-2) of this Section, to the extent
6 such item constitutes nonbusiness income, together with any
7 item of deduction directly allocable thereto, shall be
8 allocated by any person other than a resident as provided in
9 this Section.

10 (b) Capital gains and losses.

11 (1) Real property. Capital gains and losses from sales
12 or exchanges of real property are allocable to this State
13 if the property is located in this State.

14 (2) Tangible personal property. Capital gains and
15 losses from sales or exchanges of tangible personal
16 property are allocable to this State if, at the time of
17 such sale or exchange:

18 (A) The property had its situs in this State; or

19 (B) The taxpayer had its commercial domicile in
20 this State and was not taxable in the state in which
21 the property had its situs.

22 (3) Intangibles. Capital gains and losses from sales
23 or exchanges of intangible personal property are allocable
24 to this State if the taxpayer had its commercial domicile
25 in this State at the time of such sale or exchange.

26 (c) Rents and royalties.

1 (1) Real property. Rents and royalties from real
2 property are allocable to this State if the property is
3 located in this State.

4 (2) Tangible personal property. Rents and royalties
5 from tangible personal property are allocable to this
6 State:

7 (A) If and to the extent that the property is
8 utilized in this State; or

9 (B) In their entirety if, at the time such rents or
10 royalties were paid or accrued, the taxpayer had its
11 commercial domicile in this State and was not
12 organized under the laws of or taxable with respect to
13 such rents or royalties in the state in which the
14 property was utilized. The extent of utilization of
15 tangible personal property in a state is determined by
16 multiplying the rents or royalties derived from such
17 property by a fraction, the numerator of which is the
18 number of days of physical location of the property in
19 the state during the rental or royalty period in the
20 taxable year and the denominator of which is the
21 number of days of physical location of the property
22 everywhere during all rental or royalty periods in the
23 taxable year. If the physical location of the property
24 during the rental or royalty period is unknown or
25 unascertainable by the taxpayer, tangible personal
26 property is utilized in the state in which the

1 property was located at the time the rental or royalty
2 payer obtained possession.

3 (d) Patent and copyright royalties.

4 (1) Allocation. Patent and copyright royalties are
5 allocable to this State:

6 (A) If and to the extent that the patent or
7 copyright is utilized by the payer in this State; or

8 (B) If and to the extent that the patent or
9 copyright is utilized by the payer in a state in which
10 the taxpayer is not taxable with respect to such
11 royalties and, at the time such royalties were paid or
12 accrued, the taxpayer had its commercial domicile in
13 this State.

14 (2) Utilization.

15 (A) A patent is utilized in a state to the extent
16 that it is employed in production, fabrication,
17 manufacturing or other processing in the state or to
18 the extent that a patented product is produced in the
19 state. If the basis of receipts from patent royalties
20 does not permit allocation to states or if the
21 accounting procedures do not reflect states of
22 utilization, the patent is utilized in this State if
23 the taxpayer has its commercial domicile in this
24 State.

25 (B) A copyright is utilized in a state to the
26 extent that printing or other publication originates

1 in the state. If the basis of receipts from copyright
2 royalties does not permit allocation to states or if
3 the accounting procedures do not reflect states of
4 utilization, the copyright is utilized in this State
5 if the taxpayer has its commercial domicile in this
6 State.

7 (e) Illinois lottery prizes. Prizes awarded under the
8 Illinois Lottery Law are allocable to this State. Payments
9 received in taxable years ending on or after December 31,
10 2013, from the assignment of a prize under Section 13.1 of the
11 Illinois Lottery Law are allocable to this State.

12 (e-1) Wagering and gambling winnings. Payments received in
13 taxable years ending on or after December 31, 2019 of winnings
14 from pari-mutuel wagering conducted at a wagering facility
15 licensed under the Illinois Horse Racing Act of 1975 and from
16 gambling games conducted on a riverboat or in a casino or
17 organization gaming facility licensed under the Illinois
18 Gambling Act are allocable to this State.

19 (e-2) Sports wagering and winnings. Payments received in
20 taxable years ending on or after December 31, 2021 of winnings
21 from sports wagering conducted in accordance with the Sports
22 Wagering Act are allocable to this State.

23 (e-5) Unemployment benefits. Unemployment benefits paid by
24 the Illinois Department of Employment Security are allocable
25 to this State.

26 (f) Taxability in other state. For purposes of allocation

1 of income pursuant to this Section, a taxpayer is taxable in
2 another state if:

3 (1) In that state he is subject to a net income tax, a
4 franchise tax measured by net income, a franchise tax for
5 the privilege of doing business, or a corporate stock tax;
6 or

7 (2) That state has jurisdiction to subject the
8 taxpayer to a net income tax regardless of whether, in
9 fact, the state does or does not.

10 (g) Cross references.

11 (1) For allocation of interest and dividends by
12 persons other than residents, see Section 301(c)(2).

13 (2) For allocation of nonbusiness income by residents,
14 see Section 301(a).

15 (Source: P.A. 101-31, eff. 6-28-19.)

16 (35 ILCS 5/304) (from Ch. 120, par. 3-304)

17 Sec. 304. Business income of persons other than residents.

18 (a) In general. The business income of a person other than
19 a resident shall be allocated to this State if such person's
20 business income is derived solely from this State. If a person
21 other than a resident derives business income from this State
22 and one or more other states, then, for tax years ending on or
23 before December 30, 1998, and except as otherwise provided by
24 this Section, such person's business income shall be
25 apportioned to this State by multiplying the income by a

1 fraction, the numerator of which is the sum of the property
2 factor (if any), the payroll factor (if any) and 200% of the
3 sales factor (if any), and the denominator of which is 4
4 reduced by the number of factors other than the sales factor
5 which have a denominator of zero and by an additional 2 if the
6 sales factor has a denominator of zero. For tax years ending on
7 or after December 31, 1998, and except as otherwise provided
8 by this Section, persons other than residents who derive
9 business income from this State and one or more other states
10 shall compute their apportionment factor by weighting their
11 property, payroll, and sales factors as provided in subsection
12 (h) of this Section.

13 (1) Property factor.

14 (A) The property factor is a fraction, the numerator
15 of which is the average value of the person's real and
16 tangible personal property owned or rented and used in the
17 trade or business in this State during the taxable year
18 and the denominator of which is the average value of all
19 the person's real and tangible personal property owned or
20 rented and used in the trade or business during the
21 taxable year.

22 (B) Property owned by the person is valued at its
23 original cost. Property rented by the person is valued at
24 8 times the net annual rental rate. Net annual rental rate
25 is the annual rental rate paid by the person less any
26 annual rental rate received by the person from

1 sub-rentals.

2 (C) The average value of property shall be determined
3 by averaging the values at the beginning and ending of the
4 taxable year but the Director may require the averaging of
5 monthly values during the taxable year if reasonably
6 required to reflect properly the average value of the
7 person's property.

8 (2) Payroll factor.

9 (A) The payroll factor is a fraction, the numerator of
10 which is the total amount paid in this State during the
11 taxable year by the person for compensation, and the
12 denominator of which is the total compensation paid
13 everywhere during the taxable year.

14 (B) Compensation is paid in this State if:

15 (i) The individual's service is performed entirely
16 within this State;

17 (ii) The individual's service is performed both
18 within and without this State, but the service
19 performed without this State is incidental to the
20 individual's service performed within this State; or

21 (iii) For tax years ending prior to December 31,
22 2020, some of the service is performed within this
23 State and either the base of operations, or if there is
24 no base of operations, the place from which the
25 service is directed or controlled is within this
26 State, or the base of operations or the place from

1 which the service is directed or controlled is not in
2 any state in which some part of the service is
3 performed, but the individual's residence is in this
4 State. For tax years ending on or after December 31,
5 2020, compensation is paid in this State if some of the
6 individual's service is performed within this State,
7 the individual's service performed within this State
8 is nonincidental to the individual's service performed
9 without this State, and the individual's service is
10 performed within this State for more than 30 working
11 days during the tax year. The amount of compensation
12 paid in this State shall include the portion of the
13 individual's total compensation for services performed
14 on behalf of his or her employer during the tax year
15 which the number of working days spent within this
16 State during the tax year bears to the total number of
17 working days spent both within and without this State
18 during the tax year. For purposes of this paragraph:

19 (a) The term "working day" means all days
20 during the tax year in which the individual
21 performs duties on behalf of his or her employer.
22 All days in which the individual performs no
23 duties on behalf of his or her employer (e.g.,
24 weekends, vacation days, sick days, and holidays)
25 are not working days.

26 (b) A working day is spent within this State

1 if:

2 (1) the individual performs service on
3 behalf of the employer and a greater amount of
4 time on that day is spent by the individual
5 performing duties on behalf of the employer
6 within this State, without regard to time
7 spent traveling, than is spent performing
8 duties on behalf of the employer without this
9 State; or

10 (2) the only service the individual
11 performs on behalf of the employer on that day
12 is traveling to a destination within this
13 State, and the individual arrives on that day.

14 (c) Working days spent within this State do
15 not include any day in which the employee is
16 performing services in this State during a
17 disaster period solely in response to a request
18 made to his or her employer by the government of
19 this State, by any political subdivision of this
20 State, or by a person conducting business in this
21 State to perform disaster or emergency-related
22 services in this State. For purposes of this item
23 (c):

24 "Declared State disaster or emergency"
25 means a disaster or emergency event (i) for
26 which a Governor's proclamation of a state of

1 emergency has been issued or (ii) for which a
2 Presidential declaration of a federal major
3 disaster or emergency has been issued.

4 "Disaster period" means a period that
5 begins 10 days prior to the date of the
6 Governor's proclamation or the President's
7 declaration (whichever is earlier) and extends
8 for a period of 60 calendar days after the end
9 of the declared disaster or emergency period.

10 "Disaster or emergency-related services"
11 means repairing, renovating, installing,
12 building, or rendering services or conducting
13 other business activities that relate to
14 infrastructure that has been damaged,
15 impaired, or destroyed by the declared State
16 disaster or emergency.

17 "Infrastructure" means property and
18 equipment owned or used by a public utility,
19 communications network, broadband and internet
20 service provider, cable and video service
21 provider, electric or gas distribution system,
22 or water pipeline that provides service to
23 more than one customer or person, including
24 related support facilities. "Infrastructure"
25 includes, but is not limited to, real and
26 personal property such as buildings, offices,

1 power lines, cable lines, poles,
2 communications lines, pipes, structures, and
3 equipment.

4 (iv) Compensation paid to nonresident professional
5 athletes.

6 (a) General. The Illinois source income of a
7 nonresident individual who is a member of a
8 professional athletic team includes the portion of the
9 individual's total compensation for services performed
10 as a member of a professional athletic team during the
11 taxable year which the number of duty days spent
12 within this State performing services for the team in
13 any manner during the taxable year bears to the total
14 number of duty days spent both within and without this
15 State during the taxable year.

16 (b) Travel days. Travel days that do not involve
17 either a game, practice, team meeting, or other
18 similar team event are not considered duty days spent
19 in this State. However, such travel days are
20 considered in the total duty days spent both within
21 and without this State.

22 (c) Definitions. For purposes of this subpart
23 (iv):

24 (1) The term "professional athletic team"
25 includes, but is not limited to, any professional
26 baseball, basketball, football, soccer, or hockey

1 team.

2 (2) The term "member of a professional
3 athletic team" includes those employees who are
4 active players, players on the disabled list, and
5 any other persons required to travel and who
6 travel with and perform services on behalf of a
7 professional athletic team on a regular basis.
8 This includes, but is not limited to, coaches,
9 managers, and trainers.

10 (3) Except as provided in items (C) and (D) of
11 this subpart (3), the term "duty days" means all
12 days during the taxable year from the beginning of
13 the professional athletic team's official
14 pre-season training period through the last game
15 in which the team competes or is scheduled to
16 compete. Duty days shall be counted for the year
17 in which they occur, including where a team's
18 official pre-season training period through the
19 last game in which the team competes or is
20 scheduled to compete, occurs during more than one
21 tax year.

22 (A) Duty days shall also include days on
23 which a member of a professional athletic team
24 performs service for a team on a date that
25 does not fall within the foregoing period
26 (e.g., participation in instructional leagues,

1 the "All Star Game", or promotional
2 "caravans"). Performing a service for a
3 professional athletic team includes conducting
4 training and rehabilitation activities, when
5 such activities are conducted at team
6 facilities.

7 (B) Also included in duty days are game
8 days, practice days, days spent at team
9 meetings, promotional caravans, preseason
10 training camps, and days served with the team
11 through all post-season games in which the
12 team competes or is scheduled to compete.

13 (C) Duty days for any person who joins a
14 team during the period from the beginning of
15 the professional athletic team's official
16 pre-season training period through the last
17 game in which the team competes, or is
18 scheduled to compete, shall begin on the day
19 that person joins the team. Conversely, duty
20 days for any person who leaves a team during
21 this period shall end on the day that person
22 leaves the team. Where a person switches teams
23 during a taxable year, a separate duty-day
24 calculation shall be made for the period the
25 person was with each team.

26 (D) Days for which a member of a

1 professional athletic team is not compensated
2 and is not performing services for the team in
3 any manner, including days when such member of
4 a professional athletic team has been
5 suspended without pay and prohibited from
6 performing any services for the team, shall
7 not be treated as duty days.

8 (E) Days for which a member of a
9 professional athletic team is on the disabled
10 list and does not conduct rehabilitation
11 activities at facilities of the team, and is
12 not otherwise performing services for the team
13 in Illinois, shall not be considered duty days
14 spent in this State. All days on the disabled
15 list, however, are considered to be included
16 in total duty days spent both within and
17 without this State.

18 (4) The term "total compensation for services
19 performed as a member of a professional athletic
20 team" means the total compensation received during
21 the taxable year for services performed:

22 (A) from the beginning of the official
23 pre-season training period through the last
24 game in which the team competes or is
25 scheduled to compete during that taxable year;
26 and

1 (B) during the taxable year on a date
2 which does not fall within the foregoing
3 period (e.g., participation in instructional
4 leagues, the "All Star Game", or promotional
5 caravans).

6 This compensation shall include, but is not
7 limited to, salaries, wages, bonuses as described
8 in this subpart, and any other type of
9 compensation paid during the taxable year to a
10 member of a professional athletic team for
11 services performed in that year. This compensation
12 does not include strike benefits, severance pay,
13 termination pay, contract or option year buy-out
14 payments, expansion or relocation payments, or any
15 other payments not related to services performed
16 for the team.

17 For purposes of this subparagraph, "bonuses"
18 included in "total compensation for services
19 performed as a member of a professional athletic
20 team" subject to the allocation described in
21 Section 302(c)(1) are: bonuses earned as a result
22 of play (i.e., performance bonuses) during the
23 season, including bonuses paid for championship,
24 playoff or "bowl" games played by a team, or for
25 selection to all-star league or other honorary
26 positions; and bonuses paid for signing a

1 contract, unless the payment of the signing bonus
2 is not conditional upon the signee playing any
3 games for the team or performing any subsequent
4 services for the team or even making the team, the
5 signing bonus is payable separately from the
6 salary and any other compensation, and the signing
7 bonus is nonrefundable.

8 (3) Sales factor.

9 (A) The sales factor is a fraction, the numerator of
10 which is the total sales of the person in this State during
11 the taxable year, and the denominator of which is the
12 total sales of the person everywhere during the taxable
13 year.

14 (B) Sales of tangible personal property are in this
15 State if:

16 (i) The property is delivered or shipped to a
17 purchaser, other than the United States government,
18 within this State regardless of the f. o. b. point or
19 other conditions of the sale; or

20 (ii) The property is shipped from an office,
21 store, warehouse, factory or other place of storage in
22 this State and either the purchaser is the United
23 States government or the person is not taxable in the
24 state of the purchaser; provided, however, that
25 premises owned or leased by a person who has
26 independently contracted with the seller for the

1 printing of newspapers, periodicals or books shall not
2 be deemed to be an office, store, warehouse, factory
3 or other place of storage for purposes of this
4 Section. Sales of tangible personal property are not
5 in this State if the seller and purchaser would be
6 members of the same unitary business group but for the
7 fact that either the seller or purchaser is a person
8 with 80% or more of total business activity outside of
9 the United States and the property is purchased for
10 resale.

11 (B-1) Patents, copyrights, trademarks, and similar
12 items of intangible personal property.

13 (i) Gross receipts from the licensing, sale, or
14 other disposition of a patent, copyright, trademark,
15 or similar item of intangible personal property, other
16 than gross receipts governed by paragraph (B-7) of
17 this item (3), are in this State to the extent the item
18 is utilized in this State during the year the gross
19 receipts are included in gross income.

20 (ii) Place of utilization.

21 (I) A patent is utilized in a state to the
22 extent that it is employed in production,
23 fabrication, manufacturing, or other processing in
24 the state or to the extent that a patented product
25 is produced in the state. If a patent is utilized
26 in more than one state, the extent to which it is

1 utilized in any one state shall be a fraction
2 equal to the gross receipts of the licensee or
3 purchaser from sales or leases of items produced,
4 fabricated, manufactured, or processed within that
5 state using the patent and of patented items
6 produced within that state, divided by the total
7 of such gross receipts for all states in which the
8 patent is utilized.

9 (II) A copyright is utilized in a state to the
10 extent that printing or other publication
11 originates in the state. If a copyright is
12 utilized in more than one state, the extent to
13 which it is utilized in any one state shall be a
14 fraction equal to the gross receipts from sales or
15 licenses of materials printed or published in that
16 state divided by the total of such gross receipts
17 for all states in which the copyright is utilized.

18 (III) Trademarks and other items of intangible
19 personal property governed by this paragraph (B-1)
20 are utilized in the state in which the commercial
21 domicile of the licensee or purchaser is located.

22 (iii) If the state of utilization of an item of
23 property governed by this paragraph (B-1) cannot be
24 determined from the taxpayer's books and records or
25 from the books and records of any person related to the
26 taxpayer within the meaning of Section 267(b) of the

1 Internal Revenue Code, 26 U.S.C. 267, the gross
2 receipts attributable to that item shall be excluded
3 from both the numerator and the denominator of the
4 sales factor.

5 (B-2) Gross receipts from the license, sale, or other
6 disposition of patents, copyrights, trademarks, and
7 similar items of intangible personal property, other than
8 gross receipts governed by paragraph (B-7) of this item
9 (3), may be included in the numerator or denominator of
10 the sales factor only if gross receipts from licenses,
11 sales, or other disposition of such items comprise more
12 than 50% of the taxpayer's total gross receipts included
13 in gross income during the tax year and during each of the
14 2 immediately preceding tax years; provided that, when a
15 taxpayer is a member of a unitary business group, such
16 determination shall be made on the basis of the gross
17 receipts of the entire unitary business group.

18 (B-5) For taxable years ending on or after December
19 31, 2008, except as provided in subsections (ii) through
20 (vii), receipts from the sale of telecommunications
21 service or mobile telecommunications service are in this
22 State if the customer's service address is in this State.

23 (i) For purposes of this subparagraph (B-5), the
24 following terms have the following meanings:

25 "Ancillary services" means services that are
26 associated with or incidental to the provision of

1 "telecommunications services", including, but not
2 limited to, "detailed telecommunications billing",
3 "directory assistance", "vertical service", and "voice
4 mail services".

5 "Air-to-Ground Radiotelephone service" means a
6 radio service, as that term is defined in 47 CFR 22.99,
7 in which common carriers are authorized to offer and
8 provide radio telecommunications service for hire to
9 subscribers in aircraft.

10 "Call-by-call Basis" means any method of charging
11 for telecommunications services where the price is
12 measured by individual calls.

13 "Communications Channel" means a physical or
14 virtual path of communications over which signals are
15 transmitted between or among customer channel
16 termination points.

17 "Conference bridging service" means an "ancillary
18 service" that links two or more participants of an
19 audio or video conference call and may include the
20 provision of a telephone number. "Conference bridging
21 service" does not include the "telecommunications
22 services" used to reach the conference bridge.

23 "Customer Channel Termination Point" means the
24 location where the customer either inputs or receives
25 the communications.

26 "Detailed telecommunications billing service"

1 means an "ancillary service" of separately stating
2 information pertaining to individual calls on a
3 customer's billing statement.

4 "Directory assistance" means an "ancillary
5 service" of providing telephone number information,
6 and/or address information.

7 "Home service provider" means the facilities based
8 carrier or reseller with which the customer contracts
9 for the provision of mobile telecommunications
10 services.

11 "Mobile telecommunications service" means
12 commercial mobile radio service, as defined in Section
13 20.3 of Title 47 of the Code of Federal Regulations as
14 in effect on June 1, 1999.

15 "Place of primary use" means the street address
16 representative of where the customer's use of the
17 telecommunications service primarily occurs, which
18 must be the residential street address or the primary
19 business street address of the customer. In the case
20 of mobile telecommunications services, "place of
21 primary use" must be within the licensed service area
22 of the home service provider.

23 "Post-paid telecommunication service" means the
24 telecommunications service obtained by making a
25 payment on a call-by-call basis either through the use
26 of a credit card or payment mechanism such as a bank

1 card, travel card, credit card, or debit card, or by
2 charge made to a telephone number which is not
3 associated with the origination or termination of the
4 telecommunications service. A post-paid calling
5 service includes telecommunications service, except a
6 prepaid wireless calling service, that would be a
7 prepaid calling service except it is not exclusively a
8 telecommunication service.

9 "Prepaid telecommunication service" means the
10 right to access exclusively telecommunications
11 services, which must be paid for in advance and which
12 enables the origination of calls using an access
13 number or authorization code, whether manually or
14 electronically dialed, and that is sold in
15 predetermined units or dollars of which the number
16 declines with use in a known amount.

17 "Prepaid Mobile telecommunication service" means a
18 telecommunications service that provides the right to
19 utilize mobile wireless service as well as other
20 non-telecommunication services, including, but not
21 limited to, ancillary services, which must be paid for
22 in advance that is sold in predetermined units or
23 dollars of which the number declines with use in a
24 known amount.

25 "Private communication service" means a
26 telecommunication service that entitles the customer

1 to exclusive or priority use of a communications
2 channel or group of channels between or among
3 termination points, regardless of the manner in which
4 such channel or channels are connected, and includes
5 switching capacity, extension lines, stations, and any
6 other associated services that are provided in
7 connection with the use of such channel or channels.

8 "Service address" means:

9 (a) The location of the telecommunications
10 equipment to which a customer's call is charged
11 and from which the call originates or terminates,
12 regardless of where the call is billed or paid;

13 (b) If the location in line (a) is not known,
14 service address means the origination point of the
15 signal of the telecommunications services first
16 identified by either the seller's
17 telecommunications system or in information
18 received by the seller from its service provider
19 where the system used to transport such signals is
20 not that of the seller; and

21 (c) If the locations in line (a) and line (b)
22 are not known, the service address means the
23 location of the customer's place of primary use.

