

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The 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
17 required by the tax or fee Act under which the certificate of
18 registration, permit, or license is required or any other tax
19 or fee Act administered by the Department.

20 (b) The Department may refuse to issue, reissue, or renew
21 a certificate of registration, permit, or license authorized
22 to be issued by the Department if a person who is named as the
23 owner, a partner, a corporate officer, or, in the case of a

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

21 (c) When revoking or refusing to issue or reissue a
22 certificate of registration, permit, or license issued by the
23 Department, the procedure for notice and hearing used shall be
24 the procedure provided under the Act pursuant to which the
25 certificate of registration, permit, or license was issued.

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

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

3 (35 ILCS 5/211)

4 Sec. 211. Economic Development for a Growing Economy Tax
5 Credit. For tax years beginning on or after January 1, 1999, a
6 Taxpayer who has entered into an Agreement (including a New
7 Construction EDGE Agreement) under the Economic Development
8 for a Growing Economy Tax Credit Act is entitled to a credit
9 against the taxes imposed under subsections (a) and (b) of
10 Section 201 of this Act in an amount to be determined in the
11 Agreement. If the Taxpayer is a partnership or Subchapter S
12 corporation, the credit shall be allowed to the partners or
13 shareholders in accordance with the determination of income
14 and distributive share of income under Sections 702 and 704
15 and subchapter S of the Internal Revenue Code. The Department,
16 in cooperation with the Department of Commerce and Economic
17 Opportunity, shall prescribe rules to enforce and administer
18 the provisions of this Section. This Section is exempt from
19 the provisions of Section 250 of this Act.

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

22 (1) The tax credit shall not exceed the Incremental
23 Income Tax (as defined in Section 5-5 of the Economic
24 Development for a Growing Economy Tax Credit Act) with

1 respect to the project; additionally, the New Construction
2 EDGE Credit shall not exceed the New Construction EDGE
3 Incremental Income Tax (as defined in Section 5-5 of the
4 Economic Development for a Growing Economy Tax Credit
5 Act).

6 (2) The amount of the credit allowed during the tax
7 year plus the sum of all amounts allowed in prior years
8 shall not exceed 100% of the aggregate amount expended by
9 the Taxpayer during all prior tax years on approved costs
10 defined by Agreement.

11 (3) The amount of the credit shall be determined on an
12 annual basis. Except as applied in a carryover year
13 pursuant to Section 211(4) of this Act, the credit may not
14 be applied against any State income tax liability in more
15 than 10 taxable years; provided, however, that (i) an
16 eligible business certified by the Department of Commerce
17 and Economic Opportunity under the Corporate Headquarters
18 Relocation Act may not apply the credit against any of its
19 State income tax liability in more than 15 taxable years
20 and (ii) credits allowed to that eligible business are
21 subject to the conditions and requirements set forth in
22 Sections 5-35 and 5-45 of the Economic Development for a
23 Growing Economy Tax Credit Act and Section 5-51 as
24 applicable to New Construction EDGE Credits.

25 (4) The credit may not exceed the amount of taxes
26 imposed pursuant to subsections (a) and (b) of Section 201

1 of this Act. Any credit that is unused in the year the
2 credit is computed may be carried forward and applied to
3 the tax liability of the 5 taxable years following the
4 excess credit year. The credit shall be applied to the
5 earliest year for which there is a tax liability. If there
6 are credits from more than one tax year that are available
7 to offset a liability, the earlier credit shall be applied
8 first.

9 (5) No credit shall be allowed with respect to any
10 Agreement for any taxable year ending after the
11 Noncompliance Date. Upon receiving notification by the
12 Department of Commerce and Economic Opportunity of the
13 noncompliance of a Taxpayer with an Agreement, the
14 Department shall notify the Taxpayer that no credit is
15 allowed with respect to that Agreement for any taxable
16 year ending after the Noncompliance Date, as stated in
17 such notification. If any credit has been allowed with
18 respect to an Agreement for a taxable year ending after
19 the Noncompliance Date for that Agreement, any refund paid
20 to the Taxpayer for that taxable year shall, to the extent
21 of that credit allowed, be an erroneous refund within the
22 meaning of Section 912 of this Act.

23 If, during any taxable year, a taxpayer ceases
24 operations at a project location that is the subject of
25 that Agreement with the intent to terminate operations in
26 the State, the tax imposed under subsections (a) and (b)

1 of Section 201 of this Act for such taxable year shall be
2 increased by the amount of any credit allowed under the
3 Agreement for that project location prior to the date the
4 taxpayer ceases operations.

5 (6) For purposes of this Section, the terms
6 "Agreement", "Incremental Income Tax", "New Construction
7 EDGE Agreement", "New Construction EDGE Credit", "New
8 Construction EDGE Incremental Income Tax", and
9 "Noncompliance Date" have the same meaning as when used in
10 the Economic Development for a Growing Economy Tax Credit
11 Act.

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

13 (35 ILCS 5/303) (from Ch. 120, par. 3-303)

14 Sec. 303. (a) In general. Any item of capital gain or loss,
15 and any item of income from rents or royalties from real or
16 tangible personal property, interest, dividends, and patent or
17 copyright royalties, and prizes awarded under the Illinois
18 Lottery Law, and, for taxable years ending on or after
19 December 31, 2019, wagering and gambling winnings from
20 Illinois sources as set forth in subsection (e-1) of this
21 Section, and, for taxable years ending on or after December
22 31, 2021, sports wagering and winnings from Illinois sources
23 as set forth in subsection (e-2) of this Section, to the extent
24 such item constitutes nonbusiness income, together with any
25 item of deduction directly allocable thereto, shall be

1 allocated by any person other than a resident as provided in
2 this Section.

3 (b) Capital gains and losses.

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

7 (2) Tangible personal property. Capital gains and
8 losses from sales or exchanges of tangible personal
9 property are allocable to this State if, at the time of
10 such sale or exchange:

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

12 (B) The taxpayer had its commercial domicile in
13 this State and was not taxable in the state in which
14 the property had its situs.

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

19 (c) Rents and royalties.

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

23 (2) Tangible personal property. Rents and royalties
24 from tangible personal property are allocable to this
25 State:

26 (A) If and to the extent that the property is

1 utilized in this State; or

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

22 (d) Patent and copyright royalties.

23 (1) Allocation. Patent and copyright royalties are
24 allocable to this State:

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

1 (B) If and to the extent that the patent or
2 copyright is utilized by the payer in a state in which
3 the taxpayer is not taxable with respect to such
4 royalties and, at the time such royalties were paid or
5 accrued, the taxpayer had its commercial domicile in
6 this State.

7 (2) Utilization.

8 (A) A patent is utilized in a state to the extent
9 that it is employed in production, fabrication,
10 manufacturing or other processing in the state or to
11 the extent that a patented product is produced in the
12 state. If the basis of receipts from patent royalties
13 does not permit allocation to states or if the
14 accounting procedures do not reflect states of
15 utilization, the patent is utilized in this State if
16 the taxpayer has its commercial domicile in this
17 State.

18 (B) A copyright is utilized in a state to the
19 extent that printing or other publication originates
20 in the state. If the basis of receipts from copyright
21 royalties does not permit allocation to states or if
22 the accounting procedures do not reflect states of
23 utilization, the copyright is utilized in this State
24 if the taxpayer has its commercial domicile in this
25 State.

26 (e) Illinois lottery prizes. Prizes awarded under the

1 Illinois Lottery Law are allocable to this State. Payments
2 received in taxable years ending on or after December 31,
3 2013, from the assignment of a prize under Section 13.1 of the
4 Illinois Lottery Law are allocable to this State.

5 (e-1) Wagering and gambling winnings. Payments received in
6 taxable years ending on or after December 31, 2019 of winnings
7 from pari-mutuel wagering conducted at a wagering facility
8 licensed under the Illinois Horse Racing Act of 1975 and from
9 gambling games conducted on a riverboat or in a casino or
10 organization gaming facility licensed under the Illinois
11 Gambling Act are allocable to this State.

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

16 (e-5) Unemployment benefits. Unemployment benefits paid by
17 the Illinois Department of Employment Security are allocable
18 to this State.

19 (f) Taxability in other state. For purposes of allocation
20 of income pursuant to this Section, a taxpayer is taxable in
21 another state if:

22 (1) In that state he is subject to a net income tax, a
23 franchise tax measured by net income, a franchise tax for
24 the privilege of doing business, or a corporate stock tax;
25 or

26 (2) That state has jurisdiction to subject the

1 taxpayer to a net income tax regardless of whether, in
2 fact, the state does or does not.

3 (g) Cross references.

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

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

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

9 (35 ILCS 5/304) (from Ch. 120, par. 3-304)

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

11 (a) In general. The business income of a person other than
12 a resident shall be allocated to this State if such person's
13 business income is derived solely from this State. If a person
14 other than a resident derives business income from this State
15 and one or more other states, then, for tax years ending on or
16 before December 30, 1998, and except as otherwise provided by
17 this Section, such person's business income shall be
18 apportioned to this State by multiplying the income by a
19 fraction, the numerator of which is the sum of the property
20 factor (if any), the payroll factor (if any) and 200% of the
21 sales factor (if any), and the denominator of which is 4
22 reduced by the number of factors other than the sales factor
23 which have a denominator of zero and by an additional 2 if the
24 sales factor has a denominator of zero. For tax years ending on
25 or after December 31, 1998, and except as otherwise provided

1 by this Section, persons other than residents who derive
2 business income from this State and one or more other states
3 shall compute their apportionment factor by weighting their
4 property, payroll, and sales factors as provided in subsection
5 (h) of this Section.

6 (1) Property factor.

7 (A) The property factor is a fraction, the numerator
8 of which is the average value of the person's real and
9 tangible personal property owned or rented and used in the
10 trade or business in this State during the taxable year
11 and the denominator of which is the average value of all
12 the person's real and tangible personal property owned or
13 rented and used in the trade or business during the
14 taxable year.

15 (B) Property owned by the person is valued at its
16 original cost. Property rented by the person is valued at
17 8 times the net annual rental rate. Net annual rental rate
18 is the annual rental rate paid by the person less any
19 annual rental rate received by the person from
20 sub-rentals.

21 (C) The average value of property shall be determined
22 by averaging the values at the beginning and ending of the
23 taxable year but the Director may require the averaging of
24 monthly values during the taxable year if reasonably
25 required to reflect properly the average value of the
26 person's property.

1 (2) Payroll factor.

2 (A) The payroll factor is a fraction, the numerator of
3 which is the total amount paid in this State during the
4 taxable year by the person for compensation, and the
5 denominator of which is the total compensation paid
6 everywhere during the taxable year.

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

8 (i) The individual's service is performed entirely
9 within this State;

10 (ii) The individual's service is performed both
11 within and without this State, but the service
12 performed without this State is incidental to the
13 individual's service performed within this State; or

14 (iii) For tax years ending prior to December 31,
15 2020, some of the service is performed within this
16 State and either the base of operations, or if there is
17 no base of operations, the place from which the
18 service is directed or controlled is within this
19 State, or the base of operations or the place from
20 which the service is directed or controlled is not in
21 any state in which some part of the service is
22 performed, but the individual's residence is in this
23 State. For tax years ending on or after December 31,
24 2020, compensation is paid in this State if some of the
25 individual's service is performed within this State,
26 the individual's service performed within this State

1 is nonincidental to the individual's service performed
2 without this State, and the individual's service is
3 performed within this State for more than 30 working
4 days during the tax year. The amount of compensation
5 paid in this State shall include the portion of the
6 individual's total compensation for services performed
7 on behalf of his or her employer during the tax year
8 which the number of working days spent within this
9 State during the tax year bears to the total number of
10 working days spent both within and without this State
11 during the tax year. For purposes of this paragraph:

12 (a) The term "working day" means all days
13 during the tax year in which the individual
14 performs duties on behalf of his or her employer.
15 All days in which the individual performs no
16 duties on behalf of his or her employer (e.g.,
17 weekends, vacation days, sick days, and holidays)
18 are not working days.

19 (b) A working day is spent within this State
20 if:

21 (1) the individual performs service on
22 behalf of the employer and a greater amount of
23 time on that day is spent by the individual
24 performing duties on behalf of the employer
25 within this State, without regard to time
26 spent traveling, than is spent performing

1 duties on behalf of the employer without this
2 State; or

3 (2) the only service the individual
4 performs on behalf of the employer on that day
5 is traveling to a destination within this
6 State, and the individual arrives on that day.

7 (c) Working days spent within this State do
8 not include any day in which the employee is
9 performing services in this State during a
10 disaster period solely in response to a request
11 made to his or her employer by the government of
12 this State, by any political subdivision of this
13 State, or by a person conducting business in this
14 State to perform disaster or emergency-related
15 services in this State. For purposes of this item
16 (c):

17 "Declared State disaster or emergency"
18 means a disaster or emergency event (i) for
19 which a Governor's proclamation of a state of
20 emergency has been issued or (ii) for which a
21 Presidential declaration of a federal major
22 disaster or emergency has been issued.