24 "Telecommunications service" means the electronic
25 transmission, conveyance, or routing of voice, data,
26 audio, video, or any other information or signals to a

1 point, or between or among points. The term
2 "telecommunications service" includes such
3 transmission, conveyance, or routing in which computer
4 processing applications are used to act on the form,
5 code or protocol of the content for purposes of
6 transmission, conveyance or routing without regard to
7 whether such service is referred to as voice over
8 Internet protocol services or is classified by the
9 Federal Communications Commission as enhanced or value
10 added. "Telecommunications service" does not include:

11 (a) Data processing and information services
12 that allow data to be generated, acquired, stored,
13 processed, or retrieved and delivered by an
14 electronic transmission to a purchaser when such
15 purchaser's primary purpose for the underlying
16 transaction is the processed data or information;

17 (b) Installation or maintenance of wiring or
18 equipment on a customer's premises;

19 (c) Tangible personal property;

20 (d) Advertising, including, but not limited
21 to directory advertising;

22 (e) Billing and collection services provided
23 to third parties;

24 (f) Internet access service;

25 (g) Radio and television audio and video
26 programming services, regardless of the medium,

1 including the furnishing of transmission,
2 conveyance and routing of such services by the
3 programming service provider. Radio and television
4 audio and video programming services shall
5 include, but not be limited to, cable service as
6 defined in 47 USC 522(6) and audio and video
7 programming services delivered by commercial
8 mobile radio service providers, as defined in 47
9 CFR 20.3;

10 (h) "Ancillary services"; or

11 (i) Digital products "delivered
12 electronically", including, but not limited to,
13 software, music, video, reading materials or ring
14 tones.

15 "Vertical service" means an "ancillary service"
16 that is offered in connection with one or more
17 "telecommunications services", which offers advanced
18 calling features that allow customers to identify
19 callers and to manage multiple calls and call
20 connections, including "conference bridging services".

21 "Voice mail service" means an "ancillary service"
22 that enables the customer to store, send or receive
23 recorded messages. "Voice mail service" does not
24 include any "vertical services" that the customer may
25 be required to have in order to utilize the "voice mail
26 service".

1 (ii) Receipts from the sale of telecommunications
2 service sold on an individual call-by-call basis are
3 in this State if either of the following applies:

4 (a) The call both originates and terminates in
5 this State.

6 (b) The call either originates or terminates
7 in this State and the service address is located
8 in this State.

9 (iii) Receipts from the sale of postpaid
10 telecommunications service at retail are in this State
11 if the origination point of the telecommunication
12 signal, as first identified by the service provider's
13 telecommunication system or as identified by
14 information received by the seller from its service
15 provider if the system used to transport
16 telecommunication signals is not the seller's, is
17 located in this State.

18 (iv) Receipts from the sale of prepaid
19 telecommunications service or prepaid mobile
20 telecommunications service at retail are in this State
21 if the purchaser obtains the prepaid card or similar
22 means of conveyance at a location in this State.
23 Receipts from recharging a prepaid telecommunications
24 service or mobile telecommunications service is in
25 this State if the purchaser's billing information
26 indicates a location in this State.

1 (v) Receipts from the sale of private
2 communication services are in this State as follows:

3 (a) 100% of receipts from charges imposed at
4 each channel termination point in this State.

5 (b) 100% of receipts from charges for the
6 total channel mileage between each channel
7 termination point in this State.

8 (c) 50% of the total receipts from charges for
9 service segments when those segments are between 2
10 customer channel termination points, 1 of which is
11 located in this State and the other is located
12 outside of this State, which segments are
13 separately charged.

14 (d) The receipts from charges for service
15 segments with a channel termination point located
16 in this State and in two or more other states, and
17 which segments are not separately billed, are in
18 this State based on a percentage determined by
19 dividing the number of customer channel
20 termination points in this State by the total
21 number of customer channel termination points.

22 (vi) Receipts from charges for ancillary services
23 for telecommunications service sold to customers at
24 retail are in this State if the customer's primary
25 place of use of telecommunications services associated
26 with those ancillary services is in this State. If the

1 seller of those ancillary services cannot determine
2 where the associated telecommunications are located,
3 then the ancillary services shall be based on the
4 location of the purchaser.

5 (vii) Receipts to access a carrier's network or
6 from the sale of telecommunication services or
7 ancillary services for resale are in this State as
8 follows:

9 (a) 100% of the receipts from access fees
10 attributable to intrastate telecommunications
11 service that both originates and terminates in
12 this State.

13 (b) 50% of the receipts from access fees
14 attributable to interstate telecommunications
15 service if the interstate call either originates
16 or terminates in this State.

17 (c) 100% of the receipts from interstate end
18 user access line charges, if the customer's
19 service address is in this State. As used in this
20 subdivision, "interstate end user access line
21 charges" includes, but is not limited to, the
22 surcharge approved by the federal communications
23 commission and levied pursuant to 47 CFR 69.

24 (d) Gross receipts from sales of
25 telecommunication services or from ancillary
26 services for telecommunications services sold to

1 other telecommunication service providers for
2 resale shall be sourced to this State using the
3 apportionment concepts used for non-resale
4 receipts of telecommunications services if the
5 information is readily available to make that
6 determination. If the information is not readily
7 available, then the taxpayer may use any other
8 reasonable and consistent method.

9 (B-7) For taxable years ending on or after December
10 31, 2008, receipts from the sale of broadcasting services
11 are in this State if the broadcasting services are
12 received in this State. For purposes of this paragraph
13 (B-7), the following terms have the following meanings:

14 "Advertising revenue" means consideration received
15 by the taxpayer in exchange for broadcasting services
16 or allowing the broadcasting of commercials or
17 announcements in connection with the broadcasting of
18 film or radio programming, from sponsorships of the
19 programming, or from product placements in the
20 programming.

21 "Audience factor" means the ratio that the
22 audience or subscribers located in this State of a
23 station, a network, or a cable system bears to the
24 total audience or total subscribers for that station,
25 network, or cable system. The audience factor for film
26 or radio programming shall be determined by reference

1 to the books and records of the taxpayer or by
2 reference to published rating statistics provided the
3 method used by the taxpayer is consistently used from
4 year to year for this purpose and fairly represents
5 the taxpayer's activity in this State.

6 "Broadcast" or "broadcasting" or "broadcasting
7 services" means the transmission or provision of film
8 or radio programming, whether through the public
9 airwaves, by cable, by direct or indirect satellite
10 transmission, or by any other means of communication,
11 either through a station, a network, or a cable
12 system.

13 "Film" or "film programming" means the broadcast
14 on television of any and all performances, events, or
15 productions, including, but not limited to, news,
16 sporting events, plays, stories, or other literary,
17 commercial, educational, or artistic works, either
18 live or through the use of video tape, disc, or any
19 other type of format or medium. Each episode of a
20 series of films produced for television shall
21 constitute separate "film" notwithstanding that the
22 series relates to the same principal subject and is
23 produced during one or more tax periods.

24 "Radio" or "radio programming" means the broadcast
25 on radio of any and all performances, events, or
26 productions, including, but not limited to, news,

1 sporting events, plays, stories, or other literary,
2 commercial, educational, or artistic works, either
3 live or through the use of an audio tape, disc, or any
4 other format or medium. Each episode in a series of
5 radio programming produced for radio broadcast shall
6 constitute a separate "radio programming"
7 notwithstanding that the series relates to the same
8 principal subject and is produced during one or more
9 tax periods.

10 (i) In the case of advertising revenue from
11 broadcasting, the customer is the advertiser and
12 the service is received in this State if the
13 commercial domicile of the advertiser is in this
14 State.

15 (ii) In the case where film or radio
16 programming is broadcast by a station, a network,
17 or a cable system for a fee or other remuneration
18 received from the recipient of the broadcast, the
19 portion of the service that is received in this
20 State is measured by the portion of the recipients
21 of the broadcast located in this State.
22 Accordingly, the fee or other remuneration for
23 such service that is included in the Illinois
24 numerator of the sales factor is the total of
25 those fees or other remuneration received from
26 recipients in Illinois. For purposes of this

1 paragraph, a taxpayer may determine the location
2 of the recipients of its broadcast using the
3 address of the recipient shown in its contracts
4 with the recipient or using the billing address of
5 the recipient in the taxpayer's records.

6 (iii) In the case where film or radio
7 programming is broadcast by a station, a network,
8 or a cable system for a fee or other remuneration
9 from the person providing the programming, the
10 portion of the broadcast service that is received
11 by such station, network, or cable system in this
12 State is measured by the portion of recipients of
13 the broadcast located in this State. Accordingly,
14 the amount of revenue related to such an
15 arrangement that is included in the Illinois
16 numerator of the sales factor is the total fee or
17 other total remuneration from the person providing
18 the programming related to that broadcast
19 multiplied by the Illinois audience factor for
20 that broadcast.

21 (iv) In the case where film or radio
22 programming is provided by a taxpayer that is a
23 network or station to a customer for broadcast in
24 exchange for a fee or other remuneration from that
25 customer the broadcasting service is received at
26 the location of the office of the customer from

1 which the services were ordered in the regular
2 course of the customer's trade or business.
3 Accordingly, in such a case the revenue derived by
4 the taxpayer that is included in the taxpayer's
5 Illinois numerator of the sales factor is the
6 revenue from such customers who receive the
7 broadcasting service in Illinois.

8 (v) In the case where film or radio
9 programming is provided by a taxpayer that is not
10 a network or station to another person for
11 broadcasting in exchange for a fee or other
12 remuneration from that person, the broadcasting
13 service is received at the location of the office
14 of the customer from which the services were
15 ordered in the regular course of the customer's
16 trade or business. Accordingly, in such a case the
17 revenue derived by the taxpayer that is included
18 in the taxpayer's Illinois numerator of the sales
19 factor is the revenue from such customers who
20 receive the broadcasting service in Illinois.

21 (B-8) Gross receipts from winnings under the Illinois
22 Lottery Law from the assignment of a prize under Section
23 13.1 of the Illinois Lottery Law are received in this
24 State. This paragraph (B-8) applies only to taxable years
25 ending on or after December 31, 2013.

26 (B-9) For taxable years ending on or after December

1 31, 2019, gross receipts from winnings from pari-mutuel
2 wagering conducted at a wagering facility licensed under
3 the Illinois Horse Racing Act of 1975 or from winnings
4 from gambling games conducted on a riverboat or in a
5 casino or organization gaming facility licensed under the
6 Illinois Gambling Act are in this State.

7 (B-10) For taxable years ending on or after December
8 31, 2021, gross receipts from winnings from sports
9 wagering conducted in accordance with the Sports Wagering
10 Act are in this State.

11 (C) For taxable years ending before December 31, 2008,
12 sales, other than sales governed by paragraphs (B), (B-1),
13 (B-2), and (B-8) are in this State if:

14 (i) The income-producing activity is performed in
15 this State; or

16 (ii) The income-producing activity is performed
17 both within and without this State and a greater
18 proportion of the income-producing activity is
19 performed within this State than without this State,
20 based on performance costs.

21 (C-5) For taxable years ending on or after December
22 31, 2008, sales, other than sales governed by paragraphs
23 (B), (B-1), (B-2), (B-5), and (B-7), are in this State if
24 any of the following criteria are met:

25 (i) Sales from the sale or lease of real property
26 are in this State if the property is located in this

1 State.

2 (ii) Sales from the lease or rental of tangible
3 personal property are in this State if the property is
4 located in this State during the rental period. Sales
5 from the lease or rental of tangible personal property
6 that is characteristically moving property, including,
7 but not limited to, motor vehicles, rolling stock,
8 aircraft, vessels, or mobile equipment are in this
9 State to the extent that the property is used in this
10 State.

11 (iii) In the case of interest, net gains (but not
12 less than zero) and other items of income from
13 intangible personal property, the sale is in this
14 State if:

15 (a) in the case of a taxpayer who is a dealer
16 in the item of intangible personal property within
17 the meaning of Section 475 of the Internal Revenue
18 Code, the income or gain is received from a
19 customer in this State. For purposes of this
20 subparagraph, a customer is in this State if the
21 customer is an individual, trust or estate who is
22 a resident of this State and, for all other
23 customers, if the customer's commercial domicile
24 is in this State. Unless the dealer has actual
25 knowledge of the residence or commercial domicile
26 of a customer during a taxable year, the customer

1 shall be deemed to be a customer in this State if
2 the billing address of the customer, as shown in
3 the records of the dealer, is in this State; or

4 (b) in all other cases, if the
5 income-producing activity of the taxpayer is
6 performed in this State or, if the
7 income-producing activity of the taxpayer is
8 performed both within and without this State, if a
9 greater proportion of the income-producing
10 activity of the taxpayer is performed within this
11 State than in any other state, based on
12 performance costs.

13 (iv) Sales of services are in this State if the
14 services are received in this State. For the purposes
15 of this section, gross receipts from the performance
16 of services provided to a corporation, partnership, or
17 trust may only be attributed to a state where that
18 corporation, partnership, or trust has a fixed place
19 of business. If the state where the services are
20 received is not readily determinable or is a state
21 where the corporation, partnership, or trust receiving
22 the service does not have a fixed place of business,
23 the services shall be deemed to be received at the
24 location of the office of the customer from which the
25 services were ordered in the regular course of the
26 customer's trade or business. If the ordering office

1 cannot be determined, the services shall be deemed to
2 be received at the office of the customer to which the
3 services are billed. If the taxpayer is not taxable in
4 the state in which the services are received, the sale
5 must be excluded from both the numerator and the
6 denominator of the sales factor. The Department shall
7 adopt rules prescribing where specific types of
8 service are received, including, but not limited to,
9 publishing, and utility service.

10 (D) For taxable years ending on or after December 31,
11 1995, the following items of income shall not be included
12 in the numerator or denominator of the sales factor:
13 dividends; amounts included under Section 78 of the
14 Internal Revenue Code; and Subpart F income as defined in
15 Section 952 of the Internal Revenue Code. No inference
16 shall be drawn from the enactment of this paragraph (D) in
17 construing this Section for taxable years ending before
18 December 31, 1995.

19 (E) Paragraphs (B-1) and (B-2) shall apply to tax
20 years ending on or after December 31, 1999, provided that
21 a taxpayer may elect to apply the provisions of these
22 paragraphs to prior tax years. Such election shall be made
23 in the form and manner prescribed by the Department, shall
24 be irrevocable, and shall apply to all tax years; provided
25 that, if a taxpayer's Illinois income tax liability for
26 any tax year, as assessed under Section 903 prior to

1 January 1, 1999, was computed in a manner contrary to the
2 provisions of paragraphs (B-1) or (B-2), no refund shall
3 be payable to the taxpayer for that tax year to the extent
4 such refund is the result of applying the provisions of
5 paragraph (B-1) or (B-2) retroactively. In the case of a
6 unitary business group, such election shall apply to all
7 members of such group for every tax year such group is in
8 existence, but shall not apply to any taxpayer for any
9 period during which that taxpayer is not a member of such
10 group.

11 (b) Insurance companies.

12 (1) In general. Except as otherwise provided by
13 paragraph (2), business income of an insurance company for
14 a taxable year shall be apportioned to this State by
15 multiplying such income by a fraction, the numerator of
16 which is the direct premiums written for insurance upon
17 property or risk in this State, and the denominator of
18 which is the direct premiums written for insurance upon
19 property or risk everywhere. For purposes of this
20 subsection, the term "direct premiums written" means the
21 total amount of direct premiums written, assessments and
22 annuity considerations as reported for the taxable year on
23 the annual statement filed by the company with the
24 Illinois Director of Insurance in the form approved by the
25 National Convention of Insurance Commissioners or such
26 other form as may be prescribed in lieu thereof.

1 (2) Reinsurance. If the principal source of premiums
2 written by an insurance company consists of premiums for
3 reinsurance accepted by it, the business income of such
4 company shall be apportioned to this State by multiplying
5 such income by a fraction, the numerator of which is the
6 sum of (i) direct premiums written for insurance upon
7 property or risk in this State, plus (ii) premiums written
8 for reinsurance accepted in respect of property or risk in
9 this State, and the denominator of which is the sum of
10 (iii) direct premiums written for insurance upon property
11 or risk everywhere, plus (iv) premiums written for
12 reinsurance accepted in respect of property or risk
13 everywhere. For purposes of this paragraph, premiums
14 written for reinsurance accepted in respect of property or
15 risk in this State, whether or not otherwise determinable,
16 may, at the election of the company, be determined on the
17 basis of the proportion which premiums written for
18 reinsurance accepted from companies commercially domiciled
19 in Illinois bears to premiums written for reinsurance
20 accepted from all sources, or, alternatively, in the
21 proportion which the sum of the direct premiums written
22 for insurance upon property or risk in this State by each
23 ceding company from which reinsurance is accepted bears to
24 the sum of the total direct premiums written by each such
25 ceding company for the taxable year. The election made by
26 a company under this paragraph for its first taxable year

1 ending on or after December 31, 2011, shall be binding for
2 that company for that taxable year and for all subsequent
3 taxable years, and may be altered only with the written
4 permission of the Department, which shall not be
5 unreasonably withheld.

6 (c) Financial organizations.

7 (1) In general. For taxable years ending before
8 December 31, 2008, business income of a financial
9 organization shall be apportioned to this State by
10 multiplying such income by a fraction, the numerator of
11 which is its business income from sources within this
12 State, and the denominator of which is its business income
13 from all sources. For the purposes of this subsection, the
14 business income of a financial organization from sources
15 within this State is the sum of the amounts referred to in
16 subparagraphs (A) through (E) following, but excluding the
17 adjusted income of an international banking facility as
18 determined in paragraph (2):

19 (A) Fees, commissions or other compensation for
20 financial services rendered within this State;

21 (B) Gross profits from trading in stocks, bonds or
22 other securities managed within this State;

23 (C) Dividends, and interest from Illinois
24 customers, which are received within this State;

25 (D) Interest charged to customers at places of
26 business maintained within this State for carrying

1 debit balances of margin accounts, without deduction
2 of any costs incurred in carrying such accounts; and

3 (E) Any other gross income resulting from the
4 operation as a financial organization within this
5 State.

6 In computing the amounts referred to in paragraphs (A)
7 through (E) of this subsection, any amount received by a
8 member of an affiliated group (determined under Section
9 1504(a) of the Internal Revenue Code but without reference
10 to whether any such corporation is an "includible
11 corporation" under Section 1504(b) of the Internal Revenue
12 Code) from another member of such group shall be included
13 only to the extent such amount exceeds expenses of the
14 recipient directly related thereto.

15 (2) International Banking Facility. For taxable years
16 ending before December 31, 2008:

17 (A) Adjusted Income. The adjusted income of an
18 international banking facility is its income reduced
19 by the amount of the floor amount.

20 (B) Floor Amount. The floor amount shall be the
21 amount, if any, determined by multiplying the income
22 of the international banking facility by a fraction,
23 not greater than one, which is determined as follows:

24 (i) The numerator shall be:

25 The average aggregate, determined on a
26 quarterly basis, of the financial organization's

1 loans to banks in foreign countries, to foreign
2 domiciled borrowers (except where secured
3 primarily by real estate) and to foreign
4 governments and other foreign official
5 institutions, as reported for its branches,
6 agencies and offices within the state on its
7 "Consolidated Report of Condition", Schedule A,
8 Lines 2.c., 5.b., and 7.a., which was filed with
9 the Federal Deposit Insurance Corporation and
10 other regulatory authorities, for the year 1980,
11 minus

12 The average aggregate, determined on a
13 quarterly basis, of such loans (other than loans
14 of an international banking facility), as reported
15 by the financial institution for its branches,
16 agencies and offices within the state, on the
17 corresponding Schedule and lines of the
18 Consolidated Report of Condition for the current
19 taxable year, provided, however, that in no case
20 shall the amount determined in this clause (the
21 subtrahend) exceed the amount determined in the
22 preceding clause (the minuend); and

23 (ii) the denominator shall be the average
24 aggregate, determined on a quarterly basis, of the
25 international banking facility's loans to banks in
26 foreign countries, to foreign domiciled borrowers

1 (except where secured primarily by real estate)
2 and to foreign governments and other foreign
3 official institutions, which were recorded in its
4 financial accounts for the current taxable year.

5 (C) Change to Consolidated Report of Condition and
6 in Qualification. In the event the Consolidated Report
7 of Condition which is filed with the Federal Deposit
8 Insurance Corporation and other regulatory authorities
9 is altered so that the information required for
10 determining the floor amount is not found on Schedule
11 A, lines 2.c., 5.b. and 7.a., the financial
12 institution shall notify the Department and the
13 Department may, by regulations or otherwise, prescribe
14 or authorize the use of an alternative source for such
15 information. The financial institution shall also
16 notify the Department should its international banking
17 facility fail to qualify as such, in whole or in part,
18 or should there be any amendment or change to the
19 Consolidated Report of Condition, as originally filed,
20 to the extent such amendment or change alters the
21 information used in determining the floor amount.

22 (3) For taxable years ending on or after December 31,
23 2008, the business income of a financial organization
24 shall be apportioned to this State by multiplying such
25 income by a fraction, the numerator of which is its gross
26 receipts from sources in this State or otherwise

1 attributable to this State's marketplace and the
2 denominator of which is its gross receipts everywhere
3 during the taxable year. "Gross receipts" for purposes of
4 this subparagraph (3) means gross income, including net
5 taxable gain on disposition of assets, including
6 securities and money market instruments, when derived from
7 transactions and activities in the regular course of the
8 financial organization's trade or business. The following
9 examples are illustrative:

10 (i) Receipts from the lease or rental of real or
11 tangible personal property are in this State if the
12 property is located in this State during the rental
13 period. Receipts from the lease or rental of tangible
14 personal property that is characteristically moving
15 property, including, but not limited to, motor
16 vehicles, rolling stock, aircraft, vessels, or mobile
17 equipment are from sources in this State to the extent
18 that the property is used in this State.

19 (ii) Interest income, commissions, fees, gains on
20 disposition, and other receipts from assets in the
21 nature of loans that are secured primarily by real
22 estate or tangible personal property are from sources
23 in this State if the security is located in this State.

24 (iii) Interest income, commissions, fees, gains on
25 disposition, and other receipts from consumer loans
26 that are not secured by real or tangible personal

1 property are from sources in this State if the debtor
2 is a resident of this State.

3 (iv) Interest income, commissions, fees, gains on
4 disposition, and other receipts from commercial loans
5 and installment obligations that are not secured by
6 real or tangible personal property are from sources in
7 this State if the proceeds of the loan are to be
8 applied in this State. If it cannot be determined
9 where the funds are to be applied, the income and
10 receipts are from sources in this State if the office
11 of the borrower from which the loan was negotiated in
12 the regular course of business is located in this
13 State. If the location of this office cannot be
14 determined, the income and receipts shall be excluded
15 from the numerator and denominator of the sales
16 factor.

17 (v) Interest income, fees, gains on disposition,
18 service charges, merchant discount income, and other
19 receipts from credit card receivables are from sources
20 in this State if the card charges are regularly billed
21 to a customer in this State.

22 (vi) Receipts from the performance of services,
23 including, but not limited to, fiduciary, advisory,
24 and brokerage services, are in this State if the
25 services are received in this State within the meaning
26 of subparagraph (a) (3) (C-5) (iv) of this Section.

1 (vii) Receipts from the issuance of travelers
2 checks and money orders are from sources in this State
3 if the checks and money orders are issued from a
4 location within this State.

5 (viii) Receipts from investment assets and
6 activities and trading assets and activities are
7 included in the receipts factor as follows:

8 (1) Interest, dividends, net gains (but not
9 less than zero) and other income from investment
10 assets and activities from trading assets and
11 activities shall be included in the receipts
12 factor. Investment assets and activities and
13 trading assets and activities include, but are not
14 limited to: investment securities; trading account
15 assets; federal funds; securities purchased and
16 sold under agreements to resell or repurchase;
17 options; futures contracts; forward contracts;
18 notional principal contracts such as swaps;
19 equities; and foreign currency transactions. With
20 respect to the investment and trading assets and
21 activities described in subparagraphs (A) and (B)
22 of this paragraph, the receipts factor shall
23 include the amounts described in such
24 subparagraphs.

25 (A) The receipts factor shall include the
26 amount by which interest from federal funds

1 sold and securities purchased under resale
2 agreements exceeds interest expense on federal
3 funds purchased and securities sold under
4 repurchase agreements.

5 (B) The receipts factor shall include the
6 amount by which interest, dividends, gains and
7 other income from trading assets and
8 activities, including, but not limited to,
9 assets and activities in the matched book, in
10 the arbitrage book, and foreign currency
11 transactions, exceed amounts paid in lieu of
12 interest, amounts paid in lieu of dividends,
13 and losses from such assets and activities.

14 (2) The numerator of the receipts factor
15 includes interest, dividends, net gains (but not
16 less than zero), and other income from investment
17 assets and activities and from trading assets and
18 activities described in paragraph (1) of this
19 subsection that are attributable to this State.

20 (A) The amount of interest, dividends, net
21 gains (but not less than zero), and other
22 income from investment assets and activities
23 in the investment account to be attributed to
24 this State and included in the numerator is
25 determined by multiplying all such income from
26 such assets and activities by a fraction, the

1 numerator of which is the gross income from
2 such assets and activities which are properly
3 assigned to a fixed place of business of the
4 taxpayer within this State and the denominator
5 of which is the gross income from all such
6 assets and activities.

7 (B) The amount of interest from federal
8 funds sold and purchased and from securities
9 purchased under resale agreements and
10 securities sold under repurchase agreements
11 attributable to this State and included in the
12 numerator is determined by multiplying the
13 amount described in subparagraph (A) of
14 paragraph (1) of this subsection from such
15 funds and such securities by a fraction, the
16 numerator of which is the gross income from
17 such funds and such securities which are
18 properly assigned to a fixed place of business
19 of the taxpayer within this State and the
20 denominator of which is the gross income from
21 all such funds and such securities.

22 (C) The amount of interest, dividends,
23 gains, and other income from trading assets
24 and activities, including, but not limited to,
25 assets and activities in the matched book, in
26 the arbitrage book and foreign currency

1 transactions (but excluding amounts described
2 in subparagraphs (A) or (B) of this
3 paragraph), attributable to this State and
4 included in the numerator is determined by
5 multiplying the amount described in
6 subparagraph (B) of paragraph (1) of this
7 subsection by a fraction, the numerator of
8 which is the gross income from such trading
9 assets and activities which are properly
10 assigned to a fixed place of business of the
11 taxpayer within this State and the denominator
12 of which is the gross income from all such
13 assets and activities.

14 (D) Properly assigned, for purposes of
15 this paragraph (2) of this subsection, means
16 the investment or trading asset or activity is
17 assigned to the fixed place of business with
18 which it has a preponderance of substantive
19 contacts. An investment or trading asset or
20 activity assigned by the taxpayer to a fixed
21 place of business without the State shall be
22 presumed to have been properly assigned if:

23 (i) the taxpayer has assigned, in the
24 regular course of its business, such asset
25 or activity on its records to a fixed
26 place of business consistent with federal

1 or state regulatory requirements;

2 (ii) such assignment on its records is
3 based upon substantive contacts of the
4 asset or activity to such fixed place of
5 business; and

6 (iii) the taxpayer uses such records
7 reflecting assignment of such assets or
8 activities for the filing of all state and
9 local tax returns for which an assignment
10 of such assets or activities to a fixed
11 place of business is required.

12 (E) The presumption of proper assignment
13 of an investment or trading asset or activity
14 provided in subparagraph (D) of paragraph (2)
15 of this subsection may be rebutted upon a
16 showing by the Department, supported by a
17 preponderance of the evidence, that the
18 preponderance of substantive contacts
19 regarding such asset or activity did not occur
20 at the fixed place of business to which it was
21 assigned on the taxpayer's records. If the
22 fixed place of business that has a
23 preponderance of substantive contacts cannot
24 be determined for an investment or trading
25 asset or activity to which the presumption in
26 subparagraph (D) of paragraph (2) of this

1 subsection does not apply or with respect to
2 which that presumption has been rebutted, that
3 asset or activity is properly assigned to the
4 state in which the taxpayer's commercial
5 domicile is located. For purposes of this
6 subparagraph (E), it shall be presumed,
7 subject to rebuttal, that taxpayer's
8 commercial domicile is in the state of the
9 United States or the District of Columbia to
10 which the greatest number of employees are
11 regularly connected with the management of the
12 investment or trading income or out of which
13 they are working, irrespective of where the
14 services of such employees are performed, as
15 of the last day of the taxable year.

16 (4) (Blank).

17 (5) (Blank).

18 (c-1) Federally regulated exchanges. For taxable years
19 ending on or after December 31, 2012, business income of a
20 federally regulated exchange shall, at the option of the
21 federally regulated exchange, be apportioned to this State by
22 multiplying such income by a fraction, the numerator of which
23 is its business income from sources within this State, and the
24 denominator of which is its business income from all sources.
25 For purposes of this subsection, the business income within
26 this State of a federally regulated exchange is the sum of the

1 following:

2 (1) Receipts attributable to transactions executed on
3 a physical trading floor if that physical trading floor is
4 located in this State.

5 (2) Receipts attributable to all other matching,
6 execution, or clearing transactions, including without
7 limitation receipts from the provision of matching,
8 execution, or clearing services to another entity,
9 multiplied by (i) for taxable years ending on or after
10 December 31, 2012 but before December 31, 2013, 63.77%;
11 and (ii) for taxable years ending on or after December 31,
12 2013, 27.54%.

13 (3) All other receipts not governed by subparagraphs
14 (1) or (2) of this subsection (c-1), to the extent the
15 receipts would be characterized as "sales in this State"
16 under item (3) of subsection (a) of this Section.

17 "Federally regulated exchange" means (i) a "registered
18 entity" within the meaning of 7 U.S.C. Section 1a(40) (A), (B),
19 or (C), (ii) an "exchange" or "clearing agency" within the
20 meaning of 15 U.S.C. Section 78c (a) (1) or (23), (iii) any such
21 entities regulated under any successor regulatory structure to
22 the foregoing, and (iv) all taxpayers who are members of the
23 same unitary business group as a federally regulated exchange,
24 determined without regard to the prohibition in Section
25 1501(a) (27) of this Act against including in a unitary
26 business group taxpayers who are ordinarily required to

1 apportion business income under different subsections of this
2 Section; provided that this subparagraph (iv) shall apply only
3 if 50% or more of the business receipts of the unitary business
4 group determined by application of this subparagraph (iv) for
5 the taxable year are attributable to the matching, execution,
6 or clearing of transactions conducted by an entity described
7 in subparagraph (i), (ii), or (iii) of this paragraph.

8 In no event shall the Illinois apportionment percentage
9 computed in accordance with this subsection (c-1) for any
10 taxpayer for any tax year be less than the Illinois
11 apportionment percentage computed under this subsection (c-1)
12 for that taxpayer for the first full tax year ending on or
13 after December 31, 2013 for which this subsection (c-1)
14 applied to the taxpayer.

15 (d) Transportation services. For taxable years ending
16 before December 31, 2008, business income derived from
17 furnishing transportation services shall be apportioned to
18 this State in accordance with paragraphs (1) and (2):

19 (1) Such business income (other than that derived from
20 transportation by pipeline) shall be apportioned to this
21 State by multiplying such income by a fraction, the
22 numerator of which is the revenue miles of the person in
23 this State, and the denominator of which is the revenue
24 miles of the person everywhere. For purposes of this
25 paragraph, a revenue mile is the transportation of 1
26 passenger or 1 net ton of freight the distance of 1 mile

1 for a consideration. Where a person is engaged in the
2 transportation of both passengers and freight, the
3 fraction above referred to shall be determined by means of
4 an average of the passenger revenue mile fraction and the
5 freight revenue mile fraction, weighted to reflect the
6 person's

7 (A) relative railway operating income from total
8 passenger and total freight service, as reported to
9 the Interstate Commerce Commission, in the case of
10 transportation by railroad, and

11 (B) relative gross receipts from passenger and
12 freight transportation, in case of transportation
13 other than by railroad.

14 (2) Such business income derived from transportation
15 by pipeline shall be apportioned to this State by
16 multiplying such income by a fraction, the numerator of
17 which is the revenue miles of the person in this State, and
18 the denominator of which is the revenue miles of the
19 person everywhere. For the purposes of this paragraph, a
20 revenue mile is the transportation by pipeline of 1 barrel
21 of oil, 1,000 cubic feet of gas, or of any specified
22 quantity of any other substance, the distance of 1 mile
23 for a consideration.

24 (3) For taxable years ending on or after December 31,
25 2008, business income derived from providing
26 transportation services other than airline services shall

1 be apportioned to this State by using a fraction, (a) the
2 numerator of which shall be (i) all receipts from any
3 movement or shipment of people, goods, mail, oil, gas, or
4 any other substance (other than by airline) that both
5 originates and terminates in this State, plus (ii) that
6 portion of the person's gross receipts from movements or
7 shipments of people, goods, mail, oil, gas, or any other
8 substance (other than by airline) that originates in one
9 state or jurisdiction and terminates in another state or
10 jurisdiction, that is determined by the ratio that the
11 miles traveled in this State bears to total miles
12 everywhere and (b) the denominator of which shall be all
13 revenue derived from the movement or shipment of people,
14 goods, mail, oil, gas, or any other substance (other than
15 by airline). Where a taxpayer is engaged in the
16 transportation of both passengers and freight, the
17 fraction above referred to shall first be determined
18 separately for passenger miles and freight miles. Then an
19 average of the passenger miles fraction and the freight
20 miles fraction shall be weighted to reflect the
21 taxpayer's:

22 (A) relative railway operating income from total
23 passenger and total freight service, as reported to
24 the Surface Transportation Board, in the case of
25 transportation by railroad; and

26 (B) relative gross receipts from passenger and

1 freight transportation, in case of transportation
2 other than by railroad.

3 (4) For taxable years ending on or after December 31,
4 2008, business income derived from furnishing airline
5 transportation services shall be apportioned to this State
6 by multiplying such income by a fraction, the numerator of
7 which is the revenue miles of the person in this State, and
8 the denominator of which is the revenue miles of the
9 person everywhere. For purposes of this paragraph, a
10 revenue mile is the transportation of one passenger or one
11 net ton of freight the distance of one mile for a
12 consideration. If a person is engaged in the
13 transportation of both passengers and freight, the
14 fraction above referred to shall be determined by means of
15 an average of the passenger revenue mile fraction and the
16 freight revenue mile fraction, weighted to reflect the
17 person's relative gross receipts from passenger and
18 freight airline transportation.

19 (e) Combined apportionment. Where 2 or more persons are
20 engaged in a unitary business as described in subsection
21 (a)(27) of Section 1501, a part of which is conducted in this
22 State by one or more members of the group, the business income
23 attributable to this State by any such member or members shall
24 be apportioned by means of the combined apportionment method.

25 (f) Alternative allocation. If the allocation and
26 apportionment provisions of subsections (a) through (e) and of

1 subsection (h) do not, for taxable years ending before
2 December 31, 2008, fairly represent the extent of a person's
3 business activity in this State, or, for taxable years ending
4 on or after December 31, 2008, fairly represent the market for
5 the person's goods, services, or other sources of business
6 income, the person may petition for, or the Director may,
7 without a petition, permit or require, in respect of all or any
8 part of the person's business activity, if reasonable:

9 (1) Separate accounting;

10 (2) The exclusion of any one or more factors;

11 (3) The inclusion of one or more additional factors
12 which will fairly represent the person's business
13 activities or market in this State; or

14 (4) The employment of any other method to effectuate
15 an equitable allocation and apportionment of the person's
16 business income.

17 (g) Cross reference. For allocation of business income by
18 residents, see Section 301(a).

19 (h) For tax years ending on or after December 31, 1998, the
20 apportionment factor of persons who apportion their business
21 income to this State under subsection (a) shall be equal to:

22 (1) for tax years ending on or after December 31, 1998
23 and before December 31, 1999, $16 \frac{2}{3}\%$ of the property
24 factor plus $16 \frac{2}{3}\%$ of the payroll factor plus $66 \frac{2}{3}\%$ of
25 the sales factor;

26 (2) for tax years ending on or after December 31, 1999

1 and before December 31, 2000, 8 1/3% of the property
2 factor plus 8 1/3% of the payroll factor plus 83 1/3% of
3 the sales factor;

4 (3) for tax years ending on or after December 31,
5 2000, the sales factor.

6 If, in any tax year ending on or after December 31, 1998 and
7 before December 31, 2000, the denominator of the payroll,
8 property, or sales factor is zero, the apportionment factor
9 computed in paragraph (1) or (2) of this subsection for that
10 year shall be divided by an amount equal to 100% minus the
11 percentage weight given to each factor whose denominator is
12 equal to zero.

13 (Source: P.A. 100-201, eff. 8-18-17; 101-31, eff. 6-28-19;
14 101-585, eff. 8-26-19; revised 9-12-19.)

15 (35 ILCS 5/710) (from Ch. 120, par. 7-710)

16 Sec. 710. Withholding from lottery, wagering, and gambling
17 winnings.

18 (a) In general.

19 (1) Any person making a payment to a resident or
20 nonresident of winnings under the Illinois Lottery Law and
21 not required to withhold Illinois income tax from such
22 payment under Subsection (b) of Section 701 of this Act
23 because those winnings are not subject to Federal income
24 tax withholding, must withhold Illinois income tax from
25 such payment at a rate equal to the percentage tax rate for

1 individuals provided in subsection (b) of Section 201,
2 provided that withholding is not required if such payment
3 of winnings is less than \$1,000.

4 (2) In the case of an assignment of a lottery prize
5 under Section 13.1 of the Illinois Lottery Law, any person
6 making a payment of the purchase price after December 31,
7 2013, shall withhold from the amount of each payment at a
8 rate equal to the percentage tax rate for individuals
9 provided in subsection (b) of Section 201.

10 (3) Any person making a payment after December 31,
11 2019 to a resident or nonresident of winnings from
12 pari-mutuel wagering conducted at a wagering facility
13 licensed under the Illinois Horse Racing Act of 1975 or
14 from gambling games conducted on a riverboat or in a
15 casino or organization gaming facility licensed under the
16 Illinois Gambling Act must withhold Illinois income tax
17 from such payment at a rate equal to the percentage tax
18 rate for individuals provided in subsection (b) of Section
19 201, provided that the person making the payment is
20 required to withhold under Section 3402(q) of the Internal
21 Revenue Code.

22 (4) Any person making a payment after December 31,
23 2021 to a resident or nonresident of winnings from sports
24 wagering conducted in accordance with the Sports Wagering
25 Act must withhold Illinois income tax from such payment at
26 a rate equal to the percentage tax rate for individuals

1 provided in subsection (b) of Section 201, provided that
2 the person making the payment is required to withhold
3 under Section 3402(q) of the Internal Revenue Code.

4 (b) Credit for taxes withheld. Any amount withheld under
5 Subsection (a) shall be a credit against the Illinois income
6 tax liability of the person to whom the payment of winnings was
7 made for the taxable year in which that person incurred an
8 Illinois income tax liability with respect to those winnings.

9 (Source: P.A. 101-31, eff. 6-28-19.)

10 (35 ILCS 5/902) (from Ch. 120, par. 9-902)

11 Sec. 902. Notice and Demand.

12 (a) In general. Except as provided in subsection (b) the
13 Director shall, as soon as practicable after an amount payable
14 under this Act is deemed assessed (as provided in Section
15 903), give notice to each person liable for any unpaid portion
16 of such assessment, stating the amount unpaid and demanding
17 payment thereof. In the case of tax deemed assessed with the
18 filing of a return, the Director shall give notice no later
19 than 3 years after the date the return was filed. Upon receipt
20 of any notice and demand there shall be paid at the place and
21 time stated in such notice the amount stated in such notice.
22 Such notice shall be left at the dwelling or usual place of
23 business of such person or shall be sent by mail to the
24 person's last known address.

25 (b) Judicial review. In the case of a deficiency deemed

1 assessed under Section 903(a)(2) after the filing of a
2 protest, notice and demand shall not be made with respect to
3 such assessment until all proceedings in court for the review
4 of such assessment have terminated or the time for the taking
5 thereof has expired without such proceedings being instituted.

6 (c) Action for recovery of taxes. At any time that the
7 Department might commence proceedings for a levy under Section
8 1109, regardless of whether a notice of lien was filed under
9 the provisions of Section 1103, it may bring an action in any
10 court of competent jurisdiction within or without this State
11 in the name of the people of this State to recover the amount
12 of any taxes, penalties and interest due and unpaid under this
13 Act. In such action, the certificate of the Department showing
14 the amount of the delinquency shall be prima facie evidence of
15 the correctness of such amount, its assessment and of the
16 compliance by the Department with all the provisions of this
17 Act.

18 (d) Sales or transfers outside the usual course of
19 business-Report-Payment of Tax - Rights and duties of
20 purchaser or transferee - penalty. If any taxpayer, outside
21 the usual course of his business, sells or transfers the major
22 part of any one or more of (A) the stock of goods which he is
23 engaged in the business of selling, or (B) the furniture or
24 fixtures, or (C) the machinery and equipment, or (D) the real
25 property, of any business that is subject to the provisions of
26 this Act, the purchaser or transferee of such assets shall, no

1 later than 10 business days before ~~after~~ the sale or transfer,
2 file a notice of sale or transfer of business assets with the
3 ~~Chicago office of the~~ Department disclosing the name and
4 address of the seller or transferor, the name and address of
5 the purchaser or transferee, the date of the sale or transfer,
6 a copy of the sales contract and financing agreements which
7 shall include a description of the property sold or
8 transferred, the amount of the purchase price or a statement
9 of other consideration for the sale or transfer, and the terms
10 for payment of the purchase price, and such other information
11 as the Department may reasonably require. If the purchaser or
12 transferee fails to file the above described notice of sale
13 with the Department within the prescribed time, the purchaser
14 or transferee shall be personally liable to the Department for
15 the amount owed hereunder by the seller or transferor but
16 unpaid, up to the amount of the reasonable value of the
17 property acquired by the purchaser or transferee. The
18 purchaser or transferee shall pay the Department the amount of
19 tax, penalties, and interest owed by the seller or transferor
20 under this Act, to the extent they have not been paid by the
21 seller or transferor. The seller or transferor, or the
22 purchaser or transferee, at least 10 business days before the
23 date of the sale or transfer, may notify the Department of the
24 intended sale or transfer and request the Department to make a
25 determination as to whether the seller or transferor owes any
26 tax, penalty or interest due under this Act. The Department

1 shall take such steps as may be appropriate to comply with such
2 request.

3 Any order issued by the Department pursuant to this
4 Section to withhold from the purchase price shall be issued
5 within 10 business days after the Department receives
6 notification of a sale as provided in this Section. The
7 purchaser or transferee shall withhold such portion of the
8 purchase price as may be directed by the Department, but not to
9 exceed a minimum amount varying by type of business, as
10 determined by the Department pursuant to regulations, plus
11 twice the outstanding unpaid liabilities and twice the average
12 liability of preceding filings times the number of unfiled
13 returns which were not filed when due, to cover the amount of
14 all tax, penalty, and interest due and unpaid by the seller or
15 transferor under this Act or, if the payment of money or
16 property is not involved, shall withhold the performance of
17 the condition that constitutes the consideration for the sale
18 or transfer. Within 60 business days after issuance of the
19 initial order to withhold, the Department shall provide
20 written notice to the purchaser or transferee of the actual
21 amount of all taxes, penalties and interest then due and
22 whether or not additional amounts may become due as a result of
23 unpaid taxes required to be withheld by an employer, returns
24 which were not filed when due, pending assessments and audits
25 not completed. The purchaser or transferee shall continue to
26 withhold the amount directed to be withheld by the initial

1 order or such lesser amount as is specified by the final
2 withholding order or to withhold the performance of the
3 condition which constitutes the consideration for the sale or
4 transfer until the purchaser or transferee receives from the
5 Department a certificate showing that no unpaid tax, penalty
6 or interest is due from the seller or transferor under this
7 Act.

8 The purchaser or transferee is relieved of any duty to
9 continue to withhold from the purchase price and of any
10 liability for tax, penalty, or interest due hereunder from the
11 seller or transferor if the Department fails to notify the
12 purchaser or transferee in the manner provided herein of the
13 amount to be withheld within 10 business days after the sale or
14 transfer has been reported to the Department or within 60
15 business days after issuance of the initial order to withhold,
16 as the case may be. The Department shall have the right to
17 determine amounts claimed on an estimated basis to allow for
18 periods for which returns were not filed when due, pending
19 assessments and audits not completed, however the purchaser or
20 transferee shall be personally liable only for the actual
21 amount due when determined.

22 If the seller or transferor has failed to pay the tax,
23 penalty, and interest due from him hereunder and the
24 Department makes timely claim therefor against the purchaser
25 or transferee as hereinabove provided, then the purchaser or
26 transferee shall pay to the Department the amount so withheld

1 from the purchase price. If the purchaser or transferee fails
2 to comply with the requirements of this Section, the purchaser
3 or transferee shall be personally liable to the Department for
4 the amount owed hereunder by the seller or transferor up to the
5 amount of the reasonable value of the property acquired by the
6 purchaser or transferee.

7 Any person who shall acquire any property or rights
8 thereto which, at the time of such acquisition, is subject to a
9 valid lien in favor of the Department, shall be personally
10 liable to the Department for a sum equal to the amount of
11 taxes, penalties and interests, secured by such lien, but not
12 to exceed the reasonable value of such property acquired by
13 him.

14 (Source: P.A. 94-776, eff. 5-19-06.)