23 "Disaster period" means a period that
24 begins 10 days prior to the date of the
25 Governor's proclamation or the President's
26 declaration (whichever is earlier) and extends

1 for a period of 60 calendar days after the end
2 of the declared disaster or emergency period.

3 "Disaster or emergency-related services"
4 means repairing, renovating, installing,
5 building, or rendering services or conducting
6 other business activities that relate to
7 infrastructure that has been damaged,
8 impaired, or destroyed by the declared State
9 disaster or emergency.

10 "Infrastructure" means property and
11 equipment owned or used by a public utility,
12 communications network, broadband and internet
13 service provider, cable and video service
14 provider, electric or gas distribution system,
15 or water pipeline that provides service to
16 more than one customer or person, including
17 related support facilities. "Infrastructure"
18 includes, but is not limited to, real and
19 personal property such as buildings, offices,
20 power lines, cable lines, poles,
21 communications lines, pipes, structures, and
22 equipment.

23 (iv) Compensation paid to nonresident professional
24 athletes.

25 (a) General. The Illinois source income of a
26 nonresident individual who is a member of a

1 professional athletic team includes the portion of the
2 individual's total compensation for services performed
3 as a member of a professional athletic team during the
4 taxable year which the number of duty days spent
5 within this State performing services for the team in
6 any manner during the taxable year bears to the total
7 number of duty days spent both within and without this
8 State during the taxable year.

9 (b) Travel days. Travel days that do not involve
10 either a game, practice, team meeting, or other
11 similar team event are not considered duty days spent
12 in this State. However, such travel days are
13 considered in the total duty days spent both within
14 and without this State.

15 (c) Definitions. For purposes of this subpart
16 (iv):

17 (1) The term "professional athletic team"
18 includes, but is not limited to, any professional
19 baseball, basketball, football, soccer, or hockey
20 team.

21 (2) The term "member of a professional
22 athletic team" includes those employees who are
23 active players, players on the disabled list, and
24 any other persons required to travel and who
25 travel with and perform services on behalf of a
26 professional athletic team on a regular basis.

1 This includes, but is not limited to, coaches,
2 managers, and trainers.

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

15 (A) Duty days shall also include days on
16 which a member of a professional athletic team
17 performs service for a team on a date that
18 does not fall within the foregoing period
19 (e.g., participation in instructional leagues,
20 the "All Star Game", or promotional
21 "caravans"). Performing a service for a
22 professional athletic team includes conducting
23 training and rehabilitation activities, when
24 such activities are conducted at team
25 facilities.

26 (B) Also included in duty days are game

1 days, practice days, days spent at team
2 meetings, promotional caravans, preseason
3 training camps, and days served with the team
4 through all post-season games in which the
5 team competes or is scheduled to compete.

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

19 (D) Days for which a member of a
20 professional athletic team is not compensated
21 and is not performing services for the team in
22 any manner, including days when such member of
23 a professional athletic team has been
24 suspended without pay and prohibited from
25 performing any services for the team, shall
26 not be treated as duty days.

1 (E) Days for which a member of a
2 professional athletic team is on the disabled
3 list and does not conduct rehabilitation
4 activities at facilities of the team, and is
5 not otherwise performing services for the team
6 in Illinois, shall not be considered duty days
7 spent in this State. All days on the disabled
8 list, however, are considered to be included
9 in total duty days spent both within and
10 without this State.

11 (4) The term "total compensation for services
12 performed as a member of a professional athletic
13 team" means the total compensation received during
14 the taxable year for services performed:

15 (A) from the beginning of the official
16 pre-season training period through the last
17 game in which the team competes or is
18 scheduled to compete during that taxable year;
19 and

20 (B) during the taxable year on a date
21 which does not fall within the foregoing
22 period (e.g., participation in instructional
23 leagues, the "All Star Game", or promotional
24 caravans).

25 This compensation shall include, but is not
26 limited to, salaries, wages, bonuses as described

1 in this subpart, and any other type of
2 compensation paid during the taxable year to a
3 member of a professional athletic team for
4 services performed in that year. This compensation
5 does not include strike benefits, severance pay,
6 termination pay, contract or option year buy-out
7 payments, expansion or relocation payments, or any
8 other payments not related to services performed
9 for the team.

10 For purposes of this subparagraph, "bonuses"
11 included in "total compensation for services
12 performed as a member of a professional athletic
13 team" subject to the allocation described in
14 Section 302(c)(1) are: bonuses earned as a result
15 of play (i.e., performance bonuses) during the
16 season, including bonuses paid for championship,
17 playoff or "bowl" games played by a team, or for
18 selection to all-star league or other honorary
19 positions; and bonuses paid for signing a
20 contract, unless the payment of the signing bonus
21 is not conditional upon the signee playing any
22 games for the team or performing any subsequent
23 services for the team or even making the team, the
24 signing bonus is payable separately from the
25 salary and any other compensation, and the signing
26 bonus is nonrefundable.

1 (3) Sales factor.

2 (A) The sales factor is a fraction, the numerator of
3 which is the total sales of the person in this State during
4 the taxable year, and the denominator of which is the
5 total sales of the person everywhere during the taxable
6 year.

7 (B) Sales of tangible personal property are in this
8 State if:

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

13 (ii) The property is shipped from an office,
14 store, warehouse, factory or other place of storage in
15 this State and either the purchaser is the United
16 States government or the person is not taxable in the
17 state of the purchaser; provided, however, that
18 premises owned or leased by a person who has
19 independently contracted with the seller for the
20 printing of newspapers, periodicals or books shall not
21 be deemed to be an office, store, warehouse, factory
22 or other place of storage for purposes of this
23 Section. Sales of tangible personal property are not
24 in this State if the seller and purchaser would be
25 members of the same unitary business group but for the
26 fact that either the seller or purchaser is a person

1 with 80% or more of total business activity outside of
2 the United States and the property is purchased for
3 resale.

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

6 (i) Gross receipts from the licensing, sale, or
7 other disposition of a patent, copyright, trademark,
8 or similar item of intangible personal property, other
9 than gross receipts governed by paragraph (B-7) of
10 this item (3), are in this State to the extent the item
11 is utilized in this State during the year the gross
12 receipts are included in gross income.

13 (ii) Place of utilization.

14 (I) A patent is utilized in a state to the
15 extent that it is employed in production,
16 fabrication, manufacturing, or other processing in
17 the state or to the extent that a patented product
18 is produced in the state. If a patent is utilized
19 in more than one state, the extent to which it is
20 utilized in any one state shall be a fraction
21 equal to the gross receipts of the licensee or
22 purchaser from sales or leases of items produced,
23 fabricated, manufactured, or processed within that
24 state using the patent and of patented items
25 produced within that state, divided by the total
26 of such gross receipts for all states in which the

1 patent is utilized.