15 (35 ILCS 5/905) (from Ch. 120, par. 9-905)

16 Sec. 905. Limitations on Notices of Deficiency.

17 (a) In general. Except as otherwise provided in this Act:

18 (1) A notice of deficiency shall be issued not later
19 than 3 years after the date the return was filed, and

20 (2) No deficiency shall be assessed or collected with
21 respect to the year for which the return was filed unless
22 such notice is issued within such period.

23 (a-5) Notwithstanding any other provision of this Act to
24 the contrary, for any taxable year included in a claim for
25 credit or refund for which the statute of limitations for

1 issuing a notice of deficiency under this Act will expire less
2 than 6 months after the date a taxpayer files the claim for
3 credit or refund, the statute of limitations is automatically
4 extended for 6 months from the date it would have otherwise
5 expired.

6 (b) Substantial omission of items.

7 (1) Omission of more than 25% of income. If the
8 taxpayer omits from base income an amount properly
9 includible therein which is in excess of 25% of the amount
10 of base income stated in the return, a notice of
11 deficiency may be issued not later than 6 years after the
12 return was filed. For purposes of this paragraph, there
13 shall not be taken into account any amount which is
14 omitted in the return if such amount is disclosed in the
15 return, or in a statement attached to the return, in a
16 manner adequate to apprise the Department of the nature
17 and the amount of such item.

18 (2) Reportable transactions. If a taxpayer fails to
19 include on any return or statement for any taxable year
20 any information with respect to a reportable transaction,
21 as required under Section 501(b) of this Act, a notice of
22 deficiency may be issued not later than 6 years after the
23 return is filed with respect to the taxable year in which
24 the taxpayer participated in the reportable transaction
25 and said deficiency is limited to the non-disclosed item.

26 (3) Withholding. If an employer omits from a return

1 required under Section 704A of this Act for any period
2 beginning on or after January 1, 2013, an amount required
3 to be withheld and to be reported on that return which is
4 in excess of 25% of the total amount of withholding
5 required to be reported on that return, a notice of
6 deficiency may be issued not later than 6 years after the
7 return was filed.

8 (c) No return or fraudulent return. If no return is filed
9 or a false and fraudulent return is filed with intent to evade
10 the tax imposed by this Act, a notice of deficiency may be
11 issued at any time. For purposes of this subsection (c), any
12 taxpayer who is required to join in the filing of a return
13 filed under the provisions of subsection (e) of Section 502 of
14 this Act for a taxable year ending on or after December 31,
15 2013 and who is not included on that return and does not file
16 its own return for that taxable year shall be deemed to have
17 failed to file a return; provided that the amount of any
18 proposed assessment set forth in a notice of deficiency issued
19 under this subsection (c) shall be limited to the amount of any
20 increase in liability under this Act that should have reported
21 on the return required under the provisions of subsection (e)
22 of Section 502 of this Act for that taxable year resulting from
23 proper inclusion of that taxpayer on that return.

24 (d) Failure to report federal change. If a taxpayer fails
25 to notify the Department in any case where notification is
26 required by Section 304(c) or 506(b), or fails to report a

1 change or correction which is treated in the same manner as if
2 it were a deficiency for federal income tax purposes, a notice
3 of deficiency may be issued (i) at any time or (ii) on or after
4 August 13, 1999, at any time for the taxable year for which the
5 notification is required or for any taxable year to which the
6 taxpayer may carry an Article 2 credit, or a Section 207 loss,
7 earned, incurred, or used in the year for which the
8 notification is required; provided, however, that the amount
9 of any proposed assessment set forth in the notice shall be
10 limited to the amount of any deficiency resulting under this
11 Act from the recomputation of the taxpayer's net income,
12 Article 2 credits, or Section 207 loss earned, incurred, or
13 used in the taxable year for which the notification is
14 required after giving effect to the item or items required to
15 be reported.

16 (e) Report of federal change.

17 (1) Before August 13, 1999, in any case where
18 notification of an alteration is given as required by
19 Section 506(b), a notice of deficiency may be issued at
20 any time within 2 years after the date such notification
21 is given, provided, however, that the amount of any
22 proposed assessment set forth in such notice shall be
23 limited to the amount of any deficiency resulting under
24 this Act from recomputation of the taxpayer's net income,
25 net loss, or Article 2 credits for the taxable year after
26 giving effect to the item or items reflected in the

1 reported alteration.

2 (2) On and after August 13, 1999, in any case where
3 notification of an alteration is given as required by
4 Section 506(b), a notice of deficiency may be issued at
5 any time within 2 years after the date such notification
6 is given for the taxable year for which the notification
7 is given or for any taxable year to which the taxpayer may
8 carry an Article 2 credit, or a Section 207 loss, earned,
9 incurred, or used in the year for which the notification
10 is given, provided, however, that the amount of any
11 proposed assessment set forth in such notice shall be
12 limited to the amount of any deficiency resulting under
13 this Act from recomputation of the taxpayer's net income,
14 Article 2 credits, or Section 207 loss earned, incurred,
15 or used in the taxable year for which the notification is
16 given after giving effect to the item or items reflected
17 in the reported alteration.

18 (f) Extension by agreement. Where, before the expiration
19 of the time prescribed in this Section for the issuance of a
20 notice of deficiency, both the Department and the taxpayer
21 shall have consented in writing to its issuance after such
22 time, such notice may be issued at any time prior to the
23 expiration of the period agreed upon. In the case of a taxpayer
24 who is a partnership, Subchapter S corporation, or trust and
25 who enters into an agreement with the Department pursuant to
26 this subsection on or after January 1, 2003, a notice of

1 deficiency may be issued to the partners, shareholders, or
2 beneficiaries of the taxpayer at any time prior to the
3 expiration of the period agreed upon. Any proposed assessment
4 set forth in the notice, however, shall be limited to the
5 amount of any deficiency resulting under this Act from
6 recomputation of items of income, deduction, credits, or other
7 amounts of the taxpayer that are taken into account by the
8 partner, shareholder, or beneficiary in computing its
9 liability under this Act. The period so agreed upon may be
10 extended by subsequent agreements in writing made before the
11 expiration of the period previously agreed upon.

12 (g) Erroneous refunds. In any case in which there has been
13 an erroneous refund of tax payable under this Act, a notice of
14 deficiency may be issued at any time within 2 years from the
15 making of such refund, or within 5 years from the making of
16 such refund if it appears that any part of the refund was
17 induced by fraud or the misrepresentation of a material fact,
18 provided, however, that the amount of any proposed assessment
19 set forth in such notice shall be limited to the amount of such
20 erroneous refund.

21 Beginning July 1, 1993, in any case in which there has been
22 a refund of tax payable under this Act attributable to a net
23 loss carryback as provided for in Section 207, and that refund
24 is subsequently determined to be an erroneous refund due to a
25 reduction in the amount of the net loss which was originally
26 carried back, a notice of deficiency for the erroneous refund

1 amount may be issued at any time during the same time period in
2 which a notice of deficiency can be issued on the loss year
3 creating the carryback amount and subsequent erroneous refund.
4 The amount of any proposed assessment set forth in the notice
5 shall be limited to the amount of such erroneous refund.

6 (h) Time return deemed filed. For purposes of this Section
7 a tax return filed before the last day prescribed by law
8 (including any extension thereof) shall be deemed to have been
9 filed on such last day.

10 (i) Request for prompt determination of liability. For
11 purposes of subsection (a)(1), in the case of a tax return
12 required under this Act in respect of a decedent, or by his
13 estate during the period of administration, or by a
14 corporation, the period referred to in such Subsection shall
15 be 18 months after a written request for prompt determination
16 of liability is filed with the Department (at such time and in
17 such form and manner as the Department shall by regulations
18 prescribe) by the executor, administrator, or other fiduciary
19 representing the estate of such decedent, or by such
20 corporation, but not more than 3 years after the date the
21 return was filed. This subsection shall not apply in the case
22 of a corporation unless:

23 (1) (A) such written request notifies the Department
24 that the corporation contemplates dissolution at or before
25 the expiration of such 18-month period, (B) the
26 dissolution is begun in good faith before the expiration

1 of such 18-month period, and (C) the dissolution is
2 completed;

3 (2) (A) such written request notifies the Department
4 that a dissolution has in good faith been begun, and (B)
5 the dissolution is completed; or

6 (3) a dissolution has been completed at the time such
7 written request is made.

8 (j) Withholding tax. In the case of returns required under
9 Article 7 of this Act (with respect to any amounts withheld as
10 tax or any amounts required to have been withheld as tax) a
11 notice of deficiency shall be issued not later than 3 years
12 after the 15th day of the 4th month following the close of the
13 calendar year in which such withholding was required.

14 (k) Penalties for failure to make information reports. A
15 notice of deficiency for the penalties provided by Subsection
16 1405.1(c) of this Act may not be issued more than 3 years after
17 the due date of the reports with respect to which the penalties
18 are asserted.

19 (l) Penalty for failure to file withholding returns. A
20 notice of deficiency for penalties provided by Section 1004 of
21 this Act for taxpayer's failure to file withholding returns
22 may not be issued more than three years after the 15th day of
23 the 4th month following the close of the calendar year in which
24 the withholding giving rise to taxpayer's obligation to file
25 those returns occurred.

26 (m) Transferee liability. A notice of deficiency may be

1 issued to a transferee relative to a liability asserted under
2 Section 1405 during time periods defined as follows:

3 1) Initial Transferee. In the case of the liability of
4 an initial transferee, up to 2 years after the expiration
5 of the period of limitation for assessment against the
6 transferor, except that if a court proceeding for review
7 of the assessment against the transferor has begun, then
8 up to 2 years after the return of the certified copy of the
9 judgment in the court proceeding.

10 2) Transferee of Transferee. In the case of the
11 liability of a transferee, up to 2 years after the
12 expiration of the period of limitation for assessment
13 against the preceding transferee, but not more than 3
14 years after the expiration of the period of limitation for
15 assessment against the initial transferor; except that if,
16 before the expiration of the period of limitation for the
17 assessment of the liability of the transferee, a court
18 proceeding for the collection of the tax or liability in
19 respect thereof has been begun against the initial
20 transferor or the last preceding transferee, as the case
21 may be, then the period of limitation for assessment of
22 the liability of the transferee shall expire 2 years after
23 the return of the certified copy of the judgment in the
24 court proceeding.

25 (n) Notice of decrease in net loss. On and after August 23,
26 2002, no notice of deficiency shall be issued as the result of

1 a decrease determined by the Department in the net loss
2 incurred by a taxpayer in any taxable year ending prior to
3 December 31, 2002 under Section 207 of this Act unless the
4 Department has notified the taxpayer of the proposed decrease
5 within 3 years after the return reporting the loss was filed or
6 within one year after an amended return reporting an increase
7 in the loss was filed, provided that in the case of an amended
8 return, a decrease proposed by the Department more than 3
9 years after the original return was filed may not exceed the
10 increase claimed by the taxpayer on the original return.

11 (Source: P.A. 98-496, eff. 1-1-14.)

12 Section 15. The Use Tax Act is amended by changing Section
13 21 as follows:

14 (35 ILCS 105/21) (from Ch. 120, par. 439.21)

15 Sec. 21. As to any claim for credit or refund filed with
16 the Department on and after January 1 but on or before June 30
17 of any given year, no amount of tax or penalty or interest
18 erroneously paid (either in total or partial liquidation of a
19 tax or penalty or interest under this Act) more than 3 years
20 prior to such January 1 shall be credited or refunded, and as
21 to any such claim filed on and after July 1 but on or before
22 December 31 of any given year, no amount of tax or penalty or
23 interest erroneously paid (either in total or partial
24 liquidation of a tax or penalty or interest under this Act)

1 more than 3 years prior to such July 1 shall be credited or
2 refunded. Notwithstanding any other provision of this Act to
3 the contrary, for any taxable year included in a claim for
4 credit or refund for which the statute of limitations for
5 issuing a notice of tax liability under this Act will expire
6 less than 6 months after the date a taxpayer files the claim
7 for credit or refund, the statute of limitations is
8 automatically extended for 6 months from the date it would
9 have otherwise expired. No claim shall be allowed for any
10 amount paid to the Department, whether paid voluntarily or
11 involuntarily, if paid in total or partial liquidation of an
12 assessment which had become final before the claim for credit
13 or refund to recover the amount so paid is filed with the
14 Department, or if paid in total or partial liquidation of a
15 judgment or order of court.

16 (Source: P.A. 79-1366; 79-1365.)

17 Section 20. The Service Occupation Tax Act is amended by
18 changing Section 19 as follows:

19 (35 ILCS 115/19) (from Ch. 120, par. 439.119)

20 Sec. 19. As to any claim for credit or refund filed with
21 the Department on or after each January 1 and July 1, no amount
22 of tax or penalty or interest erroneously paid (either in
23 total or partial liquidation of a tax or penalty or interest
24 under this Act) more than 3 years prior to such January 1 and

1 July 1, respectively, shall be credited or refunded, except
2 that if both the Department and taxpayer have agreed to an
3 extension of time to issue a notice of tax liability as
4 provided in Section 4 of the Retailers' Occupation Tax Act,
5 such claim may be filed at any time prior to the expiration of
6 the period agreed upon. Notwithstanding any other provision of
7 this Act to the contrary, for any period included in a claim
8 for credit or refund for which the statute of limitations for
9 issuing a notice of tax liability under this Act will expire
10 less than 6 months after the date a taxpayer files the claim
11 for credit or refund, the statute of limitations is
12 automatically extended for 6 months from the date it would
13 have otherwise expired. No claim shall be allowed for any
14 amount paid to the Department, whether paid voluntarily or
15 involuntarily, if paid in total or partial liquidation of an
16 assessment which had become final before the claim for credit
17 or refund to recover the amount so paid is filed with the
18 Department, or if paid in total or partial liquidation of a
19 judgment or order of court.

20 (Source: P.A. 90-562, eff. 12-16-97.)

21 Section 25. The Retailers' Occupation Tax Act is amended
22 by changing Sections 2a and 6 as follows:

23 (35 ILCS 120/2a) (from Ch. 120, par. 441a)

24 Sec. 2a. It is unlawful for any person to engage in the

1 business of selling tangible personal property at retail in
2 this State without a certificate of registration from the
3 Department. Application for a certificate of registration
4 shall be made to the Department upon forms furnished by it.
5 Each such application shall be signed and verified and shall
6 state: (1) the name and social security number of the
7 applicant; (2) the address of his principal place of business;
8 (3) the address of the principal place of business from which
9 he engages in the business of selling tangible personal
10 property at retail in this State and the addresses of all other
11 places of business, if any (enumerating such addresses, if
12 any, in a separate list attached to and made a part of the
13 application), from which he engages in the business of selling
14 tangible personal property at retail in this State; (4) the
15 name and address of the person or persons who will be
16 responsible for filing returns and payment of taxes due under
17 this Act; (5) in the case of a publicly traded corporation, the
18 name and title of the Chief Financial Officer, Chief Operating
19 Officer, and any other officer or employee with responsibility
20 for preparing tax returns under this Act, and, in the case of
21 all other corporations, the name, title, and social security
22 number of each corporate officer; (6) in the case of a limited
23 liability company, the name, social security number, and FEIN
24 number of each manager and member; and (7) such other
25 information as the Department may reasonably require. The
26 application shall contain an acceptance of responsibility

1 signed by the person or persons who will be responsible for
2 filing returns and payment of the taxes due under this Act. If
3 the applicant will sell tangible personal property at retail
4 through vending machines, his application to register shall
5 indicate the number of vending machines to be so operated. If
6 requested by the Department at any time, that person shall
7 verify the total number of vending machines he or she uses in
8 his or her business of selling tangible personal property at
9 retail.

10 The Department shall provide by rule for an expedited
11 business registration process for remote retailers required to
12 register and file under subsection (b) of Section 2 who use a
13 certified service provider to file their returns under this
14 Act. Such expedited registration process shall allow the
15 Department to register a taxpayer based upon the same
16 registration information required by the Streamlined Sales Tax
17 Governing Board for states participating in the Streamlined
18 Sales Tax Project.

19 The Department may deny a certificate of registration to
20 any applicant if a person who is named as the owner, a partner,
21 a manager or member of a limited liability company, or a
22 corporate officer of the applicant on the application for the
23 certificate of registration is or has been named as the owner,
24 a partner, a manager or member of a limited liability company,
25 or a corporate officer on the application for the certificate
26 of registration of another retailer that is in default for

1 moneys due under this Act or any other tax or fee Act
2 administered by the Department. For purposes of this paragraph
3 only, in determining whether a person is in default for moneys
4 due, the Department shall include only amounts established as
5 a final liability within the 23 ~~20~~ years prior to the date of
6 the Department's notice of denial of a certificate of
7 registration.

8 The Department may require an applicant for a certificate
9 of registration hereunder to, at the time of filing such
10 application, furnish a bond from a surety company authorized
11 to do business in the State of Illinois, or an irrevocable bank
12 letter of credit or a bond signed by 2 personal sureties who
13 have filed, with the Department, sworn statements disclosing
14 net assets equal to at least 3 times the amount of the bond to
15 be required of such applicant, or a bond secured by an
16 assignment of a bank account or certificate of deposit, stocks
17 or bonds, conditioned upon the applicant paying to the State
18 of Illinois all moneys becoming due under this Act and under
19 any other State tax law or municipal or county tax ordinance or
20 resolution under which the certificate of registration that is
21 issued to the applicant under this Act will permit the
22 applicant to engage in business without registering separately
23 under such other law, ordinance or resolution. In making a
24 determination as to whether to require a bond or other
25 security, the Department shall take into consideration whether
26 the owner, any partner, any manager or member of a limited

1 liability company, or a corporate officer of the applicant is
2 or has been the owner, a partner, a manager or member of a
3 limited liability company, or a corporate officer of another
4 retailer that is in default for moneys due under this Act or
5 any other tax or fee Act administered by the Department; and
6 whether the owner, any partner, any manager or member of a
7 limited liability company, or a corporate officer of the
8 applicant is or has been the owner, a partner, a manager or
9 member of a limited liability company, or a corporate officer
10 of another retailer whose certificate of registration has been
11 revoked within the previous 5 years under this Act or any other
12 tax or fee Act administered by the Department. If a bond or
13 other security is required, the Department shall fix the
14 amount of the bond or other security, taking into
15 consideration the amount of money expected to become due from
16 the applicant under this Act and under any other State tax law
17 or municipal or county tax ordinance or resolution under which
18 the certificate of registration that is issued to the
19 applicant under this Act will permit the applicant to engage
20 in business without registering separately under such other
21 law, ordinance, or resolution. The amount of security required
22 by the Department shall be such as, in its opinion, will
23 protect the State of Illinois against failure to pay the
24 amount which may become due from the applicant under this Act
25 and under any other State tax law or municipal or county tax
26 ordinance or resolution under which the certificate of

1 registration that is issued to the applicant under this Act
2 will permit the applicant to engage in business without
3 registering separately under such other law, ordinance or
4 resolution, but the amount of the security required by the
5 Department shall not exceed three times the amount of the
6 applicant's average monthly tax liability, or \$50,000.00,
7 whichever amount is lower.

8 No certificate of registration under this Act shall be
9 issued by the Department until the applicant provides the
10 Department with satisfactory security, if required, as herein
11 provided for.

12 Upon receipt of the application for certificate of
13 registration in proper form, and upon approval by the
14 Department of the security furnished by the applicant, if
15 required, the Department shall issue to such applicant a
16 certificate of registration which shall permit the person to
17 whom it is issued to engage in the business of selling tangible
18 personal property at retail in this State. The certificate of
19 registration shall be conspicuously displayed at the place of
20 business which the person so registered states in his
21 application to be the principal place of business from which
22 he engages in the business of selling tangible personal
23 property at retail in this State.

24 No certificate of registration issued prior to July 1,
25 2017 to a taxpayer who files returns required by this Act on a
26 monthly basis or renewed prior to July 1, 2017 by a taxpayer

1 who files returns required by this Act on a monthly basis shall
2 be valid after the expiration of 5 years from the date of its
3 issuance or last renewal. No certificate of registration
4 issued on or after July 1, 2017 to a taxpayer who files returns
5 required by this Act on a monthly basis or renewed on or after
6 July 1, 2017 by a taxpayer who files returns required by this
7 Act on a monthly basis shall be valid after the expiration of
8 one year from the date of its issuance or last renewal. The
9 expiration date of a sub-certificate of registration shall be
10 that of the certificate of registration to which the
11 sub-certificate relates. Prior to July 1, 2017, a certificate
12 of registration shall automatically be renewed, subject to
13 revocation as provided by this Act, for an additional 5 years
14 from the date of its expiration unless otherwise notified by
15 the Department as provided by this paragraph. On and after
16 July 1, 2017, a certificate of registration shall
17 automatically be renewed, subject to revocation as provided by
18 this Act, for an additional one year from the date of its
19 expiration unless otherwise notified by the Department as
20 provided by this paragraph.

21 Where a taxpayer to whom a certificate of registration is
22 issued under this Act is in default to the State of Illinois
23 for delinquent returns or for moneys due under this Act or any
24 other State tax law or municipal or county ordinance
25 administered or enforced by the Department, the Department
26 shall, not less than 60 days before the expiration date of such

1 certificate of registration, give notice to the taxpayer to
2 whom the certificate was issued of the account period of the
3 delinquent returns, the amount of tax, penalty and interest
4 due and owing from the taxpayer, and that the certificate of
5 registration shall not be automatically renewed upon its
6 expiration date unless the taxpayer, on or before the date of
7 expiration, has filed and paid the delinquent returns or paid
8 the defaulted amount in full. A taxpayer to whom such a notice
9 is issued shall be deemed an applicant for renewal. The
10 Department shall promulgate regulations establishing
11 procedures for taxpayers who file returns on a monthly basis
12 but desire and qualify to change to a quarterly or yearly
13 filing basis and will no longer be subject to renewal under
14 this Section, and for taxpayers who file returns on a yearly or
15 quarterly basis but who desire or are required to change to a
16 monthly filing basis and will be subject to renewal under this
17 Section.

18 The Department may in its discretion approve renewal by an
19 applicant who is in default if, at the time of application for
20 renewal, the applicant files all of the delinquent returns or
21 pays to the Department such percentage of the defaulted amount
22 as may be determined by the Department and agrees in writing to
23 waive all limitations upon the Department for collection of
24 the remaining defaulted amount to the Department over a period
25 not to exceed 5 years from the date of renewal of the
26 certificate; however, no renewal application submitted by an

1 applicant who is in default shall be approved if the
2 immediately preceding renewal by the applicant was conditioned
3 upon the installment payment agreement described in this
4 Section. The payment agreement herein provided for shall be in
5 addition to and not in lieu of the security that may be
6 required by this Section of a taxpayer who is no longer
7 considered a prior continuous compliance taxpayer. The
8 execution of the payment agreement as provided in this Act
9 shall not toll the accrual of interest at the statutory rate.

10 The Department may suspend a certificate of registration
11 if the Department finds that the person to whom the
12 certificate of registration has been issued knowingly sold
13 contraband cigarettes.

14 A certificate of registration issued under this Act more
15 than 5 years before January 1, 1990 (the effective date of
16 Public Act 86-383) shall expire and be subject to the renewal
17 provisions of this Section on the next anniversary of the date
18 of issuance of such certificate which occurs more than 6
19 months after January 1, 1990 (the effective date of Public Act
20 86-383). A certificate of registration issued less than 5
21 years before January 1, 1990 (the effective date of Public Act
22 86-383) shall expire and be subject to the renewal provisions
23 of this Section on the 5th anniversary of the issuance of the
24 certificate.

25 If the person so registered states that he operates other
26 places of business from which he engages in the business of

1 selling tangible personal property at retail in this State,
2 the Department shall furnish him with a sub-certificate of
3 registration for each such place of business, and the
4 applicant shall display the appropriate sub-certificate of
5 registration at each such place of business. All
6 sub-certificates of registration shall bear the same
7 registration number as that appearing upon the certificate of
8 registration to which such sub-certificates relate.

9 If the applicant will sell tangible personal property at
10 retail through vending machines, the Department shall furnish
11 him with a sub-certificate of registration for each such
12 vending machine, and the applicant shall display the
13 appropriate sub-certificate of registration on each such
14 vending machine by attaching the sub-certificate of
15 registration to a conspicuous part of such vending machine. If
16 a person who is registered to sell tangible personal property
17 at retail through vending machines adds an additional vending
18 machine or additional vending machines to the number of
19 vending machines he or she uses in his or her business of
20 selling tangible personal property at retail, he or she shall
21 notify the Department, on a form prescribed by the Department,
22 to request an additional sub-certificate or additional
23 sub-certificates of registration, as applicable. With each
24 such request, the applicant shall report the number of
25 sub-certificates of registration he or she is requesting as
26 well as the total number of vending machines from which he or

1 she makes retail sales.

2 Where the same person engages in 2 or more businesses of
3 selling tangible personal property at retail in this State,
4 which businesses are substantially different in character or
5 engaged in under different trade names or engaged in under
6 other substantially dissimilar circumstances (so that it is
7 more practicable, from an accounting, auditing or bookkeeping
8 standpoint, for such businesses to be separately registered),
9 the Department may require or permit such person (subject to
10 the same requirements concerning the furnishing of security as
11 those that are provided for hereinbefore in this Section as to
12 each application for a certificate of registration) to apply
13 for and obtain a separate certificate of registration for each
14 such business or for any of such businesses, under a single
15 certificate of registration supplemented by related
16 sub-certificates of registration.

17 Any person who is registered under the Retailers'
18 Occupation Tax Act as of March 8, 1963, and who, during the
19 3-year period immediately prior to March 8, 1963, or during a
20 continuous 3-year period part of which passed immediately
21 before and the remainder of which passes immediately after
22 March 8, 1963, has been so registered continuously and who is
23 determined by the Department not to have been either
24 delinquent or deficient in the payment of tax liability during
25 that period under this Act or under any other State tax law or
26 municipal or county tax ordinance or resolution under which

1 the certificate of registration that is issued to the
2 registrant under this Act will permit the registrant to engage
3 in business without registering separately under such other
4 law, ordinance or resolution, shall be considered to be a
5 Prior Continuous Compliance taxpayer. Also any taxpayer who
6 has, as verified by the Department, faithfully and
7 continuously complied with the condition of his bond or other
8 security under the provisions of this Act for a period of 3
9 consecutive years shall be considered to be a Prior Continuous
10 Compliance taxpayer.

11 Every Prior Continuous Compliance taxpayer shall be exempt
12 from all requirements under this Act concerning the furnishing
13 of a bond or other security as a condition precedent to his
14 being authorized to engage in the business of selling tangible
15 personal property at retail in this State. This exemption
16 shall continue for each such taxpayer until such time as he may
17 be determined by the Department to be delinquent in the filing
18 of any returns, or is determined by the Department (either
19 through the Department's issuance of a final assessment which
20 has become final under the Act, or by the taxpayer's filing of
21 a return which admits tax that is not paid to be due) to be
22 delinquent or deficient in the paying of any tax under this Act
23 or under any other State tax law or municipal or county tax
24 ordinance or resolution under which the certificate of
25 registration that is issued to the registrant under this Act
26 will permit the registrant to engage in business without

1 registering separately under such other law, ordinance or
2 resolution, at which time that taxpayer shall become subject
3 to all the financial responsibility requirements of this Act
4 and, as a condition of being allowed to continue to engage in
5 the business of selling tangible personal property at retail,
6 may be required to post bond or other acceptable security with
7 the Department covering liability which such taxpayer may
8 thereafter incur. Any taxpayer who fails to pay an admitted or
9 established liability under this Act may also be required to
10 post bond or other acceptable security with this Department
11 guaranteeing the payment of such admitted or established
12 liability.

13 No certificate of registration shall be issued to any
14 person who is in default to the State of Illinois for moneys
15 due under this Act or under any other State tax law or
16 municipal or county tax ordinance or resolution under which
17 the certificate of registration that is issued to the
18 applicant under this Act will permit the applicant to engage
19 in business without registering separately under such other
20 law, ordinance or resolution.

21 Any person aggrieved by any decision of the Department
22 under this Section may, within 20 days after notice of such
23 decision, protest and request a hearing, whereupon the
24 Department shall give notice to such person of the time and
25 place fixed for such hearing and shall hold a hearing in
26 conformity with the provisions of this Act and then issue its

1 final administrative decision in the matter to such person. In
2 the absence of such a protest within 20 days, the Department's
3 decision shall become final without any further determination
4 being made or notice given.

5 With respect to security other than bonds (upon which the
6 Department may sue in the event of a forfeiture), if the
7 taxpayer fails to pay, when due, any amount whose payment such
8 security guarantees, the Department shall, after such
9 liability is admitted by the taxpayer or established by the
10 Department through the issuance of a final assessment that has
11 become final under the law, convert the security which that
12 taxpayer has furnished into money for the State, after first
13 giving the taxpayer at least 10 days' written notice, by
14 registered or certified mail, to pay the liability or forfeit
15 such security to the Department. If the security consists of
16 stocks or bonds or other securities which are listed on a
17 public exchange, the Department shall sell such securities
18 through such public exchange. If the security consists of an
19 irrevocable bank letter of credit, the Department shall
20 convert the security in the manner provided for in the Uniform
21 Commercial Code. If the security consists of a bank
22 certificate of deposit, the Department shall convert the
23 security into money by demanding and collecting the amount of
24 such bank certificate of deposit from the bank which issued
25 such certificate. If the security consists of a type of stocks
26 or other securities which are not listed on a public exchange,

1 the Department shall sell such security to the highest and
2 best bidder after giving at least 10 days' notice of the date,
3 time and place of the intended sale by publication in the
4 "State Official Newspaper". If the Department realizes more
5 than the amount of such liability from the security, plus the
6 expenses incurred by the Department in converting the security
7 into money, the Department shall pay such excess to the
8 taxpayer who furnished such security, and the balance shall be
9 paid into the State Treasury.

10 The Department shall discharge any surety and shall
11 release and return any security deposited, assigned, pledged
12 or otherwise provided to it by a taxpayer under this Section
13 within 30 days after:

14 (1) such taxpayer becomes a Prior Continuous
15 Compliance taxpayer; or

16 (2) such taxpayer has ceased to collect receipts on
17 which he is required to remit tax to the Department, has
18 filed a final tax return, and has paid to the Department an
19 amount sufficient to discharge his remaining tax
20 liability, as determined by the Department, under this Act
21 and under every other State tax law or municipal or county
22 tax ordinance or resolution under which the certificate of
23 registration issued under this Act permits the registrant
24 to engage in business without registering separately under
25 such other law, ordinance or resolution. The Department
26 shall make a final determination of the taxpayer's

1 outstanding tax liability as expeditiously as possible
2 after his final tax return has been filed; if the
3 Department cannot make such final determination within 45
4 days after receiving the final tax return, within such
5 period it shall so notify the taxpayer, stating its
6 reasons therefor.

7 (Source: P.A. 100-302, eff. 8-24-17; 100-303, eff. 8-24-17;
8 100-863, eff. 8-14-18; 101-31, eff. 6-28-19.)

9 (35 ILCS 120/6) (from Ch. 120, par. 445)

10 Sec. 6. Credit memorandum or refund. If it appears, after
11 claim therefor filed with the Department, that an amount of
12 tax or penalty or interest has been paid which was not due
13 under this Act, whether as the result of a mistake of fact or
14 an error of law, except as hereinafter provided, then the
15 Department shall issue a credit memorandum or refund to the
16 person who made the erroneous payment or, if that person died
17 or became a person under legal disability, to his or her legal
18 representative, as such. For purposes of this Section, the tax
19 is deemed to be erroneously paid by a retailer when the
20 manufacturer of a motor vehicle sold by the retailer accepts
21 the return of that automobile and refunds to the purchaser the
22 selling price of that vehicle as provided in the New Vehicle
23 Buyer Protection Act. When a motor vehicle is returned for a
24 refund of the purchase price under the New Vehicle Buyer
25 Protection Act, the Department shall issue a credit memorandum

1 or a refund for the amount of tax paid by the retailer under
2 this Act attributable to the initial sale of that vehicle.
3 Claims submitted by the retailer are subject to the same
4 restrictions and procedures provided for in this Act. If it is
5 determined that the Department should issue a credit
6 memorandum or refund, the Department may first apply the
7 amount thereof against any tax or penalty or interest due or to
8 become due under this Act or under the Use Tax Act, the Service
9 Occupation Tax Act, the Service Use Tax Act, any local
10 occupation or use tax administered by the Department, Section
11 4 of the Water Commission Act of 1985, subsections (b), (c) and
12 (d) of Section 5.01 of the Local Mass Transit District Act, or
13 subsections (e), (f) and (g) of Section 4.03 of the Regional
14 Transportation Authority Act, from the person who made the
15 erroneous payment. If no tax or penalty or interest is due and
16 no proceeding is pending to determine whether such person is
17 indebted to the Department for tax or penalty or interest, the
18 credit memorandum or refund shall be issued to the claimant;
19 or (in the case of a credit memorandum) the credit memorandum
20 may be assigned and set over by the lawful holder thereof,
21 subject to reasonable rules of the Department, to any other
22 person who is subject to this Act, the Use Tax Act, the Service
23 Occupation Tax Act, the Service Use Tax Act, any local
24 occupation or use tax administered by the Department, Section
25 4 of the Water Commission Act of 1985, subsections (b), (c) and
26 (d) of Section 5.01 of the Local Mass Transit District Act, or

1 subsections (e), (f) and (g) of Section 4.03 of the Regional
2 Transportation Authority Act, and the amount thereof applied
3 by the Department against any tax or penalty or interest due or
4 to become due under this Act or under the Use Tax Act, the
5 Service Occupation Tax Act, the Service Use Tax Act, any local
6 occupation or use tax administered by the Department, Section
7 4 of the Water Commission Act of 1985, subsections (b), (c) and
8 (d) of Section 5.01 of the Local Mass Transit District Act, or
9 subsections (e), (f) and (g) of Section 4.03 of the Regional
10 Transportation Authority Act, from such assignee. However, as
11 to any claim for credit or refund filed with the Department on
12 and after each January 1 and July 1 no amount of tax or penalty
13 or interest erroneously paid (either in total or partial
14 liquidation of a tax or penalty or amount of interest under
15 this Act) more than 3 years prior to such January 1 and July 1,
16 respectively, shall be credited or refunded, except that if
17 both the Department and the taxpayer have agreed to an
18 extension of time to issue a notice of tax liability as
19 provided in Section 4 of this Act, such claim may be filed at
20 any time prior to the expiration of the period agreed upon.
21 Notwithstanding any other provision of this Act to the
22 contrary, for any taxable year included in a claim for credit
23 or refund for which the statute of limitations for issuing a
24 notice of tax liability under this Act will expire less than 6
25 months after the date a taxpayer files the claim for credit or
26 refund, the statute of limitations is automatically extended

1 for 6 months from the date it would have otherwise expired.

2 No claim may be allowed for any amount paid to the
3 Department, whether paid voluntarily or involuntarily, if paid
4 in total or partial liquidation of an assessment which had
5 become final before the claim for credit or refund to recover
6 the amount so paid is filed with the Department, or if paid in
7 total or partial liquidation of a judgment or order of court.
8 No credit may be allowed or refund made for any amount paid by
9 or collected from any claimant unless it appears (a) that the
10 claimant bore the burden of such amount and has not been
11 relieved thereof nor reimbursed therefor and has not shifted
12 such burden directly or indirectly through inclusion of such
13 amount in the price of the tangible personal property sold by
14 him or her or in any manner whatsoever; and that no
15 understanding or agreement, written or oral, exists whereby he
16 or she or his or her legal representative may be relieved of
17 the burden of such amount, be reimbursed therefor or may shift
18 the burden thereof; or (b) that he or she or his or her legal
19 representative has repaid unconditionally such amount to his
20 or her vendee (1) who bore the burden thereof and has not
21 shifted such burden directly or indirectly, in any manner
22 whatsoever; (2) who, if he or she has shifted such burden, has
23 repaid unconditionally such amount to his own vendee; and (3)
24 who is not entitled to receive any reimbursement therefor from
25 any other source than from his or her vendor, nor to be
26 relieved of such burden in any manner whatsoever. No credit

1 may be allowed or refund made for any amount paid by or
2 collected from any claimant unless it appears that the
3 claimant has unconditionally repaid, to the purchaser, any
4 amount collected from the purchaser and retained by the
5 claimant with respect to the same transaction under the Use
6 Tax Act.

7 Any credit or refund that is allowed under this Section
8 shall bear interest at the rate and in the manner specified in
9 the Uniform Penalty and Interest Act.

10 In case the Department determines that the claimant is
11 entitled to a refund, such refund shall be made only from the
12 Aviation Fuel Sales Tax Refund Fund or from such appropriation
13 as may be available for that purpose, as appropriate. If it
14 appears unlikely that the amount available would permit
15 everyone having a claim allowed during the period covered by
16 such appropriation or from the Aviation Fuel Sales Tax Refund
17 Fund, as appropriate, to elect to receive a cash refund, the
18 Department, by rule or regulation, shall provide for the
19 payment of refunds in hardship cases and shall define what
20 types of cases qualify as hardship cases.

21 If a retailer who has failed to pay retailers' occupation
22 tax on gross receipts from retail sales is required by the
23 Department to pay such tax, such retailer, without filing any
24 formal claim with the Department, shall be allowed to take
25 credit against such retailers' occupation tax liability to the
26 extent, if any, to which such retailer has paid an amount

1 equivalent to retailers' occupation tax or has paid use tax in
2 error to his or her vendor or vendors of the same tangible
3 personal property which such retailer bought for resale and
4 did not first use before selling it, and no penalty or interest
5 shall be charged to such retailer on the amount of such credit.
6 However, when such credit is allowed to the retailer by the
7 Department, the vendor is precluded from refunding any of that
8 tax to the retailer and filing a claim for credit or refund
9 with respect thereto with the Department. The provisions of
10 this amendatory Act shall be applied retroactively, regardless
11 of the date of the transaction.

12 (Source: P.A. 101-10, eff. 6-5-19.)

13 Section 30. The Cigarette Machine Operators' Occupation
14 Tax Act is amended by changing Section 1-55 as follows:

15 (35 ILCS 128/1-55)

16 Sec. 1-55. Claims; credit memorandum or refunds. If it
17 appears, after claim is filed with the Department, that an
18 amount of tax or penalty has been paid which was not due under
19 this Act, whether as the result of a mistake of fact or an
20 error of law, except as hereinafter provided, then the
21 Department shall issue a credit memorandum or refund to the
22 person who made the erroneous payment or, if that person has
23 died or become a person under legal disability, to his or her
24 legal representative.

1 If it is determined that the Department should issue a
2 credit or refund under this Act, the Department may first
3 apply the amount thereof against any amount of tax or penalty
4 due under this Act, the Cigarette Tax Act, the Cigarette Use
5 Tax Act, or the Tobacco Products Act of 1995 from the person
6 entitled to that credit or refund. For this purpose, if
7 proceedings are pending to determine whether or not any tax or
8 penalty is due under this Act or under the Cigarette Tax Act,
9 Cigarette Use Tax Act, or the Tobacco Products Act of 1995 from
10 the person, the Department may withhold issuance of the credit
11 or refund pending the final disposition of such proceedings
12 and may apply such credit or refund against any amount found to
13 be due to the Department under this Act, the Cigarette Tax Act,
14 the Cigarette Use Tax Act, or the Tobacco Products Act of 1995
15 as a result of such proceedings. The balance, if any, of the
16 credit or refund shall be issued to the person entitled
17 thereto.

18 If no tax or penalty is due and no proceeding is pending to
19 determine whether such taxpayer is indebted to the Department
20 for the payment of a tax or penalty, the credit memorandum or
21 refund shall be issued to the claimant; or (in the case of a
22 credit memorandum) the credit memorandum may be assigned and
23 set over by the lawful holder thereof, subject to reasonable
24 rules of the Department, to any other person who is subject to
25 this Act, the Cigarette Tax Act, the Cigarette Use Tax Act, or
26 the Tobacco Products Act of 1995, and the amount thereof shall

1 be applied by the Department against any tax or penalty due or
2 to become due under this Act, the Cigarette Tax Act, the
3 Cigarette Use Tax Act, or the Tobacco Products Act of 1995 from
4 such assignee.

5 As to any claim filed hereunder with the Department on and
6 after each January 1 and July 1, no amount of tax or penalty
7 erroneously paid (either in total or partial liquidation of a
8 tax or penalty under this Act) more than 3 years prior to such
9 January 1 and July 1, respectively, shall be credited or
10 refunded, except that, if both the Department and the taxpayer
11 have agreed to an extension of time to issue a notice of tax
12 liability under this Act, the claim may be filed at any time
13 prior to the expiration of the period agreed upon.
14 Notwithstanding any other provision of this Act to the
15 contrary, for any taxable year included in a claim for credit
16 or refund for which the statute of limitations for issuing a
17 notice of tax liability under this Act will expire less than 6
18 months after the date a taxpayer files the claim for credit or
19 refund, the statute of limitations is automatically extended
20 for 6 months from the date it would have otherwise expired.

21 Any credit or refund that is allowed under this Act shall
22 bear interest at the rate and in the manner set forth in the
23 Uniform Penalty and Interest Act.

24 In case the Department determines that the claimant is
25 entitled to a refund, such refund shall be made only from
26 appropriations available for that purpose. If it appears

1 unlikely that the amount appropriated would permit everyone
2 having a claim allowed during the period covered by such
3 appropriation to elect to receive a cash refund, the
4 Department, by rule or regulation, shall provide for the
5 payment of refunds in hardship cases and shall define what
6 types of cases qualify as hardship cases.

7 The provisions of Sections 6a, 6b, and 6c of the
8 Retailers' Occupation Tax Act which are not inconsistent with
9 this Act shall apply, as far as practicable, to the subject
10 matter of this Act to the same extent as if such provisions
11 were included herein.

12 (Source: P.A. 97-688, eff. 6-14-12.)

13 Section 35. The Cigarette Tax Act is amended by changing
14 Section 9d as follows:

15 (35 ILCS 130/9d) (from Ch. 120, par. 453.9d)

16 Sec. 9d. If it appears, after claim therefor filed with
17 the Department, that an amount of tax or penalty has been paid
18 which was not due under this Act, whether as the result of a
19 mistake of fact or an error of law, except as hereinafter
20 provided, then the Department shall issue a credit memorandum
21 or refund to the person who made the erroneous payment or, if
22 that person has died or become a person under legal
23 disability, to his or her legal representative, as such.

24 If it is determined that the Department should issue a

1 credit or refund under this Act, the Department may first
2 apply the amount thereof against any amount of tax or penalty
3 due under this Act or under the Cigarette Use Tax Act from the
4 person entitled to such credit or refund. For this purpose, if
5 proceedings are pending to determine whether or not any tax or
6 penalty is due under this Act or under the Cigarette Use Tax
7 Act from such person, the Department may withhold issuance of
8 the credit or refund pending the final disposition of such
9 proceedings and may apply such credit or refund against any
10 amount found to be due to the Department under this Act or
11 under the Cigarette Use Tax Act as a result of such
12 proceedings. The balance, if any, of the credit or refund
13 shall be issued to the person entitled thereto.

14 If no tax or penalty is due and no proceeding is pending to
15 determine whether such taxpayer is indebted to the Department
16 for tax or penalty, the credit memorandum or refund shall be
17 issued to the claimant; or (in the case of a credit memorandum)
18 the credit memorandum may be assigned and set over by the
19 lawful holder thereof, subject to reasonable rules of the
20 Department, to any other person who is subject to this Act or
21 the Cigarette Use Tax Act, and the amount thereof shall be
22 applied by the Department against any tax or penalty due or to
23 become due under this Act or under the Cigarette Use Tax Act
24 from such assignee.

25 As to any claim filed hereunder with the Department on and
26 after each January 1 and July 1, no amount of tax or penalty

1 erroneously paid (either in total or partial liquidation of a
2 tax or penalty under this Act) more than 3 years prior to such
3 January 1 and July 1, respectively, shall be credited or
4 refunded, except that if both the Department and the taxpayer
5 have agreed to an extension of time to issue a notice of tax
6 liability under this Act, the claim may be filed at any time
7 prior to the expiration of the period agreed upon.
8 Notwithstanding any other provision of this Act to the
9 contrary, for any taxable year included in a claim for credit
10 or refund for which the statute of limitations for issuing a
11 notice of tax liability under this Act will expire less than 6
12 months after the date a taxpayer files the claim for credit or
13 refund, the statute of limitations is automatically extended
14 for 6 months from the date it would have otherwise expired.

15 If the Department approves a claim for stamps affixed to a
16 product returned to a manufacturer or for replacement of
17 stamps, the credit memorandum shall not exceed the face value
18 of stamps originally affixed, and replacement stamps shall be
19 issued only in an amount equal to the value of the stamps
20 previously affixed. Higher denomination stamps shall not be
21 issued as replacements for lower value stamps. Distributors
22 must prove the face value of the stamps which have been
23 destroyed or returned to manufacturers when filing claims.

24 Any credit or refund that is allowed under this Act shall
25 bear interest at the rate and in the manner set forth in the
26 Uniform Penalty and Interest Act.

1 In case the Department determines that the claimant is
2 entitled to a refund, such refund shall be made only from such
3 appropriation as may be available for that purpose. If it
4 appears unlikely that the amount appropriated would permit
5 everyone having a claim allowed during the period covered by
6 such appropriation to elect to receive a cash refund, the
7 Department, by rule or regulation, shall provide for the
8 payment of refunds in hardship cases and shall define what
9 types of cases qualify as hardship cases.