2 (II) A copyright is utilized in a state to the
3 extent that printing or other publication
4 originates in the state. If a copyright is
5 utilized in more than one state, the extent to
6 which it is utilized in any one state shall be a
7 fraction equal to the gross receipts from sales or
8 licenses of materials printed or published in that
9 state divided by the total of such gross receipts
10 for all states in which the copyright is utilized.

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

15 (iii) If the state of utilization of an item of
16 property governed by this paragraph (B-1) cannot be
17 determined from the taxpayer's books and records or
18 from the books and records of any person related to the
19 taxpayer within the meaning of Section 267(b) of the
20 Internal Revenue Code, 26 U.S.C. 267, the gross
21 receipts attributable to that item shall be excluded
22 from both the numerator and the denominator of the
23 sales factor.

24 (B-2) Gross receipts from the license, sale, or other
25 disposition of patents, copyrights, trademarks, and
26 similar items of intangible personal property, other than

1 gross receipts governed by paragraph (B-7) of this item
2 (3), may be included in the numerator or denominator of
3 the sales factor only if gross receipts from licenses,
4 sales, or other disposition of such items comprise more
5 than 50% of the taxpayer's total gross receipts included
6 in gross income during the tax year and during each of the
7 2 immediately preceding tax years; provided that, when a
8 taxpayer is a member of a unitary business group, such
9 determination shall be made on the basis of the gross
10 receipts of the entire unitary business group.

11 (B-5) For taxable years ending on or after December
12 31, 2008, except as provided in subsections (ii) through
13 (vii), receipts from the sale of telecommunications
14 service or mobile telecommunications service are in this
15 State if the customer's service address is in this State.

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

18 "Ancillary services" means services that are
19 associated with or incidental to the provision of
20 "telecommunications services", including, but not
21 limited to, "detailed telecommunications billing",
22 "directory assistance", "vertical service", and "voice
23 mail services".

24 "Air-to-Ground Radiotelephone service" means a
25 radio service, as that term is defined in 47 CFR 22.99,
26 in which common carriers are authorized to offer and

1 provide radio telecommunications service for hire to
2 subscribers in aircraft.

3 "Call-by-call Basis" means any method of charging
4 for telecommunications services where the price is
5 measured by individual calls.

6 "Communications Channel" means a physical or
7 virtual path of communications over which signals are
8 transmitted between or among customer channel
9 termination points.

10 "Conference bridging service" means an "ancillary
11 service" that links two or more participants of an
12 audio or video conference call and may include the
13 provision of a telephone number. "Conference bridging
14 service" does not include the "telecommunications
15 services" used to reach the conference bridge.

16 "Customer Channel Termination Point" means the
17 location where the customer either inputs or receives
18 the communications.

19 "Detailed telecommunications billing service"
20 means an "ancillary service" of separately stating
21 information pertaining to individual calls on a
22 customer's billing statement.

23 "Directory assistance" means an "ancillary
24 service" of providing telephone number information,
25 and/or address information.

26 "Home service provider" means the facilities based

1 carrier or reseller with which the customer contracts
2 for the provision of mobile telecommunications
3 services.

4 "Mobile telecommunications service" means
5 commercial mobile radio service, as defined in Section
6 20.3 of Title 47 of the Code of Federal Regulations as
7 in effect on June 1, 1999.

8 "Place of primary use" means the street address
9 representative of where the customer's use of the
10 telecommunications service primarily occurs, which
11 must be the residential street address or the primary
12 business street address of the customer. In the case
13 of mobile telecommunications services, "place of
14 primary use" must be within the licensed service area
15 of the home service provider.

16 "Post-paid telecommunication service" means the
17 telecommunications service obtained by making a
18 payment on a call-by-call basis either through the use
19 of a credit card or payment mechanism such as a bank
20 card, travel card, credit card, or debit card, or by
21 charge made to a telephone number which is not
22 associated with the origination or termination of the
23 telecommunications service. A post-paid calling
24 service includes telecommunications service, except a
25 prepaid wireless calling service, that would be a
26 prepaid calling service except it is not exclusively a

1 telecommunication service.

2 "Prepaid telecommunication service" means the
3 right to access exclusively telecommunications
4 services, which must be paid for in advance and which
5 enables the origination of calls using an access
6 number or authorization code, whether manually or
7 electronically dialed, and that is sold in
8 predetermined units or dollars of which the number
9 declines with use in a known amount.

10 "Prepaid Mobile telecommunication service" means a
11 telecommunications service that provides the right to
12 utilize mobile wireless service as well as other
13 non-telecommunication services, including, but not
14 limited to, ancillary services, which must be paid for
15 in advance that is sold in predetermined units or
16 dollars of which the number declines with use in a
17 known amount.

18 "Private communication service" means a
19 telecommunication service that entitles the customer
20 to exclusive or priority use of a communications
21 channel or group of channels between or among
22 termination points, regardless of the manner in which
23 such channel or channels are connected, and includes
24 switching capacity, extension lines, stations, and any
25 other associated services that are provided in
26 connection with the use of such channel or channels.

1 "Service address" means:

2 (a) The location of the telecommunications
3 equipment to which a customer's call is charged
4 and from which the call originates or terminates,
5 regardless of where the call is billed or paid;

6 (b) If the location in line (a) is not known,
7 service address means the origination point of the
8 signal of the telecommunications services first
9 identified by either the seller's
10 telecommunications system or in information
11 received by the seller from its service provider
12 where the system used to transport such signals is
13 not that of the seller; and

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

17 "Telecommunications service" means the electronic
18 transmission, conveyance, or routing of voice, data,
19 audio, video, or any other information or signals to a
20 point, or between or among points. The term
21 "telecommunications service" includes such
22 transmission, conveyance, or routing in which computer
23 processing applications are used to act on the form,
24 code or protocol of the content for purposes of
25 transmission, conveyance or routing without regard to
26 whether such service is referred to as voice over

1 Internet protocol services or is classified by the
2 Federal Communications Commission as enhanced or value
3 added. "Telecommunications service" does not include:

4 (a) Data processing and information services
5 that allow data to be generated, acquired, stored,
6 processed, or retrieved and delivered by an
7 electronic transmission to a purchaser when such
8 purchaser's primary purpose for the underlying
9 transaction is the processed data or information;

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

12 (c) Tangible personal property;

13 (d) Advertising, including, but not limited
14 to, directory advertising;

15 (e) Billing and collection services provided
16 to third parties;

17 (f) Internet access service;

18 (g) Radio and television audio and video
19 programming services, regardless of the medium,
20 including the furnishing of transmission,
21 conveyance and routing of such services by the
22 programming service provider. Radio and television
23 audio and video programming services shall
24 include, but not be limited to, cable service as
25 defined in 47 USC 522(6) and audio and video
26 programming services delivered by commercial

1 mobile radio service providers, as defined in 47
2 CFR 20.3;

3 (h) "Ancillary services"; or

4 (i) Digital products "delivered
5 electronically", including, but not limited to,
6 software, music, video, reading materials or ring
7 tones.

8 "Vertical service" means an "ancillary service"
9 that is offered in connection with one or more
10 "telecommunications services", which offers advanced
11 calling features that allow customers to identify
12 callers and to manage multiple calls and call
13 connections, including "conference bridging services".

14 "Voice mail service" means an "ancillary service"
15 that enables the customer to store, send or receive
16 recorded messages. "Voice mail service" does not
17 include any "vertical services" that the customer may
18 be required to have in order to utilize the "voice mail
19 service".

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

23 (a) The call both originates and terminates in
24 this State.

25 (b) The call either originates or terminates
26 in this State and the service address is located

1 in this State.

2 (iii) Receipts from the sale of postpaid
3 telecommunications service at retail are in this State
4 if the origination point of the telecommunication
5 signal, as first identified by the service provider's
6 telecommunication system or as identified by
7 information received by the seller from its service
8 provider if the system used to transport
9 telecommunication signals is not the seller's, is
10 located in this State.

11 (iv) Receipts from the sale of prepaid
12 telecommunications service or prepaid mobile
13 telecommunications service at retail are in this State
14 if the purchaser obtains the prepaid card or similar
15 means of conveyance at a location in this State.
16 Receipts from recharging a prepaid telecommunications
17 service or mobile telecommunications service is in
18 this State if the purchaser's billing information
19 indicates a location in this State.

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

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

24 (b) 100% of receipts from charges for the
25 total channel mileage between each channel
26 termination point in this State.

1 (c) 50% of the total receipts from charges for
2 service segments when those segments are between 2
3 customer channel termination points, 1 of which is
4 located in this State and the other is located
5 outside of this State, which segments are
6 separately charged.

7 (d) The receipts from charges for service
8 segments with a channel termination point located
9 in this State and in two or more other states, and
10 which segments are not separately billed, are in
11 this State based on a percentage determined by
12 dividing the number of customer channel
13 termination points in this State by the total
14 number of customer channel termination points.

15 (vi) Receipts from charges for ancillary services
16 for telecommunications service sold to customers at
17 retail are in this State if the customer's primary
18 place of use of telecommunications services associated
19 with those ancillary services is in this State. If the
20 seller of those ancillary services cannot determine
21 where the associated telecommunications are located,
22 then the ancillary services shall be based on the
23 location of the purchaser.

24 (vii) Receipts to access a carrier's network or
25 from the sale of telecommunication services or
26 ancillary services for resale are in this State as

1 follows:

2 (a) 100% of the receipts from access fees
3 attributable to intrastate telecommunications
4 service that both originates and terminates in
5 this State.

6 (b) 50% of the receipts from access fees
7 attributable to interstate telecommunications
8 service if the interstate call either originates
9 or terminates in this State.

10 (c) 100% of the receipts from interstate end
11 user access line charges, if the customer's
12 service address is in this State. As used in this
13 subdivision, "interstate end user access line
14 charges" includes, but is not limited to, the
15 surcharge approved by the federal communications
16 commission and levied pursuant to 47 CFR 69.

17 (d) Gross receipts from sales of
18 telecommunication services or from ancillary
19 services for telecommunications services sold to
20 other telecommunication service providers for
21 resale shall be sourced to this State using the
22 apportionment concepts used for non-resale
23 receipts of telecommunications services if the
24 information is readily available to make that
25 determination. If the information is not readily
26 available, then the taxpayer may use any other

1 reasonable and consistent method.

2 (B-7) For taxable years ending on or after December
3 31, 2008, receipts from the sale of broadcasting services
4 are in this State if the broadcasting services are
5 received in this State. For purposes of this paragraph
6 (B-7), the following terms have the following meanings:

7 "Advertising revenue" means consideration received
8 by the taxpayer in exchange for broadcasting services
9 or allowing the broadcasting of commercials or
10 announcements in connection with the broadcasting of
11 film or radio programming, from sponsorships of the
12 programming, or from product placements in the
13 programming.

14 "Audience factor" means the ratio that the
15 audience or subscribers located in this State of a
16 station, a network, or a cable system bears to the
17 total audience or total subscribers for that station,
18 network, or cable system. The audience factor for film
19 or radio programming shall be determined by reference
20 to the books and records of the taxpayer or by
21 reference to published rating statistics provided the
22 method used by the taxpayer is consistently used from
23 year to year for this purpose and fairly represents
24 the taxpayer's activity in this State.

25 "Broadcast" or "broadcasting" or "broadcasting
26 services" means the transmission or provision of film

1 or radio programming, whether through the public
2 airwaves, by cable, by direct or indirect satellite
3 transmission, or by any other means of communication,
4 either through a station, a network, or a cable
5 system.

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

17 "Radio" or "radio programming" means the broadcast
18 on radio of any and all performances, events, or
19 productions, including, but not limited to, news,
20 sporting events, plays, stories, or other literary,
21 commercial, educational, or artistic works, either
22 live or through the use of an audio tape, disc, or any
23 other format or medium. Each episode in a series of
24 radio programming produced for radio broadcast shall
25 constitute a separate "radio programming"
26 notwithstanding that the series relates to the same

1 principal subject and is produced during one or more
2 tax periods.

3 (i) In the case of advertising revenue from
4 broadcasting, the customer is the advertiser and
5 the service is received in this State if the
6 commercial domicile of the advertiser is in this
7 State.

8 (ii) In the case where film or radio
9 programming is broadcast by a station, a network,
10 or a cable system for a fee or other remuneration
11 received from the recipient of the broadcast, the
12 portion of the service that is received in this
13 State is measured by the portion of the recipients
14 of the broadcast located in this State.
15 Accordingly, the fee or other remuneration for
16 such service that is included in the Illinois
17 numerator of the sales factor is the total of
18 those fees or other remuneration received from
19 recipients in Illinois. For purposes of this
20 paragraph, a taxpayer may determine the location
21 of the recipients of its broadcast using the
22 address of the recipient shown in its contracts
23 with the recipient or using the billing address of
24 the recipient in the taxpayer's records.