10 If the Department approves a claim for the physical
11 replacement of cigarette tax stamps, the Department (subject
12 to the same limitations as those provided for hereinbefore in
13 this Section) may issue an assignable credit memorandum or
14 refund to the claimant or to the claimant's legal
15 representative.

16 The provisions of Sections 6a, 6b and 6c of the Retailers'
17 Occupation Tax Act which are not inconsistent with this Act,
18 shall apply, as far as practicable, to the subject matter of
19 this Act to the same extent as if such provisions were included
20 herein.

21 (Source: P.A. 90-491, eff. 1-1-98.)

22 Section 40. The Cigarette Use Tax Act is amended by
23 changing Section 14a as follows:

24 (35 ILCS 135/14a) (from Ch. 120, par. 453.44a)

1 Sec. 14a. If it appears, after claim therefor filed with
2 the Department, that an amount of tax or penalty has been paid
3 which was not due under this Act, whether as the result of a
4 mistake of fact or an error of law, except as hereinafter
5 provided, then the Department shall issue a credit memorandum
6 or refund to the person who made the erroneous payment or, if
7 that person has died or become a person under legal
8 disability, to his or her legal representative, as such.

9 If it is determined that the Department should issue a
10 credit or refund under this Act, the Department may first
11 apply the amount thereof against any amount of tax or penalty
12 due under this Act or under the Cigarette Tax Act from the
13 person entitled to such credit or refund. For this purpose, if
14 proceedings are pending to determine whether or not any tax or
15 penalty is due under this Act or under the Cigarette Tax Act
16 from such person, the Department may withhold issuance of the
17 credit or refund pending the final disposition of such
18 proceedings and may apply such credit or refund against any
19 amount found to be due to the Department under this Act or
20 under the Cigarette Tax Act as a result of such proceedings.
21 The balance, if any, of the credit or refund shall be issued to
22 the person entitled thereto.

23 If no tax or penalty is due and no proceeding is pending to
24 determine whether such taxpayer is indebted to the Department
25 for tax or penalty, the credit memorandum or refund shall be
26 issued to the claimant; or (in the case of a credit memorandum)

1 may be assigned and set over by the lawful holder thereof,
2 subject to reasonable rules of the Department, to any other
3 person who is subject to this Act or the Cigarette Tax Act, and
4 the amount thereof shall be applied by the Department against
5 any tax or penalty due or to become due under this Act or under
6 the Cigarette Tax Act from such assignee.

7 As to any claim filed hereunder with the Department on and
8 after each January 1 and July 1, no amount of tax or penalty
9 erroneously paid (either in total or partial liquidation of a
10 tax or penalty under this Act) more than 3 years prior to such
11 January 1 and July 1, respectively, shall be credited or
12 refunded, except that if both the Department and the taxpayer
13 have agreed to an extension of time to issue a notice of tax
14 liability under this Act, the claim may be filed at any time
15 prior to the expiration of the period agreed upon.
16 Notwithstanding any other provision of this Act to the
17 contrary, for any taxable year included in a claim for credit
18 or refund for which the statute of limitations for issuing a
19 notice of tax liability under this Act will expire less than 6
20 months after the date a taxpayer files the claim for credit or
21 refund, the statute of limitations is automatically extended
22 for 6 months from the date it would have otherwise expired.

23 In case the Department determines that the claimant is
24 entitled to a refund, such refund shall be made only from such
25 appropriation as may be available for that purpose. If it
26 appears unlikely that the amount appropriated would permit

1 everyone having a claim allowed during the period covered by
2 such appropriation to elect to receive a cash refund, the
3 Department, by rule or regulation, shall provide for the
4 payment of refunds in hardship cases and shall define what
5 types of cases qualify as hardship cases.

6 If the Department approves a claim for the physical
7 replacement of cigarette tax stamps, the Department (subject
8 to the same limitations as those provided for hereinbefore in
9 this Section) may issue an assignable credit memorandum or
10 refund to the claimant or to the claimant's legal
11 representative.

12 Any credit or refund that is allowed under this Act shall
13 bear interest at the rate and in the manner set forth in the
14 Uniform Penalty and Interest Act.

15 The provisions of Sections 6a, 6b and 6c of the
16 "Retailers' Occupation Tax Act", approved June 28, 1933, as
17 amended, in effect on the effective date of this amendatory
18 Act, as subsequently amended, which are not inconsistent with
19 this Act, shall apply, as far as practicable, to the subject
20 matter of this Act to the same extent as if such provisions
21 were included herein.

22 (Source: P.A. 90-491, eff. 1-1-98.)

23 Section 45. The Tobacco Products Tax Act of 1995 is
24 amended by changing Section 10-5 as follows:

1 (35 ILCS 143/10-5)

2 Sec. 10-5. Definitions. For purposes of this Act:

3 "Business" means any trade, occupation, activity, or
4 enterprise engaged in, at any location whatsoever, for the
5 purpose of selling tobacco products.

6 "Cigarette" has the meaning ascribed to the term in
7 Section 1 of the Cigarette Tax Act.

8 "Contraband little cigar" means:

9 (1) packages of little cigars containing 20 or 25
10 little cigars that do not bear a required tax stamp under
11 this Act;

12 (2) packages of little cigars containing 20 or 25
13 little cigars that bear a fraudulent, imitation, or
14 counterfeit tax stamp;

15 (3) packages of little cigars containing 20 or 25
16 little cigars that are improperly tax stamped, including
17 packages of little cigars that bear only a tax stamp of
18 another state or taxing jurisdiction; or

19 (4) packages of little cigars containing other than 20
20 or 25 little cigars in the possession of a distributor,
21 retailer or wholesaler, unless the distributor, retailer,
22 or wholesaler possesses, or produces within the time frame
23 provided in Section 10-27 or 10-28 of this Act, an invoice
24 from a stamping distributor, distributor, or wholesaler
25 showing that the tax on the packages has been or will be
26 paid.

1 "Correctional Industries program" means a program run by a
2 State penal institution in which residents of the penal
3 institution produce tobacco products for sale to persons
4 incarcerated in penal institutions or resident patients of a
5 State operated mental health facility.

6 "Department" means the Illinois Department of Revenue.

7 "Distributor" means any of the following:

8 (1) Any manufacturer or wholesaler in this State
9 engaged in the business of selling tobacco products who
10 sells, exchanges, or distributes tobacco products to
11 retailers or consumers in this State.

12 (2) Any manufacturer or wholesaler engaged in the
13 business of selling tobacco products from without this
14 State who sells, exchanges, distributes, ships, or
15 transports tobacco products to retailers or consumers
16 located in this State, so long as that manufacturer or
17 wholesaler has or maintains within this State, directly or
18 by subsidiary, an office, sales house, or other place of
19 business, or any agent or other representative operating
20 within this State under the authority of the person or
21 subsidiary, irrespective of whether the place of business
22 or agent or other representative is located here
23 permanently or temporarily.

24 (3) Any retailer who receives tobacco products on
25 which the tax has not been or will not be paid by another
26 distributor.

1 "Distributor" does not include any person, wherever
2 resident or located, who makes, manufactures, or fabricates
3 tobacco products as part of a Correctional Industries program
4 for sale to residents incarcerated in penal institutions or
5 resident patients of a State operated mental health facility.

6 "Electronic cigarette" means:

7 (1) any device that employs a battery or other
8 mechanism to heat a solution or substance to produce a
9 vapor or aerosol intended for inhalation, except for (A)
10 any device designed solely for use with cannabis that
11 contains a statement on the retail packaging that the
12 device is designed solely for use with cannabis and not
13 for use with tobacco or (B) any device that contains a
14 solution or substance that contains cannabis subject to
15 tax under the Compassionate Use of Medical Cannabis
16 Program Act or the Cannabis Regulation and Tax Act;

17 (2) any cartridge or container of a solution or
18 substance intended to be used with or in the device or to
19 refill the device, except for any cartridge or container
20 of a solution or substance that contains cannabis subject
21 to tax under the Compassionate Use of Medical Cannabis
22 Program Act or the Cannabis Regulation and Tax Act; or

23 (3) any solution or substance, whether or not it
24 contains nicotine, intended for use in the device, except
25 for any solution or substance that contains cannabis
26 subject to tax under the Compassionate Use of Medical

1 Cannabis Program Act or the Cannabis Regulation and Tax
2 Act.

3 The changes made to the definition of "electronic
4 cigarette" by this amendatory Act of the 102nd General
5 Assembly apply on and after June 28, 2020, but no claim for
6 credit or refund is allowed on or after the effective date of
7 this amendatory Act of the 102nd General Assembly for such
8 taxes paid during the period beginning June 28, 2020 and the
9 effective date of this amendatory Act of the 102nd General
10 Assembly.

11 "Electronic cigarette" includes, but is not limited to,
12 any electronic nicotine delivery system, electronic cigar,
13 electronic cigarillo, electronic pipe, electronic hookah, vape
14 pen, or similar product or device, and any component or part
15 that can be used to build the product or device. "Electronic
16 cigarette" does not include: cigarettes, as defined in Section
17 1 of the Cigarette Tax Act; any product approved by the United
18 States Food and Drug Administration for sale as a tobacco
19 cessation product, a tobacco dependence product, or for other
20 medical purposes that is marketed and sold solely for that
21 approved purpose; any asthma inhaler prescribed by a physician
22 for that condition that is marketed and sold solely for that
23 approved purpose; or any therapeutic product approved for use
24 under the Compassionate Use of Medical Cannabis Program Act.

25 "Little cigar" means and includes any roll, made wholly or
26 in part of tobacco, where such roll has an integrated

1 cellulose acetate filter and weighs less than 4 pounds per
2 thousand and the wrapper or cover of which is made in whole or
3 in part of tobacco.

4 "Manufacturer" means any person, wherever resident or
5 located, who manufactures and sells tobacco products, except a
6 person who makes, manufactures, or fabricates tobacco products
7 as a part of a Correctional Industries program for sale to
8 persons incarcerated in penal institutions or resident
9 patients of a State operated mental health facility.

10 Beginning on January 1, 2013, "moist snuff" means any
11 finely cut, ground, or powdered tobacco that is not intended
12 to be smoked, but shall not include any finely cut, ground, or
13 powdered tobacco that is intended to be placed in the nasal
14 cavity.

15 "Person" means any natural individual, firm, partnership,
16 association, joint stock company, joint venture, limited
17 liability company, or public or private corporation, however
18 formed, or a receiver, executor, administrator, trustee,
19 conservator, or other representative appointed by order of any
20 court.

21 "Place of business" means and includes any place where
22 tobacco products are sold or where tobacco products are
23 manufactured, stored, or kept for the purpose of sale or
24 consumption, including any vessel, vehicle, airplane, train,
25 or vending machine.

26 "Retailer" means any person in this State engaged in the

1 business of selling tobacco products to consumers in this
2 State, regardless of quantity or number of sales.

3 "Sale" means any transfer, exchange, or barter in any
4 manner or by any means whatsoever for a consideration and
5 includes all sales made by persons.

6 "Stamp" or "stamps" mean the indicia required to be
7 affixed on a package of little cigars that evidence payment of
8 the tax on packages of little cigars containing 20 or 25 little
9 cigars under Section 10-10 of this Act. These stamps shall be
10 the same stamps used for cigarettes under the Cigarette Tax
11 Act.

12 "Stamping distributor" means a distributor licensed under
13 this Act and also licensed as a distributor under the
14 Cigarette Tax Act or Cigarette Use Tax Act.

15 "Tobacco products" means any cigars, including little
16 cigars; cheroots; stogies; periques; granulated, plug cut,
17 crimp cut, ready rubbed, and other smoking tobacco; snuff
18 (including moist snuff) or snuff flour; cavendish; plug and
19 twist tobacco; fine-cut and other chewing tobaccos; shorts;
20 refuse scraps, clippings, cuttings, and sweeping of tobacco;
21 and other kinds and forms of tobacco, prepared in such manner
22 as to be suitable for chewing or smoking in a pipe or
23 otherwise, or both for chewing and smoking; but does not
24 include cigarettes as defined in Section 1 of the Cigarette
25 Tax Act or tobacco purchased for the manufacture of cigarettes
26 by cigarette distributors and manufacturers defined in the

1 Cigarette Tax Act and persons who make, manufacture, or
2 fabricate cigarettes as a part of a Correctional Industries
3 program for sale to residents incarcerated in penal
4 institutions or resident patients of a State operated mental
5 health facility.

6 Beginning on July 1, 2019, "tobacco products" also
7 includes electronic cigarettes.

8 "Wholesale price" means the established list price for
9 which a manufacturer sells tobacco products to a distributor,
10 before the allowance of any discount, trade allowance, rebate,
11 or other reduction. In the absence of such an established list
12 price, the manufacturer's invoice price at which the
13 manufacturer sells the tobacco product to unaffiliated
14 distributors, before any discounts, trade allowances, rebates,
15 or other reductions, shall be presumed to be the wholesale
16 price.

17 "Wholesaler" means any person, wherever resident or
18 located, engaged in the business of selling tobacco products
19 to others for the purpose of resale. "Wholesaler", when used
20 in this Act, does not include a person licensed as a
21 distributor under Section 10-20 of this Act unless expressly
22 stated in this Act.

23 (Source: P.A. 101-31, eff. 6-28-19; 101-593, eff. 12-4-19.)

24 Section 50. The Messages Tax Act is amended by changing
25 Section 6 as follows:

1 (35 ILCS 610/6) (from Ch. 120, par. 467.6)

2 Sec. 6. If it appears, after claim therefor filed with the
3 Department, that an amount of tax or penalty or interest has
4 been paid which was not due under this Act, whether as the
5 result of a mistake of fact or an error of law, except as
6 hereinafter provided, then the Department shall issue a credit
7 memorandum or refund to the person who made the erroneous
8 payment or, if that person has died or become a person under
9 legal disability, to his or her legal representative, as such.

10 If it is determined that the Department should issue a
11 credit or refund under this Act, the Department may first
12 apply the amount thereof against any amount of tax or penalty
13 or interest due hereunder from the person entitled to such
14 credit or refund. For this purpose, if proceedings are pending
15 to determine whether or not any tax or penalty or interest is
16 due under this Act from such person, the Department may
17 withhold issuance of the credit or refund pending the final
18 disposition of such proceedings and may apply such credit or
19 refund against any amount found to be due to the Department as
20 a result of such proceedings. The balance, if any, of the
21 credit or refund shall be issued to the person entitled
22 thereto.

23 If no tax or penalty or interest is due and no proceeding
24 is pending to determine whether such person is indebted to the
25 Department for tax or penalty or interest, the credit

1 memorandum or refund shall be issued to the claimant; or (in
2 the case of a credit memorandum) the credit memorandum may be
3 assigned and set over by the lawful holder thereof, subject to
4 reasonable rules of the Department, to any other person who is
5 subject to this Act, and the amount thereof shall be applied by
6 the Department against any tax or penalty or interest due or to
7 become due under this Act from such assignee.

8 As to any claim for credit or refund filed with the
9 Department on or after each January 1 and July 1, no amounts
10 erroneously paid more than 3 years prior to such January 1 and
11 July 1, respectively, shall be credited or refunded, except
12 that if both the Department and the taxpayer have agreed to an
13 extension of time to issue a notice of tax liability under this
14 Act, the claim may be filed at any time prior to the expiration
15 of the period agreed upon. Notwithstanding any other provision
16 of this Act to the contrary, for any period included in a claim
17 for credit or refund for which the statute of limitations for
18 issuing a notice of tax liability under this Act will expire
19 less than 6 months after the date a taxpayer files the claim
20 for credit or refund, the statute of limitations is
21 automatically extended for 6 months from the date it would
22 have otherwise expired.

23 Claims for credit or refund shall be filed upon forms
24 provided by the Department. As soon as practicable after any
25 claim for credit or refund is filed, the Department shall
26 examine the same and determine the amount of credit or refund

1 to which the claimant is entitled and shall notify the
2 claimant of such determination, which amount shall be prima
3 facie correct.

4 Any credit or refund that is allowed under this Act shall
5 bear interest at the rate and in the manner specified in the
6 Uniform Penalty and Interest Act.

7 In case the Department determines that the claimant is
8 entitled to a refund, such refund shall be made only from such
9 appropriation as may be available for that purpose. If it
10 appears unlikely that the amount appropriated would permit
11 everyone having a claim allowed during the period covered by
12 such appropriation to elect to receive a cash refund, the
13 Department, by rule or regulation, shall provide for the
14 payment of refunds in hardship cases and shall define what
15 types of cases qualify as hardship cases.

16 (Source: P.A. 90-491, eff. 1-1-98.)

17 Section 55. The Gas Revenue Tax Act is amended by changing
18 Section 6 as follows:

19 (35 ILCS 615/6) (from Ch. 120, par. 467.21)

20 Sec. 6. If it appears, after claim therefor filed with the
21 Department, that an amount of tax or penalty or interest has
22 been paid which was not due under this Act, whether as the
23 result of a mistake of fact or an error of law, except as
24 hereinafter provided, then the Department shall issue a credit

1 memorandum or refund to the person who made the erroneous
2 payment or, if that person has died or become a person under
3 legal disability, to his or her legal representative, as such.

4 If it is determined that the Department should issue a
5 credit or refund under this Act, the Department may first
6 apply the amount thereof against any amount of tax or penalty
7 or interest due hereunder from the person entitled to such
8 credit or refund. For this purpose, if proceedings are pending
9 to determine whether or not any tax or penalty or interest is
10 due under this Act from such person, the Department may
11 withhold issuance of the credit or refund pending the final
12 disposition of such proceedings and may apply such credit or
13 refund against any amount found to be due to the Department as
14 a result of such proceedings. The balance, if any, of the
15 credit or refund shall be issued to the person entitled
16 thereto.

17 If no tax or penalty or interest is due and no proceeding
18 is pending to determine whether such person is indebted to the
19 Department for tax or penalty or interest, the credit
20 memorandum or refund shall be issued to the claimant; or (in
21 the case of a credit memorandum) the credit memorandum may be
22 assigned and set over by the lawful holder thereof, subject to
23 reasonable rules of the Department, to any other person who is
24 subject to this Act, and the amount thereof shall be applied by
25 the Department against any tax or penalty or interest due or to
26 become due under this Act from such assignee.

1 As to any claim for credit or refund filed with the
2 Department on or after each January 1 and July 1, no amounts
3 erroneously paid more than 3 years prior to such January 1 and
4 July 1, respectively, shall be credited or refunded, except
5 that if both the Department and the taxpayer have agreed to an
6 extension of time to issue a notice of tax liability under this
7 Act, the claim may be filed at any time prior to the expiration
8 of the period agreed upon. Notwithstanding any other provision
9 of this Act to the contrary, for any period included in a claim
10 for credit or refund for which the statute of limitations for
11 issuing a notice of tax liability under this Act will expire
12 less than 6 months after the date a taxpayer files the claim
13 for credit or refund, the statute of limitations is
14 automatically extended for 6 months from the date it would
15 have otherwise expired.

16 Claims for credit or refund shall be filed upon forms
17 provided by the Department. As soon as practicable after any
18 claim for credit or refund is filed, the Department shall
19 examine the same and determine the amount of credit or refund
20 to which the claimant is entitled and shall notify the
21 claimant of such determination, which amount shall be prima
22 facie correct.

23 Any credit or refund that is allowed under this Act shall
24 bear interest at the rate and in the manner specified in the
25 Uniform Penalty and Interest Act.

26 In case the Department determines that the claimant is

1 entitled to a refund, such refund shall be made only from such
2 appropriation as may be available for that purpose. If it
3 appears unlikely that the amount appropriated would permit
4 everyone having a claim allowed during the period covered by
5 such appropriation to elect to receive a cash refund, the
6 Department, by rule or regulation, shall provide for the
7 payment of refunds in hardship cases and shall define what
8 types of cases qualify as hardship cases.

9 (Source: P.A. 90-491, eff. 1-1-98.)

10 Section 60. The Public Utilities Revenue Act is amended by
11 changing Section 6 as follows:

12 (35 ILCS 620/6) (from Ch. 120, par. 473)

13 Sec. 6. If it appears, after claim therefor filed with the
14 Department, that an amount of tax or penalty or interest has
15 been paid which was not due under this Act, whether as the
16 result of a mistake of fact or an error of law, except as
17 hereinafter provided, then the Department shall issue a credit
18 memorandum or refund to the person who made the erroneous
19 payment or, if that person has died or become a person under
20 legal disability, to his or her legal representative, as such.

21 If it is determined that the Department should issue a
22 credit or refund under this Act, the Department may first
23 apply the amount thereof against any amount of tax or penalty
24 or interest due hereunder from the person entitled to such

1 credit or refund. Any credit memorandum issued under the
2 Electricity Excise Tax Law may be applied against any
3 liability incurred under the tax previously imposed by Section
4 2 of this Act. For this purpose, if proceedings are pending to
5 determine whether or not any tax or penalty or interest is due
6 under this Act from such person, the Department may withhold
7 issuance of the credit or refund pending the final disposition
8 of such proceedings and may apply such credit or refund
9 against any amount found to be due to the Department as a
10 result of such proceedings. The balance, if any, of the credit
11 or refund shall be issued to the person entitled thereto.

12 If no tax or penalty or interest is due and no proceeding
13 is pending to determine whether such person is indebted to the
14 Department for tax or penalty or interest, the credit
15 memorandum or refund shall be issued to the claimant; or (in
16 the case of a credit memorandum) the credit memorandum may be
17 assigned and set over by the lawful holder thereof, subject to
18 reasonable rules of the Department, to any other person who is
19 subject to this Act, and the amount thereof shall be applied by
20 the Department against any tax or penalty or interest due or to
21 become due under this Act from such assignee.

22 As to any claim for credit or refund filed with the
23 Department on or after each January 1 and July 1, no amounts
24 erroneously paid more than 3 years prior to such January 1 and
25 July 1, respectively, shall be credited or refunded, except
26 that if both the Department and the taxpayer have agreed to an

1 extension of time to issue a notice of tax liability under this
2 Act, the claim may be filed at any time prior to the expiration
3 of the period agreed upon. Notwithstanding any other provision
4 of this Act to the contrary, for any period included in a claim
5 for credit or refund for which the statute of limitations for
6 issuing a notice of tax liability under this Act will expire
7 less than 6 months after the date a taxpayer files the claim
8 for credit or refund, the statute of limitations is
9 automatically extended for 6 months from the date it would
10 have otherwise expired.

11 Claims for credit or refund shall be filed upon forms
12 provided by the Department. As soon as practicable after any
13 claim for credit or refund is filed, the Department shall
14 examine the same and determine the amount of credit or refund
15 to which the claimant is entitled and shall notify the
16 claimant of such determination, which amount shall be prima
17 facie correct.

18 Any credit or refund that is allowed under this Act shall
19 bear interest at the rate and in the manner specified in the
20 Uniform Penalty and Interest Act.