25 (iii) In the case where film or radio
26 programming is broadcast by a station, a network,

1 or a cable system for a fee or other remuneration
2 from the person providing the programming, the
3 portion of the broadcast service that is received
4 by such station, network, or cable system in this
5 State is measured by the portion of recipients of
6 the broadcast located in this State. Accordingly,
7 the amount of revenue related to such an
8 arrangement that is included in the Illinois
9 numerator of the sales factor is the total fee or
10 other total remuneration from the person providing
11 the programming related to that broadcast
12 multiplied by the Illinois audience factor for
13 that broadcast.

14 (iv) In the case where film or radio
15 programming is provided by a taxpayer that is a
16 network or station to a customer for broadcast in
17 exchange for a fee or other remuneration from that
18 customer the broadcasting service is received at
19 the location of the office of the customer from
20 which the services were ordered in the regular
21 course of the customer's trade or business.
22 Accordingly, in such a case the revenue derived by
23 the taxpayer that is included in the taxpayer's
24 Illinois numerator of the sales factor is the
25 revenue from such customers who receive the
26 broadcasting service in Illinois.

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

14 (B-8) Gross receipts from winnings under the Illinois
15 Lottery Law from the assignment of a prize under Section
16 13.1 of the Illinois Lottery Law are received in this
17 State. This paragraph (B-8) applies only to taxable years
18 ending on or after December 31, 2013.

19 (B-9) For taxable years ending on or after December
20 31, 2019, gross receipts from winnings from pari-mutuel
21 wagering conducted at a wagering facility licensed under
22 the Illinois Horse Racing Act of 1975 or from winnings
23 from gambling games conducted on a riverboat or in a
24 casino or organization gaming facility licensed under the
25 Illinois Gambling Act are in this State.

26 (B-10) For taxable years ending on or after December

1 31, 2021, gross receipts from winnings from sports
2 wagering conducted in accordance with the Sports Wagering
3 Act are in this State.

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

7 (i) The income-producing activity is performed in
8 this State; or

9 (ii) The income-producing activity is performed
10 both within and without this State and a greater
11 proportion of the income-producing activity is
12 performed within this State than without this State,
13 based on performance costs.

14 (C-5) For taxable years ending on or after December
15 31, 2008, sales, other than sales governed by paragraphs
16 (B), (B-1), (B-2), (B-5), and (B-7), are in this State if
17 any of the following criteria are met:

18 (i) Sales from the sale or lease of real property
19 are in this State if the property is located in this
20 State.

21 (ii) Sales from the lease or rental of tangible
22 personal property are in this State if the property is
23 located in this State during the rental period. Sales
24 from the lease or rental of tangible personal property
25 that is characteristically moving property, including,
26 but not limited to, motor vehicles, rolling stock,

1 aircraft, vessels, or mobile equipment are in this
2 State to the extent that the property is used in this
3 State.

4 (iii) In the case of interest, net gains (but not
5 less than zero) and other items of income from
6 intangible personal property, the sale is in this
7 State if:

8 (a) in the case of a taxpayer who is a dealer
9 in the item of intangible personal property within
10 the meaning of Section 475 of the Internal Revenue
11 Code, the income or gain is received from a
12 customer in this State. For purposes of this
13 subparagraph, a customer is in this State if the
14 customer is an individual, trust or estate who is
15 a resident of this State and, for all other
16 customers, if the customer's commercial domicile
17 is in this State. Unless the dealer has actual
18 knowledge of the residence or commercial domicile
19 of a customer during a taxable year, the customer
20 shall be deemed to be a customer in this State if
21 the billing address of the customer, as shown in
22 the records of the dealer, is in this State; or

23 (b) in all other cases, if the
24 income-producing activity of the taxpayer is
25 performed in this State or, if the
26 income-producing activity of the taxpayer is

1 performed both within and without this State, if a
2 greater proportion of the income-producing
3 activity of the taxpayer is performed within this
4 State than in any other state, based on
5 performance costs.

6 (iv) Sales of services are in this State if the
7 services are received in this State. For the purposes
8 of this section, gross receipts from the performance
9 of services provided to a corporation, partnership, or
10 trust may only be attributed to a state where that
11 corporation, partnership, or trust has a fixed place
12 of business. If the state where the services are
13 received is not readily determinable or is a state
14 where the corporation, partnership, or trust receiving
15 the service does not have a fixed place of business,
16 the services shall be deemed to be received at the
17 location of the office of the customer from which the
18 services were ordered in the regular course of the
19 customer's trade or business. If the ordering office
20 cannot be determined, the services shall be deemed to
21 be received at the office of the customer to which the
22 services are billed. If the taxpayer is not taxable in
23 the state in which the services are received, the sale
24 must be excluded from both the numerator and the
25 denominator of the sales factor. The Department shall
26 adopt rules prescribing where specific types of

1 service are received, including, but not limited to,
2 publishing, and utility service.

3 (D) For taxable years ending on or after December 31,
4 1995, the following items of income shall not be included
5 in the numerator or denominator of the sales factor:
6 dividends; amounts included under Section 78 of the
7 Internal Revenue Code; and Subpart F income as defined in
8 Section 952 of the Internal Revenue Code. No inference
9 shall be drawn from the enactment of this paragraph (D) in
10 construing this Section for taxable years ending before
11 December 31, 1995.

12 (E) Paragraphs (B-1) and (B-2) shall apply to tax
13 years ending on or after December 31, 1999, provided that
14 a taxpayer may elect to apply the provisions of these
15 paragraphs to prior tax years. Such election shall be made
16 in the form and manner prescribed by the Department, shall
17 be irrevocable, and shall apply to all tax years; provided
18 that, if a taxpayer's Illinois income tax liability for
19 any tax year, as assessed under Section 903 prior to
20 January 1, 1999, was computed in a manner contrary to the
21 provisions of paragraphs (B-1) or (B-2), no refund shall
22 be payable to the taxpayer for that tax year to the extent
23 such refund is the result of applying the provisions of
24 paragraph (B-1) or (B-2) retroactively. In the case of a
25 unitary business group, such election shall apply to all
26 members of such group for every tax year such group is in

1 existence, but shall not apply to any taxpayer for any
2 period during which that taxpayer is not a member of such
3 group.

4 (b) Insurance companies.