21 In case the Department determines that the claimant is
22 entitled to a refund, such refund shall be made only from such
23 appropriation as may be available for that purpose. If it
24 appears unlikely that the amount appropriated would permit
25 everyone having a claim allowed during the period covered by
26 such appropriation to elect to receive a cash refund, the

1 Department, by rule or regulation, shall provide for the
2 payment of refunds in hardship cases and shall define what
3 types of cases qualify as hardship cases.

4 (Source: P.A. 90-491, eff. 1-1-98; 90-624, eff. 7-10-98.)

5 Section 65. The Water Company Invested Capital Tax Act is
6 amended by changing Section 6 as follows:

7 (35 ILCS 625/6) (from Ch. 120, par. 1416)

8 Sec. 6. If it appears, after claim therefor filed with the
9 Department, that an amount of tax or penalty or interest has
10 been paid which was not due under this Act, whether as the
11 result of a mistake of fact or an error of law, except as
12 hereinafter provided, then the Department shall issue a credit
13 memorandum or refund to the person who made the erroneous
14 payment or, if that person has died or become incompetent, to
15 his legal representative, as such.

16 If it is determined that the Department should issue a
17 credit or refund under this Act, the Department may first
18 apply the amount thereof against any amount of tax or penalty
19 or interest due hereunder from the person entitled to such
20 credit or refund. For this purpose, if proceedings are pending
21 to determine whether or not any tax or penalty or interest is
22 due under this Act from such person, the Department may
23 withhold issuance of the credit or refund pending the final
24 disposition of such proceedings and may apply such credit or

1 refund against any amount found to be due to the Department as
2 a result of such proceedings. The balance, if any, of the
3 credit or refund shall be issued to the person entitled
4 thereto.

5 If no tax or penalty or interest is due and no proceeding
6 is pending to determine whether such person is indebted to the
7 Department for tax or penalty or interest, the credit
8 memorandum or refund shall be issued to the claimant; or (in
9 the case of a credit memorandum) the credit memorandum may be
10 assigned and set over by the lawful holder thereof, subject to
11 reasonable rules of the Department, to any other person who is
12 subject to this Act, and the amount thereof shall be applied by
13 the Department against any tax or penalty or interest due or to
14 become due under this Act from such assignee.

15 As to any claim for credit or refund filed with the
16 Department on or after each January 1 and July 1, no amounts
17 erroneously paid more than 3 years prior to such January 1 and
18 July 1, respectively, shall be credited or refunded, except
19 that if both the Department and the taxpayer have agreed to an
20 extension of time to issue a notice of tax liability under this
21 Act, the claim may be filed at any time prior to the expiration
22 of the period agreed upon. Notwithstanding any other provision
23 of this Act to the contrary, for any period included in a claim
24 for credit or refund for which the statute of limitations for
25 issuing a notice of tax liability under this Act will expire
26 less than 6 months after the date a taxpayer files the claim

1 for credit or refund, the statute of limitations is
2 automatically extended for 6 months from the date it would
3 have otherwise expired.

4 Claims for credit or refund shall be filed upon forms
5 provided by the Department. As soon as practicable after any
6 claim for credit or refund is filed, the Department shall
7 examine the same and determine the amount of credit or refund
8 to which the claimant is entitled and shall notify the
9 claimant of such determination, which amount shall be prima
10 facie correct.

11 Any credit or refund that is allowed under this Section
12 shall bear interest at the rate and in the manner specified in
13 the Uniform Penalty and Interest Act.

14 In case the Department determines that the claimant is
15 entitled to a refund, such refund shall be made only from such
16 appropriation as may be available for that purpose. If it
17 appears unlikely that the amount appropriated would permit
18 everyone having a claim allowed during the period covered by
19 such appropriation to elect to receive a cash refund, the
20 Department, by rule or regulation, shall provide for the
21 payment of refunds in hardship cases and shall define what
22 types of cases qualify as hardship cases.

23 (Source: P.A. 90-491, eff. 1-1-98.)

24 Section 70. The Telecommunications Excise Tax Act is
25 amended by changing Section 10 as follows:

1 (35 ILCS 630/10) (from Ch. 120, par. 2010)

2 Sec. 10. If it shall appear that an amount of tax or
3 penalty or interest has been paid in error hereunder to the
4 Department by a taxpayer, as distinguished from the retailer,
5 whether such amount be paid through a mistake of fact or an
6 error of law, such taxpayer may file a claim for credit or
7 refund with the Department. If it shall appear that an amount
8 of tax or penalty or interest has been paid in error to the
9 Department hereunder by a retailer who is required or
10 authorized to collect and remit the tax imposed by this
11 Article, whether such amount be paid through a mistake of fact
12 or an error of law, such retailer may file a claim for credit
13 or refund with the Department, provided that no credit or
14 refund shall be allowed for any amount paid by any such
15 retailer unless it shall appear that he bore the burden of such
16 amount and did not shift the burden thereof to anyone else, or
17 unless it shall appear that he or she or his or her legal
18 representative has unconditionally repaid such amount to his
19 customer (1) who bore the burden thereof and has not shifted
20 such burden directly or indirectly in any manner whatsoever;
21 or (2) who, if he or she shifted such burden, has repaid
22 unconditionally such amount to his or her own customer; and
23 (3) who is not entitled to receive any reimbursement therefor
24 from any other source than from his retailer, nor to be
25 relieved of such burden in any other manner whatsoever.

1 If it is determined that the Department should issue a
2 credit or refund under this Article, the Department may first
3 apply the amount thereof against any amount of tax or penalty
4 or interest due hereunder from the person entitled to such
5 credit or refund. For this purpose, if proceedings are pending
6 to determine whether or not any tax or penalty or interest is
7 due under this Article from such person, the Department may
8 withhold issuance of the credit or refund pending the final
9 disposition of such proceedings and may apply such credit or
10 refund against any amount found to be due to the Department as
11 a result of such proceedings. The balance, if any, of the
12 credit or refund shall be issued to the person entitled
13 thereto.

14 If no tax or penalty or interest is due and no proceeding
15 is pending to determine whether such person is indebted to the
16 Department for tax or penalty or interest, the credit
17 memorandum or refund shall be issued to the claimant; or (in
18 the case of a credit memorandum) the credit memorandum may be
19 assigned and set over by the lawful holder thereof, subject to
20 reasonable rules of the Department, to any other person who is
21 subject to this Article, and the amount thereof shall be
22 applied by the Department against any tax or penalty or
23 interest due or to become due under this Article from such
24 assignee.

25 As to any claim for credit or refund filed with the
26 Department on or after each January 1 and July 1, no amounts

1 erroneously paid more than three years prior to such January 1
2 and July 1, respectively, shall be credited or refunded,
3 except that if both the Department and the taxpayer have
4 agreed to an extension of time to issue a notice of tax
5 liability under this Act, the claim may be filed at any time
6 prior to the expiration of the period agreed upon.
7 Notwithstanding any other provision of this Act to the
8 contrary, for any taxable year included in a claim for credit
9 or refund for which the statute of limitations for issuing a
10 notice of tax liability under this Act will expire less than 6
11 months after the date a taxpayer files the claim for credit or
12 refund, the statute of limitations is automatically extended
13 for 6 months from the date it would have otherwise expired.

14 Claims for credit or refund shall be filed upon forms
15 provided by the Department. As soon as practicable after any
16 claim for credit or refund is filed, the Department shall
17 examine the same and determine the amount of credit or refund
18 to which the claimant is entitled and shall notify the
19 claimant of such determination, which amount shall be prima
20 facie correct.

21 A claim for credit or refund shall be considered to have
22 been filed with the Department on the date upon which it is
23 received by the Department. Upon receipt of any claim for
24 credit or refund filed under this Article, any officer or
25 employee of the Department, authorized in writing by the
26 Director of Revenue to acknowledge receipt of such claims on

1 behalf of the Department, shall execute on behalf of the
2 Department, and shall deliver or mail to the claimant or his
3 duly authorized agent, a written receipt, acknowledging that
4 the claim has been filed with the Department, describing the
5 claim in sufficient detail to identify it and stating the date
6 upon which the claim was received by the Department. Such
7 written receipt shall be prima facie evidence that the
8 Department received the claim described in such receipt and
9 shall be prima facie evidence of the date when such claim was
10 received by the Department. In the absence of such a written
11 receipt, the records of the Department as to when the claim was
12 received by the Department, or as to whether or not the claim
13 was received at all by the Department, shall be deemed to be
14 prima facie correct upon these questions in the event of any
15 dispute between the claimant (or his or her legal
16 representative) and the Department concerning these questions.

17 Any credit or refund that is allowed under this Article
18 shall bear interest at the rate and in the manner specified in
19 the Uniform Penalty and Interest Act.

20 In case the Department determines that the claimant is
21 entitled to a refund, such refund shall be made only from such
22 appropriation as may be available for that purpose. If it
23 appears unlikely that the amount appropriated would permit
24 everyone having a claim allowed during the period covered by
25 such appropriation to elect to receive a cash refund, the
26 Department by rule or regulation shall provide for the payment

1 of refunds in hardship cases and shall define what types of
2 cases qualify as hardship cases.

3 If a retailer who has failed to pay tax on gross charges
4 for telecommunications is required by the Department to pay
5 such tax, such retailer, without filing any formal claim with
6 the Department, shall be allowed to take credit against such
7 tax liability to the extent, if any, to which such retailer has
8 paid the tax to its vendor of the telecommunications which
9 such retailer purchased and used for resale, and no penalty or
10 interest shall be charged to such retailer on the amount of
11 such credit. However, when such credit is allowed to the
12 retailer by the Department, the vendor is precluded from
13 refunding any of the tax to the retailer and filing a claim for
14 credit or refund with respect thereto with the Department. The
15 provisions of this Section added by this amendatory Act of
16 1988 shall be applied retroactively, regardless of the date of
17 the transaction.

18 (Source: P.A. 90-491, eff. 1-1-98.)

19 Section 75. The Local Government Revenue Recapture Act is
20 amended by changing Sections 5-5, 5-10, 5-15, 5-20, 5-30,
21 5-35, 5-37, 10-15, 10-20, 10-30, 10-35, and 10-40 as follows:

22 (50 ILCS 355/5-5)

23 Sec. 5-5. Definitions. As used in this Article:

24 "Department" means the Department of Revenue.

1 "Family member" means the following, whether by whole
2 blood, half-blood, or adoption:

3 (1) a parent or step-parent;

4 (2) a child or step-child;

5 (3) a grandparent or step-grandparent;

6 (4) an aunt, uncle, great-aunt, or great-uncle;

7 (4.1) a niece, nephew, great-niece, or great-nephew;

8 (5) a sibling;

9 (6) a spouse or domestic partner; and

10 (7) the spouse or domestic partner of any person
11 referenced in items (1) through (5).

12 "Financial information" means the information provided to
13 the municipality or county by the Department under Section 11
14 of the Retailers' Occupation Tax Act that is reported to the
15 Department by a business located in a given municipality or
16 county.

17 "Person" means an individual, sole proprietorship,
18 corporation, registered limited liability partnership, limited
19 liability company, partnership, professional service
20 corporation, or any other form of organization.

21 "Misallocation" means tax paid by the taxpayer and
22 allocated to one unit of local government that should have
23 been allocated to a different unit of local government. This
24 includes misallocations discovered by a unit of local
25 government through the tax location verification process under
26 Section 8-11-16 of the Illinois Municipal Code and

1 misallocations discovered by the Department other than through
2 an audit of the taxpayer. "Misallocation" does not, however,
3 include any amount reported by a taxpayer in an amended return
4 or any amount discovered in an audit of the taxpayer by the
5 Department or discovered in an audit of the taxpayer by a
6 qualified practitioner under Article 10 of this Act.
7 "Misallocation" also does not include amounts overpaid by the
8 taxpayer and therefore not owed to any unit of local
9 government, nor amounts underpaid by the taxpayer and
10 therefore not previously allocated to any unit of local
11 government.

12 "Monitoring disbursements" means keeping track of payments
13 from the Department by a municipality, county, or third party
14 for the limited purpose of tracking previous misallocations.

15 "Third party" means a person, partnership, corporation, or
16 other entity or individual registered to do business in
17 Illinois who contracts with a municipality or county to review
18 financial information related to the disbursement of local
19 taxes by the Department to the municipality or county.

20 (Source: P.A. 101-628, eff. 6-1-20.)

21 (50 ILCS 355/5-10)

22 Sec. 5-10. Contracts with third parties. A municipality or
23 county that receives a disbursement of tax proceeds from the
24 Department may contract with a third party for the purpose of
25 ensuring that the municipality or county receives the correct

1 disbursement from the Department and monitoring disbursements.
2 The third party may not contact the Department on behalf of the
3 municipality or county, but instead must work directly with
4 the municipality or county to acquire financial information. A
5 third party may, however, directly access a municipality's or
6 county's financial information that is provided by the
7 Department by electronic means under Section 11 of the
8 Retailers' Occupation Tax Act, provided that the third party
9 meets all other conditions under this Section for the receipt
10 of financial information. To be eligible to receive financial
11 information from the municipality or county, the third party
12 must:

13 (1) enter into a confidentiality agreement with the
14 municipality or county in the form and manner required by
15 the Department prior to receiving the financial
16 information;

17 (2) have an existing contract with the municipality or
18 county at the time the third party enters into the
19 confidentiality agreement with the municipality or county;
20 a copy of that existing contract must be on file with the
21 Department;

22 (3) abide by the same conditions as the municipality
23 or county with respect to the furnishing of financial
24 information under Section 11 of the Retailers' Occupation
25 Tax Act; and

26 (4) be registered with the Department as required by

1 Section 5-35 of this Act.

2 (Source: P.A. 101-628, eff. 6-1-20.)

3 (50 ILCS 355/5-15)

4 Sec. 5-15. Financial information. The third party may use
5 the financial information it receives from the contracting
6 municipality or county only for the purpose of providing
7 services to the municipality or county as specified in this
8 Act and may not use the information for any other purpose.
9 Electronic data submitted to third parties ~~or~~ by the
10 contracting municipality or county must be accessible only to
11 third parties who have entered into a confidentiality
12 agreement with the municipality or county or who have an
13 existing contract with the municipality or county.

14 (Source: P.A. 101-628, eff. 6-1-20.)

15 (50 ILCS 355/5-20)

16 Sec. 5-20. Retention, collection, disclosure, and
17 destruction of financial information.

18 (a) A third party in possession of a taxpayer's financial
19 information must permanently destroy that financial
20 information pursuant to this Act. The financial information
21 shall be destroyed upon the soonest of the following to occur:

22 (1) if the taxpayer is not referred to the Department,
23 within 30 days after receipt of the taxpayer's financial
24 information from either the municipality or county, unless

1 the third party is monitoring disbursements from the
2 Department on an ongoing basis for a municipality or
3 county, in which case, the financial information shall be
4 destroyed no later than 3 years after receipt; or

5 (2) within 30 days after the Department receives a
6 taxpayer audit referral from a third party referring the
7 taxpayer to the Department for additional review.

8 (b) No third party in possession of financial information
9 may sell, lease, trade, market, or otherwise utilize or profit
10 from a taxpayer's financial information. The ~~, except for a~~
11 ~~fee as negotiated by the municipality or county~~ may, however,
12 negotiate a fee with the third party. The fee may be in the
13 form of a contingency fee for a percentage of the amount of
14 additional distributions the municipality or county receives
15 for no more than 3 years following the first disbursement to
16 the municipality or county as a result of the services of the
17 third party under this Act.

18 (c) No third party may permanently or temporarily collect,
19 capture, purchase, use, receive through trade, or otherwise
20 retain a taxpayer's financial information beyond the scope of
21 subsection (a) of this Section.

22 (d) No third party in possession of confidential
23 information may disclose, redisclose, share, or otherwise
24 disseminate a taxpayer's financial information.

25 (e) A third party must dispose of the materials containing
26 financial information in a manner that renders the financial

1 information unreadable, unusable, and undecipherable. Proper
2 disposal methods include, but are not limited to, the
3 following:

4 (1) in the case of paper documents, burning,
5 pulverizing, or shredding so that the information cannot
6 practicably be read or reconstructed; and

7 (2) in the case of electronic media and other
8 non-paper media containing information, destroying or
9 erasing so that information cannot practicably be read,
10 reconstructed, or otherwise utilized by the third party or
11 others.

12 (Source: P.A. 101-628, eff. 6-1-20.)

13 (50 ILCS 355/5-30)

14 Sec. 5-30. Posting results. Annually, the third party
15 shall provide the municipality or county with a final summary
16 of the review for publication. It is the responsibility of the
17 third party to ensure that this summary includes no personal
18 or identifying information of taxpayers and that all such
19 taxpayer information is kept confidential. If the summary
20 includes any discussion of tax revenue, it shall include only
21 aggregate amounts by tax type, and shall in no way include
22 information about an individual return or an individual
23 taxpayer, even with identifying information redacted. No
24 aggregated data may be published that includes taxpayer
25 information for 4 or fewer taxpayers. In addition, due to the

1 preliminary nature of such a summary based only on unaudited
2 financial information, no claim of specific tax savings or
3 revenue generation may be made in the summary.

4 (Source: P.A. 101-628, eff. 6-1-20.)

5 (50 ILCS 355/5-35)

6 Sec. 5-35. Third party registration.

7 (a) Beginning on January 1, 2021, no person shall engage
8 in business as a third party pursuant to this Act in this State
9 without first having registered with the Department.
10 Application for registration or renewal of registration shall
11 be made to the Department, by electronic means, in a form and
12 at the time prescribed by the Department. Each applicant for
13 registration or renewal of registration under this Section
14 shall furnish to the Department, in an electronic format
15 established by the Department, the following information:

16 (1) the name and address of the applicant;

17 (2) the address of the location at which the applicant
18 proposes to engage in business as a third party in this
19 State;

20 (3) valid and updated contact information;

21 (4) attestation of good standing to do business in
22 Illinois;

23 (5) a copy of each contract it has entered into with a
24 municipality or county; if an applicant has a contract
25 with a municipality or county prior to the effective date

1 of this Act, a copy of all existing contracts must be
2 provided;

3 (6) an annual certification of process letter that:

4 (A) is signed by an attorney or certified public
5 accountant licensed and authorized to practice in the
6 State of Illinois;

7 (B) contains findings that, after due diligence,
8 the author is of the opinion that:

9 (i) the third party's confidentiality
10 standards for storing encrypted data at rest,
11 using a cryptographic algorithm, conform to
12 Security Level 1 of the Federal Information
13 Processing Standard (FIPS) Publication 140-2, or
14 conform to similar security requirements contained
15 in any successor publication;

16 (ii) the third party uses multi-factor
17 authentication;

18 (iii) the third party uses HTTPS with at least
19 TLS 1.2 or its successor to protect the data files
20 while in transit between a browser and server;

21 (iv) the third party adheres to best practices
22 as recommended by the Open Web Application
23 Security Project (OWASP);

24 (v) the third party has a firewall which
25 protects against unauthorized use of the data; and

26 (vi) the third party shall maintain a physical

1 location in this State at all times; if, at any
2 time, the third party fails to have a physical
3 location in this State, the third party's
4 registration shall be revoked; and

5 (7) such other additional information as the
6 Department may require by rule.

7 The annual registration fee payable to the Department for
8 each third party shall be \$15,000. The fee shall be deposited
9 into the Tax Compliance and Administration Fund and shall be
10 used for the cost of administering the certified audit pilot
11 project under Article 10.

12 Each applicant shall pay the fee to the Department at the
13 time of submitting its application or renewal to the
14 Department. The Department may require an applicant under this
15 Section to electronically file and pay the fee.

16 (b) The following are ineligible to register as a third
17 party under this Act:

18 (1) a person who has been convicted of a felony
19 related to financial crimes under any federal or State
20 law, if the Department, after investigation and a hearing
21 if requested by the applicant, determines that the person
22 has not been sufficiently rehabilitated to warrant the
23 public trust, including an individual or any employee,
24 officer, manager, member, partner, or director of an
25 entity that has been convicted as provided in this
26 paragraph (1);

1 (2) a person, if any employee, contractual employee,
2 officer, manager, or director thereof, or any person or
3 persons owning in the aggregate more than 5% thereof, is
4 employed by or appointed or elected to the corporate
5 authorities of any municipality or county in this State;

6 (3) a person, if any employee, contractual employee,
7 officer, manager, or director thereof, or any person or
8 persons owning in the aggregate more than 5% thereof, is
9 not or would not be eligible to receive a certificate of
10 registration under this Act or a license under the
11 Illinois Public Accounting Act for any reason;

12 (4) a person who is a family member of any person who
13 is employed by or appointed or elected to the corporate
14 authorities of any municipality or county in the State;

15 (5) a person who is a qualified practitioner, as
16 defined by Section 10-15 of this Act;

17 (6) a third party owned, in whole or in part, by any
18 entity that competes directly or indirectly with any
19 taxpayer whose financial information they are seeking or
20 receiving; and

21 (7) a third party owning in whole or in part, directly
22 or indirectly, any entity that competes, directly or
23 indirectly, with any taxpayer whose financial information
24 they are seeking or receiving.

25 (c) The Department shall begin accepting applications no
26 later than January 1, 2021. Upon receipt of an application and

1 registration fee in proper form from a person who is eligible
2 to register as a third party under this Act, the Department
3 shall issue, within 60 days after receipt of an application, a
4 certificate of registration to such applicant in such form as
5 prescribed by the Department. That certificate of registration
6 shall permit the applicant to whom it is issued to engage in
7 business as a third party under this Act. All certificates of
8 registration issued by the Department under this Section shall
9 be valid for a period not to exceed one year after issuance
10 unless sooner revoked or suspended as provided in this Act. No
11 certificate of registration issued under this Section is
12 transferable or assignable. A person who obtains a certificate
13 of registration as a third party who ceases to do business as
14 specified in the certificate of registration, or who never
15 commenced business, or whose certificate of registration is
16 suspended or revoked, shall immediately surrender the
17 certificate of registration to the Department.

18 (d) Any person aggrieved by any decision of the Department
19 under this Section may, within 60 days after notice of the
20 decision, protest and request a hearing. Upon receiving a
21 request for a hearing, the Department shall give written
22 notice to the person requesting the hearing of the time and
23 place fixed for the hearing and shall hold a hearing and then
24 issue its final administrative decision in the matter to that
25 person within 60 days after the date of the hearing or at a
26 later date upon agreement of all of the parties. In the absence

1 of a protest and request for a hearing within 60 days, the
2 Department's decision shall become final without any further
3 determination being made or notice given.

4 (e) All final decisions by the Department under this
5 Section are subject to judicial review under the provisions of
6 the Administrative Review Law.

7 (Source: P.A. 101-628, eff. 6-1-20.)