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

20 (2) Reinsurance. If the principal source of premiums
21 written by an insurance company consists of premiums for
22 reinsurance accepted by it, the business income of such
23 company shall be apportioned to this State by multiplying
24 such income by a fraction, the numerator of which is the
25 sum of (i) direct premiums written for insurance upon
26 property or risk in this State, plus (ii) premiums written

1 for reinsurance accepted in respect of property or risk in
2 this State, and the denominator of which is the sum of
3 (iii) direct premiums written for insurance upon property
4 or risk everywhere, plus (iv) premiums written for
5 reinsurance accepted in respect of property or risk
6 everywhere. For purposes of this paragraph, premiums
7 written for reinsurance accepted in respect of property or
8 risk in this State, whether or not otherwise determinable,
9 may, at the election of the company, be determined on the
10 basis of the proportion which premiums written for
11 reinsurance accepted from companies commercially domiciled
12 in Illinois bears to premiums written for reinsurance
13 accepted from all sources, or, alternatively, in the
14 proportion which the sum of the direct premiums written
15 for insurance upon property or risk in this State by each
16 ceding company from which reinsurance is accepted bears to
17 the sum of the total direct premiums written by each such
18 ceding company for the taxable year. The election made by
19 a company under this paragraph for its first taxable year
20 ending on or after December 31, 2011, shall be binding for
21 that company for that taxable year and for all subsequent
22 taxable years, and may be altered only with the written
23 permission of the Department, which shall not be
24 unreasonably withheld.

25 (c) Financial organizations.

26 (1) In general. For taxable years ending before

1 December 31, 2008, business income of a financial
2 organization shall be apportioned to this State by
3 multiplying such income by a fraction, the numerator of
4 which is its business income from sources within this
5 State, and the denominator of which is its business income
6 from all sources. For the purposes of this subsection, the
7 business income of a financial organization from sources
8 within this State is the sum of the amounts referred to in
9 subparagraphs (A) through (E) following, but excluding the
10 adjusted income of an international banking facility as
11 determined in paragraph (2):

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

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

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

18 (D) Interest charged to customers at places of
19 business maintained within this State for carrying
20 debit balances of margin accounts, without deduction
21 of any costs incurred in carrying such accounts; and

22 (E) Any other gross income resulting from the
23 operation as a financial organization within this
24 State.

25 In computing the amounts referred to in paragraphs (A)
26 through (E) of this subsection, any amount received by a

1 member of an affiliated group (determined under Section
2 1504(a) of the Internal Revenue Code but without reference
3 to whether any such corporation is an "includible
4 corporation" under Section 1504(b) of the Internal Revenue
5 Code) from another member of such group shall be included
6 only to the extent such amount exceeds expenses of the
7 recipient directly related thereto.

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

10 (A) Adjusted Income. The adjusted income of an
11 international banking facility is its income reduced
12 by the amount of the floor amount.

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

17 (i) The numerator shall be:

18 The average aggregate, determined on a
19 quarterly basis, of the financial organization's
20 loans to banks in foreign countries, to foreign
21 domiciled borrowers (except where secured
22 primarily by real estate) and to foreign
23 governments and other foreign official
24 institutions, as reported for its branches,
25 agencies and offices within the state on its
26 "Consolidated Report of Condition", Schedule A,

1 Lines 2.c., 5.b., and 7.a., which was filed with
2 the Federal Deposit Insurance Corporation and
3 other regulatory authorities, for the year 1980,
4 minus

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

16 (ii) the denominator shall be the average
17 aggregate, determined on a quarterly basis, of the
18 international banking facility's loans to banks in
19 foreign countries, to foreign domiciled borrowers
20 (except where secured primarily by real estate)
21 and to foreign governments and other foreign
22 official institutions, which were recorded in its
23 financial accounts for the current taxable year.

24 (C) Change to Consolidated Report of Condition and
25 in Qualification. In the event the Consolidated Report
26 of Condition which is filed with the Federal Deposit

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

15 (3) For taxable years ending on or after December 31,
16 2008, the business income of a financial organization
17 shall be apportioned to this State by multiplying such
18 income by a fraction, the numerator of which is its gross
19 receipts from sources in this State or otherwise
20 attributable to this State's marketplace and the
21 denominator of which is its gross receipts everywhere
22 during the taxable year. "Gross receipts" for purposes of
23 this subparagraph (3) means gross income, including net
24 taxable gain on disposition of assets, including
25 securities and money market instruments, when derived from
26 transactions and activities in the regular course of the

1 financial organization's trade or business. The following
2 examples are illustrative:

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

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

17 (iii) Interest income, commissions, fees, gains on
18 disposition, and other receipts from consumer loans
19 that are not secured by real or tangible personal
20 property are from sources in this State if the debtor
21 is a resident of this State.

22 (iv) Interest income, commissions, fees, gains on
23 disposition, and other receipts from commercial loans
24 and installment obligations that are not secured by
25 real or tangible personal property are from sources in
26 this State if the proceeds of the loan are to be

1 applied in this State. If it cannot be determined
2 where the funds are to be applied, the income and
3 receipts are from sources in this State if the office
4 of the borrower from which the loan was negotiated in
5 the regular course of business is located in this
6 State. If the location of this office cannot be
7 determined, the income and receipts shall be excluded
8 from the numerator and denominator of the sales
9 factor.

10 (v) Interest income, fees, gains on disposition,
11 service charges, merchant discount income, and other
12 receipts from credit card receivables are from sources
13 in this State if the card charges are regularly billed
14 to a customer in this State.

15 (vi) Receipts from the performance of services,
16 including, but not limited to, fiduciary, advisory,
17 and brokerage services, are in this State if the
18 services are received in this State within the meaning
19 of subparagraph (a) (3) (C-5) (iv) of this Section.

20 (vii) Receipts from the issuance of travelers
21 checks and money orders are from sources in this State
22 if the checks and money orders are issued from a
23 location within this State.

24 (viii) Receipts from investment assets and
25 activities and trading assets and activities are
26 included in the receipts factor as follows:

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

18 (A) The receipts factor shall include the
19 amount by which interest from federal funds
20 sold and securities purchased under resale
21 agreements exceeds interest expense on federal
22 funds purchased and securities sold under
23 repurchase agreements.

24 (B) The receipts factor shall include the
25 amount by which interest, dividends, gains and
26 other income from trading assets and

1 activities, including, but not limited to,
2 assets and activities in the matched book, in
3 the arbitrage book, and foreign currency
4 transactions, exceed amounts paid in lieu of
5 interest, amounts paid in lieu of dividends,
6 and losses from such assets and activities.

7 (2) The numerator of the receipts factor
8 includes interest, dividends, net gains (but not
9 less than zero), and other income from investment
10 assets and activities and from trading assets and
11 activities described in paragraph (1) of this
12 subsection that are attributable to this State.

13 (A) The amount of interest, dividends, net
14 gains (but not less than zero), and other
15 income from investment assets and activities
16 in the investment account to be attributed to
17 this State and included in the numerator is
18 determined by multiplying all such income from
19 such assets and activities by a fraction, the
20 numerator of which is the gross income from
21 such assets and activities which are properly
22 assigned to a fixed place of business of the
23 taxpayer within this State and the denominator
24 of which is the gross income from all such
25 assets and activities.