8 (50 ILCS 355/5-37)

9 Sec. 5-37. Insurance policy requirement. A third party is
10 required to file and maintain in force an insurance policy
11 issued by an insurance company authorized to transact fidelity
12 and surety business in the State of Illinois. The insurance
13 policy shall be for coverage of potential legal claims,
14 including, but ~~by~~ not limited to, penalties set forth under
15 Section 5-60, embezzlement, dishonesty, fraud, omissions or
16 errors, or other financial wrongdoing in the course of
17 providing services. The policy shall be ~~in the form prescribed~~
18 ~~by the Department~~ in the sum of \$500,000. The policy shall be
19 continuous in form and run concurrently with the original and
20 each renewal certification period unless terminated by the
21 insurance company. An insurance company may terminate a policy
22 and avoid further liability by filing a 60-day notice of
23 termination with the Department and at the same time sending
24 the same notice to the licensee. A licensee that receives a
25 notice of termination must promptly notify each municipality

1 and county with whom it has a contract under this Act of the
2 notice of termination. A license shall be canceled on the
3 termination date of the policy unless a new policy is filed
4 with the Department and becomes effective at the termination
5 date of the prior policy. If a policy has been canceled under
6 this Section, the third party must file a new application and
7 will be considered a new applicant if it obtains a new policy.
8 (Source: P.A. 101-628, eff. 6-1-20.)

9 (50 ILCS 355/10-15)

10 Sec. 10-15. Definitions. As used in this Article:

11 "Audit" means an agreed-upon procedures engagement in
12 accordance with Statements on Standards for ~~the~~ Attestation
13 Engagements (AICPA Professional Standards, AT-C Section 315
14 (Compliance Attestation Attest)).

15 "Certification program" means an instructional curriculum,
16 examination, and process for certification, recertification,
17 and revocation of certification of certified public
18 accountants that is administered by the Department with the
19 assistance of the Illinois CPA Society and that is officially
20 approved by the Department to ensure that a certified public
21 accountant possesses the necessary skills and abilities to
22 successfully perform an attestation engagement for a
23 limited-scope tax compliance review in a certified audit
24 project under this Act.

25 "Department" means the Department of Revenue.

1 "Family member" means the following, whether by whole
2 blood, half-blood, or adoption:

3 (1) a parent or step-parent;

4 (2) a child or step-child;

5 (3) a grandparent or step-grandparent;

6 (4) an aunt, uncle, great-aunt, or great-uncle;

7 (4.1) a niece, nephew, great-niece, or great-nephew;

8 (5) a sibling;

9 (6) a spouse or domestic partner; and

10 (7) the spouse or domestic partner of any person
11 referenced in items (1) through (5).

12 "Misallocation" means tax paid by the taxpayer and
13 allocated to one unit of local government that should have
14 been allocated to a different unit of local government. This
15 includes misallocations discovered by a unit of local
16 government through the tax location verification process under
17 Section 8-11-16 of the Illinois Municipal Code and
18 misallocations discovered by the Department other than through
19 an audit of the taxpayer. "Misallocation" does not, however,
20 include any amount reported by a taxpayer in an amended return
21 or any amount discovered in an audit of the taxpayer by the
22 Department or discovered in an audit of the taxpayer by a
23 qualified practitioner under Article 10 of this Act.
24 "Misallocation" also does not include amounts overpaid by the
25 taxpayer and therefore not owed to any unit of local
26 government, nor amounts underpaid by the taxpayer and

1 therefore not previously allocated to any unit of local
2 government.

3 "Participating taxpayer" means any person subject to the
4 revenue laws administered by the Department who is the subject
5 of a tax compliance referral by a municipality, county, or
6 third party, who enters into an engagement with a qualified
7 practitioner for a limited-scope tax compliance review under
8 this Act, and who is approved by the Department under the local
9 government revenue recapture certified audit pilot project.

10 "Qualified practitioner" means a certified public
11 accountant who is licensed or registered to perform
12 accountancy activities in Illinois under Section 8.05 of the
13 Illinois Public Accounting Act and who has met all
14 requirements for the local government revenue recapture
15 certified audit training course, achieved the required score
16 on the certification test as approved by the Department, and
17 been certified by the Department. "Qualified practitioner"
18 does not include a third party, as defined by Section 5-5 of
19 this Act, or any employee, contractual employee, officer,
20 manager, or director thereof, any person or persons owning in
21 the aggregate more than 5% of such third party, or a person who
22 is a family member of any person who is employed by or is an
23 appointed or elected member of any corporate authorities, as
24 defined in the Illinois Municipal Code.

25 (Source: P.A. 101-628, eff. 6-1-20; revised 8-20-20.)

1 (50 ILCS 355/10-20)

2 Sec. 10-20. Local government revenue recapture certified
3 audit project.

4 (a) The Department shall initiate a certified audit pilot
5 project to further enhance tax compliance reviews performed by
6 qualified practitioners and to encourage taxpayers to hire
7 qualified practitioners at their own expense to review and
8 report on certain aspects of their sales tax and use tax
9 compliance in cases where the Department has notified the
10 taxpayer that it has received a tax compliance referral from a
11 municipality, county, or third party under this Act. The
12 nature of the certified audit work performed by qualified
13 practitioners shall be agreed-upon procedures of a Compliance
14 Attestation in which the Department is the specified user of
15 the resulting report. Qualified practitioners are prohibited
16 from using information obtained from audit manuals, training
17 materials, or any other materials provided by the Department
18 under this Act for any purpose other than to perform the tax
19 compliance reviews under the certified audit pilot program
20 under this Act.

21 The tax compliance reviews shall be limited in scope and
22 may include only: (i) whether the taxpayer is reporting
23 receipts in the proper jurisdiction; (ii) whether tangible
24 personal property ~~asset~~ purchases that were used or consumed
25 by the taxpayer were taxed properly; (iii) an evaluation of
26 sales reported as exempt from tax; (iv) whether the proper tax

1 rate was charged; (v) whether the tax was properly reported as
2 retailers' occupation tax or use tax; and (vi) any other
3 factor that impacts the Department's allocation of sales and
4 use tax revenues to the jurisdiction in which the taxpayer
5 reports sales or use tax.

6 (b) As an incentive for taxpayers to incur the costs of a
7 certified audit, the Department shall abate penalties due on
8 any tax liabilities revealed by a certified audit, except that
9 this authority to abate penalties shall not apply to any
10 liability for taxes that were collected by the participating
11 taxpayer but not remitted to the Department, nor shall the
12 Department have the authority to abate fraud penalties.

13 (c) The certified audit pilot project shall apply only to
14 taxpayers who have been notified that an audit referral has
15 been received by the Department under this Act and only to
16 occupation and use taxes administered and collected by the
17 Department.

18 (c-5) The Department shall charge a fee of \$2,500 to each
19 participant in the certification program under this Article.

20 (d) The certified audit pilot project shall begin with
21 audit referrals received on and after January 1, 2021. Upon
22 obtaining proper certification, qualified practitioners may
23 initiate certified audits beginning January 1, 2021.

24 (Source: P.A. 101-628, eff. 6-1-20.)

1 Sec. 10-30. Local government revenue recapture audit
2 referral.

3 (a) A third party shall not refer a taxpayer to the
4 Department for audit consideration unless the third party is
5 registered with the Department pursuant to Section 5-35.

6 (b) If, based on a review of the financial information
7 provided by the Department to a municipality or county, or
8 provided by a municipality or county to a registered third
9 party, the municipality or county discovers that a taxpayer
10 may have underpaid local retailers' or service occupation
11 taxes, then it may refer the matter to the Department for audit
12 consideration. The tax compliance referral may be made only by
13 the municipality, county, or third party and shall be made in
14 the form and manner required by the Department, including any
15 requirement that the referral be submitted electronically. The
16 tax compliance referral shall, at a minimum, include proof of
17 registration as a third party, a copy of a contract between the
18 third party and the county or municipality, the taxpayer's
19 name, Department account identification number, mailing
20 address, and business location, and the specific reason for
21 the tax compliance referral, including as much detail as
22 possible.

23 (c) The Department shall complete its evaluation of all
24 audit referrals under this Act within 90 ~~60~~ days after receipt
25 of the referral and shall handle all audit referrals as
26 follows:

1 (1) the Department shall evaluate the referral to
2 determine whether it is sufficient to warrant further
3 action based on the information provided in the referral,
4 any other information the Department possesses, and audit
5 selection procedures of the Department;

6 (2) if the Department determines that the referral is
7 not actionable, then the Department shall notify the local
8 government that it has evaluated the referral and has
9 determined that no action is deemed necessary and provide
10 the local government with an explanation for that
11 decision, including, but not limited to an explanation
12 that (i) the Department has previously conducted an audit;
13 (ii) the Department is in the process of conducting an
14 investigation or other examination of the taxpayer's
15 records; (iii) the taxpayer has already been referred to
16 the Department and the Department determined an audit
17 referral is not actionable; (iv) the Department or a
18 qualified practitioner has previously conducted an audit
19 after referral under this Section 10-30; or (v) for just
20 cause;

21 (3) if the Department determines that the referral is
22 actionable, then it shall determine whether the taxpayer
23 is currently under audit or scheduled for audit by the
24 Department;

25 (A) if the taxpayer is not currently under audit
26 by the Department or scheduled for audit by the

1 Department, the Department shall determine whether it
2 will schedule the taxpayer for audit; and

3 (B) if the taxpayer is not under audit by the
4 Department ~~or scheduled for audit by the Department~~
5 and the Department decides under subparagraph (A) not
6 to schedule the taxpayer for audit by the Department,
7 then the Department shall notify the taxpayer that the
8 Department has received an actionable audit referral
9 on the taxpayer and issue a notice to the taxpayer as
10 provided under subsection (d) of this Section.

11 (d) The notice to the taxpayer required by subparagraph
12 (B) of paragraph (3) of subsection (c) shall include, but not
13 be limited to, the following:

14 (1) that the taxpayer must either: (A) engage a
15 qualified practitioner, at the taxpayer's expense, to
16 complete a certified audit, limited in scope to the
17 taxpayer's Retailers' Occupation Tax, Use Tax, Service
18 Occupation Tax, or Service Use Tax liability, and the
19 taxpayer's liability for any local retailers' or service
20 occupation tax administered by the Department; or (B) be
21 subject to audit by the Department;

22 (2) that, as an incentive, for taxpayers who agree to
23 the limited-scope certified audit, the Department shall
24 abate penalties as provided in Section 10-20; and

25 (3) A statement that reads: "[INSERT THE NAME OF THE
26 ELECTED CHIEF EXECUTIVE OF THE CORPORATE AUTHORITY] has

1 contracted with [INSERT THIRD PARTY] to review your
2 Retailers' Occupation Tax, Use Tax, Service Occupation
3 Tax, Service Use Tax, and any local retailers' or service
4 occupation taxes reported to the Illinois Department of
5 Revenue ("Department"). [INSERT THE NAME OF THE ELECTED
6 CHIEF EXECUTIVE OF THE CORPORATE AUTHORITY] and [INSERT
7 THE THIRD PARTY] have selected and referred your business
8 to the Department for a certified audit of your Retailers'
9 Occupation Tax, Use Tax, Service Occupation Tax, Service
10 Use Tax, and any local retailers' or service occupation
11 taxes reported to the Department pursuant to the Local
12 Government Revenue Recapture Act. The purpose of the audit
13 is to verify that your business reported and submitted the
14 proper Retailers' Occupation Tax, Use Tax, Service
15 Occupation Tax, Service Use Tax, and any local retailers'
16 or service occupation taxes administered by the
17 Department. The Department is required to disclose your
18 confidential financial information to [INSERT THE NAME OF
19 THE ELECTED CHIEF EXECUTIVE OF THE CORPORATE AUTHORITY]
20 and [INSERT THE THIRD PARTY]. Additional information can
21 be accessed from the Department's website and publications
22 for a basic overview of your rights as a Taxpayer. If you
23 have questions regarding your business's referral to the
24 Department for audit, please contact [CORPORATE
25 AUTHORITY'S] mayor, village president, or any other person
26 serving as [CORPORATE AUTHORITY'S] chief executive officer

1 or chief financial officer. [INSERT THIRD PARTY] is
2 prohibited from discussing this matter with you directly
3 or indirectly in any manner regardless of who initiates
4 the contact. If [INSERT THIRD PARTY] contacts you, please
5 contact the Department."

6 (e) Within 90 days after notice by the Department, the
7 taxpayer must respond by stating in writing whether it will or
8 will not arrange for the performance of a certified audit
9 under this Act. If the taxpayer states that it will arrange for
10 the performance of a certified audit, then it must do so within
11 60 days after responding to the Department or within 90 days
12 after notice by the Department, whichever comes first. If the
13 taxpayer states that it will not arrange for the performance
14 of a certified audit or if the taxpayer does not arrange for
15 the performance of a certified audit within 180 days after
16 notice by the Department, then the Department may schedule the
17 taxpayer for audit by the Department.

18 (f) The certified audit must not be a contingent-fee
19 engagement and must be completed in accordance with this
20 Article 10.

21 (Source: P.A. 101-628, eff. 6-1-20.)

22 (50 ILCS 355/10-35)

23 Sec. 10-35. Notification by qualified practitioner.

24 (a) A qualified practitioner hired by a taxpayer who
25 elects to perform a certified audit under Section 10-30 shall

1 notify the Department of an engagement to perform a certified
2 audit and shall provide the Department with the information
3 the Department deems necessary to identify the taxpayer, to
4 confirm that the taxpayer is not already under audit by the
5 Department, and to establish the basic nature of the
6 taxpayer's business and the taxpayer's potential exposure to
7 Illinois occupation and use tax laws. The information provided
8 in the notification shall be submitted in the form and manner
9 required by the Department and shall include the taxpayer's
10 name, federal employer identification number or social
11 security number, Department account identification number,
12 mailing address, and business location, and the specific
13 occupation and use taxes and period proposed to be covered by
14 the engagement for the certified audit. In addition, the
15 notice shall include the name, address, identification number,
16 contact person, and telephone number of the engaged firm. An
17 engagement for a qualified practitioner to perform a certified
18 audit under this Act shall not be authorized by the Department
19 unless the taxpayer received notice from the Department under
20 subparagraph (B) ~~(b)~~ of paragraph (3) of subsection (c) of
21 Section 10-30.

22 (b) If the taxpayer has received notice of an audit
23 referral from the Department and has not been issued a written
24 notice of intent to conduct an audit, the taxpayer shall be a
25 participating taxpayer and the Department shall so advise the
26 qualified practitioner in writing within 10 days after receipt

1 of the engagement notice. However, the Department may ~~exclude~~
2 ~~a taxpayer from a certified audit or may~~ limit the taxes or
3 periods subject to the certified audit ~~on the basis that: (i)~~
4 ~~the Department has previously conducted an audit; (ii) the~~
5 ~~Department is in the process of conducting an investigation or~~
6 ~~other examination of the taxpayer's records; (iii) the~~
7 ~~taxpayer has already been referred to the Department pursuant~~
8 ~~to Section 10-30 and the Department determined an audit~~
9 ~~referral is not actionable; (iv) the Department or a qualified~~
10 ~~practitioner has previously conducted an audit under Section~~
11 ~~10-30 of this Act; or (v) for just cause.~~

12 (c) Within 30 days after receipt of the notice of
13 qualification from the Department under subsection (b), the
14 qualified practitioner shall contact the Department and
15 submit, for review and agreement by the Department, a proposed
16 audit plan and procedures. The Department may extend the time
17 for submission of the plan and procedures for reasonable
18 cause. The qualified practitioner shall initiate action to
19 advise the Department that amendment or modification of the
20 plan and procedures is necessary if the qualified
21 practitioner's inspection reveals that the taxpayer's
22 circumstances or exposure to the revenue laws is substantially
23 different from those described in the engagement notice.

24 (Source: P.A. 101-628, eff. 6-1-20.)

1 Sec. 10-40. Audit performance and review.

2 (a) Upon the Department's designation of the agreed-upon
3 procedures to be followed by a practitioner in a certified
4 audit, the qualified practitioner shall perform the engagement
5 and shall timely submit a completed report to the Department
6 in the form and manner required by the Department and
7 professional standards. The report shall affirm completion of
8 the agreed-upon procedures and shall provide any required
9 disclosures.

10 (b) The Department shall review the report of the
11 certified audit and shall accept it when it is determined to be
12 complete by the qualified practitioner. Once the report is
13 accepted by the Department, the Department shall ~~issue a~~
14 ~~notice of proposed assessment reflecting the determination of~~
15 ~~any additional liability reflected in the report and shall~~
16 provide the taxpayer with all the normal payment, protest, and
17 appeal rights with respect to any the liability reflected in
18 the report, including the right to a review by the Informal
19 Conference Board. In cases in which the report indicates an
20 overpayment has been made, the taxpayer shall submit a
21 properly executed claim for credit or refund to the
22 Department. Otherwise, the certified audit report is a final
23 and conclusive determination with respect to the tax and
24 period covered. No additional assessment may be made by the
25 Department for the specific taxes and period referenced in the
26 report, except upon a showing of fraud or material

1 misrepresentation. This determination shall not prevent the
2 Department from collecting liabilities not covered by the
3 report or from conducting an audit or investigation and making
4 an assessment for additional tax, penalty, or interest for any
5 tax or period not covered by the report.

6 (c) Any ~~A notice of proposed~~ assessment issued by the
7 Department under this Act is subject to the statute of
8 limitations for assessments under the Retailers' Occupation
9 Tax Act, the Use Tax Act, the Service Occupation Tax Act, the
10 Service Use Tax Act, and any local retailers' or service
11 occupation tax, as appropriate, and local taxes collected on
12 assessments issued shall be allocated to units of local
13 government for the full period of the statute of limitations
14 in accordance with those Acts and any applicable local
15 retailers' or service occupation tax Act. The Department shall
16 provide notice in writing to the municipality or county and
17 the third party, if applicable, of any audit findings,
18 determinations, or collections once finalized, but limited to
19 the amount of additional liability, if any, for distribution
20 to the municipality or county as part of the municipality's or
21 county's share of the State Retailers' Occupation Tax or
22 Service Occupation Tax or under the municipality's or county's
23 locally imposed retailer's or service occupation tax.

24 Claims for credit or refund filed by taxpayers under this
25 Act are subject to the statute of limitations under the
26 Retailers' Occupation Tax Act, the Use Tax Act, the Service

1 Occupation Tax Act, the Service Use Tax Act, and any local
2 retailers' or service occupation tax Act, as appropriate, and
3 any credit or refund of local taxes allowed to the taxpayer
4 shall be de-allocated from units of local government for the
5 full period of the statute of limitations in accordance with
6 those Acts and any applicable local retailers' or service
7 occupation tax Act.

8 If a reallocation of tax from one unit of local government
9 to another occurs as a result of an amended return filed by a
10 taxpayer or an audit of a taxpayer, the Department shall make
11 the reallocation for the full period of the statute of
12 limitations under the Retailers' Occupation Tax Act, the Use
13 Tax Act, the Service Occupation Tax Act, the Service Use Tax
14 Act, and any applicable local retailer's or service occupation
15 tax Act.

16 With respect to misallocations discovered under this Act,
17 the Department shall increase or decrease the amount allocated
18 to a unit of local government by an amount necessary to offset
19 any misallocation of previous disbursements. The offset amount
20 shall be the amount erroneously disbursed within the previous
21 6 months from the time a misallocation is discovered.

22 (d) Under no circumstances may a person, including a
23 municipality or county or third party, other than the person
24 audited and his or her attorney, have any right to participate
25 in an appeal or other proceeding regarding the audit,
26 participate in settlement negotiations, challenge the validity

1 of any settlement between the Department and any person, or
2 review any materials, other than financial information as
3 otherwise provided in this Act, that are subject to the
4 confidentiality provisions of the underlying tax Act. In
5 addition, the Department's determination of whether to audit a
6 taxpayer or the result of the audit creates no justiciable
7 cause of action, and any adjudication related to this program
8 is limited to the taxpayer's rights in an administrative
9 hearing held by the Department, an administrative hearing held
10 by the Illinois Independent Tax Tribunal, or related to
11 payments made under protest as provided in Section 2a.1 of the
12 State Officers and Employees Money Disposition Act, as
13 appropriate.

14 (Source: P.A. 101-628, eff. 6-1-20.)

15 Section 80. The Liquor Control Act of 1934 is amended by
16 changing Section 8-3 as follows:

17 (235 ILCS 5/8-3) (from Ch. 43, par. 159a)

18 Sec. 8-3. If it appears, after claim therefor filed with
19 the Department, that an amount of tax or penalty or interest
20 has been paid which was not due under this Article, whether as
21 the result of a mistake of fact or an error of law, except as
22 hereinafter provided, then the Department shall issue a credit
23 memorandum or refund to the person who made the erroneous
24 payment or, if that person died or became a person under legal

1 disability, to his or her legal representative, as such.

2 If it is determined that the Department should issue a
3 credit or refund under this Article, the Department may first
4 apply the amount thereof against any amount of tax or penalty
5 or interest due hereunder from the person entitled to such
6 credit or refund. For this purpose, if proceedings are pending
7 to determine whether or not any tax or penalty or interest is
8 due under this Article from such person, the Department may
9 withhold issuance of the credit or refund pending the final
10 disposition of such proceedings and may apply such credit or
11 refund against any amount found to be due to the Department as
12 a result of such proceedings. The balance, if any, of the
13 credit or refund shall be issued to the person entitled
14 thereto.

15 If no tax or penalty or interest is due and no proceeding
16 is pending to determine whether such taxpayer is indebted to
17 the Department for tax or penalty or interest the credit
18 memorandum or refund shall be issued to the claimant; or (in
19 the case of a credit memorandum) the credit memorandum may be
20 assigned and set over by the lawful holder thereof, subject to
21 reasonable rules of the Department, to any other person who is
22 subject to this Article, and the amount thereof shall be
23 applied by the Department against any tax or penalty or
24 interest due or to become due under this Article from such
25 assignee.

26 As to any claim filed hereunder with the Department on and

1 after each January 1 and July 1, no amount of tax or penalty or
2 interest, erroneously paid (either in total or partial
3 liquidation of a tax or penalty or interest under this
4 Article) more than 3 years prior to such January 1 and July 1,
5 respectively, shall be credited or refunded. Notwithstanding
6 any other provision of this Act to the contrary, for any period
7 included in a claim for credit or refund for which the statute
8 of limitations for issuing a notice of tax liability under
9 this Act will expire less than 6 months after the date a
10 taxpayer files the claim for credit or refund, the statute of
11 limitations is automatically extended for 6 months from the
12 date it would have otherwise expired.

13 Any credit or refund that is allowed under this Act shall
14 bear interest at the rate and in the manner specified in the
15 Uniform Penalty and Interest Act.

16 In case the Department determines that the claimant is
17 entitled to a refund, such refund shall be made only from such
18 appropriation as may be available for that purpose. If it
19 appears unlikely that the amount appropriated would permit
20 everyone having a claim allowed during the period covered by
21 such appropriation to elect to receive a cash refund, the
22 Department, by rule or regulation, shall provide for the
23 payment of refunds in hardship cases and shall define what
24 types of cases qualify as hardship cases.

25 (Source: P.A. 87-205.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".