26 (B) The amount of interest from federal

1 funds sold and purchased and from securities
2 purchased under resale agreements and
3 securities sold under repurchase agreements
4 attributable to this State and included in the
5 numerator is determined by multiplying the
6 amount described in subparagraph (A) of
7 paragraph (1) of this subsection from such
8 funds and such securities by a fraction, the
9 numerator of which is the gross income from
10 such funds and such securities which are
11 properly assigned to a fixed place of business
12 of the taxpayer within this State and the
13 denominator of which is the gross income from
14 all such funds and such securities.

15 (C) The amount of interest, dividends,
16 gains, and other income from trading assets
17 and activities, including, but not limited to,
18 assets and activities in the matched book, in
19 the arbitrage book and foreign currency
20 transactions (but excluding amounts described
21 in subparagraphs (A) or (B) of this
22 paragraph), attributable to this State and
23 included in the numerator is determined by
24 multiplying the amount described in
25 subparagraph (B) of paragraph (1) of this
26 subsection by a fraction, the numerator of

1 which is the gross income from such trading
2 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 (D) Properly assigned, for purposes of
8 this paragraph (2) of this subsection, means
9 the investment or trading asset or activity is
10 assigned to the fixed place of business with
11 which it has a preponderance of substantive
12 contacts. An investment or trading asset or
13 activity assigned by the taxpayer to a fixed
14 place of business without the State shall be
15 presumed to have been properly assigned if:

16 (i) the taxpayer has assigned, in the
17 regular course of its business, such asset
18 or activity on its records to a fixed
19 place of business consistent with federal
20 or state regulatory requirements;

21 (ii) such assignment on its records is
22 based upon substantive contacts of the
23 asset or activity to such fixed place of
24 business; and

25 (iii) the taxpayer uses such records
26 reflecting assignment of such assets or

1 activities for the filing of all state and
2 local tax returns for which an assignment
3 of such assets or activities to a fixed
4 place of business is required.

5 (E) The presumption of proper assignment
6 of an investment or trading asset or activity
7 provided in subparagraph (D) of paragraph (2)
8 of this subsection may be rebutted upon a
9 showing by the Department, supported by a
10 preponderance of the evidence, that the
11 preponderance of substantive contacts
12 regarding such asset or activity did not occur
13 at the fixed place of business to which it was
14 assigned on the taxpayer's records. If the
15 fixed place of business that has a
16 preponderance of substantive contacts cannot
17 be determined for an investment or trading
18 asset or activity to which the presumption in
19 subparagraph (D) of paragraph (2) of this
20 subsection does not apply or with respect to
21 which that presumption has been rebutted, that
22 asset or activity is properly assigned to the
23 state in which the taxpayer's commercial
24 domicile is located. For purposes of this
25 subparagraph (E), it shall be presumed,
26 subject to rebuttal, that taxpayer's

1 commercial domicile is in the state of the
2 United States or the District of Columbia to
3 which the greatest number of employees are
4 regularly connected with the management of the
5 investment or trading income or out of which
6 they are working, irrespective of where the
7 services of such employees are performed, as
8 of the last day of the taxable year.

9 (4) (Blank).

10 (5) (Blank).

11 (c-1) Federally regulated exchanges. For taxable years
12 ending on or after December 31, 2012, business income of a
13 federally regulated exchange shall, at the option of the
14 federally regulated exchange, be apportioned to this State by
15 multiplying such income by a fraction, the numerator of which
16 is its business income from sources within this State, and the
17 denominator of which is its business income from all sources.
18 For purposes of this subsection, the business income within
19 this State of a federally regulated exchange is the sum of the
20 following:

21 (1) Receipts attributable to transactions executed on
22 a physical trading floor if that physical trading floor is
23 located in this State.

24 (2) Receipts attributable to all other matching,
25 execution, or clearing transactions, including without
26 limitation receipts from the provision of matching,

1 execution, or clearing services to another entity,
2 multiplied by (i) for taxable years ending on or after
3 December 31, 2012 but before December 31, 2013, 63.77%;
4 and (ii) for taxable years ending on or after December 31,
5 2013, 27.54%.

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

10 "Federally regulated exchange" means (i) a "registered
11 entity" within the meaning of 7 U.S.C. Section 1a(40)(A), (B),
12 or (C), (ii) an "exchange" or "clearing agency" within the
13 meaning of 15 U.S.C. Section 78c (a) (1) or (23), (iii) any such
14 entities regulated under any successor regulatory structure to
15 the foregoing, and (iv) all taxpayers who are members of the
16 same unitary business group as a federally regulated exchange,
17 determined without regard to the prohibition in Section
18 1501(a)(27) of this Act against including in a unitary
19 business group taxpayers who are ordinarily required to
20 apportion business income under different subsections of this
21 Section; provided that this subparagraph (iv) shall apply only
22 if 50% or more of the business receipts of the unitary business
23 group determined by application of this subparagraph (iv) for
24 the taxable year are attributable to the matching, execution,
25 or clearing of transactions conducted by an entity described
26 in subparagraph (i), (ii), or (iii) of this paragraph.

1 In no event shall the Illinois apportionment percentage
2 computed in accordance with this subsection (c-1) for any
3 taxpayer for any tax year be less than the Illinois
4 apportionment percentage computed under this subsection (c-1)
5 for that taxpayer for the first full tax year ending on or
6 after December 31, 2013 for which this subsection (c-1)
7 applied to the taxpayer.

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

12 (1) Such business income (other than that derived from
13 transportation by pipeline) shall be apportioned to this
14 State by multiplying such income by a fraction, the
15 numerator of which is the revenue miles of the person in
16 this State, and the denominator of which is the revenue
17 miles of the person everywhere. For purposes of this
18 paragraph, a revenue mile is the transportation of 1
19 passenger or 1 net ton of freight the distance of 1 mile
20 for a consideration. Where a person is engaged in the
21 transportation of both passengers and freight, the
22 fraction above referred to shall be determined by means of
23 an average of the passenger revenue mile fraction and the
24 freight revenue mile fraction, weighted to reflect the
25 person's

26 (A) relative railway operating income from total

1 passenger and total freight service, as reported to
2 the Interstate Commerce Commission, in the case of
3 transportation by railroad, and

4 (B) relative gross receipts from passenger and
5 freight transportation, in case of transportation
6 other than by railroad.

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

17 (3) For taxable years ending on or after December 31,
18 2008, business income derived from providing
19 transportation services other than airline services shall
20 be apportioned to this State by using a fraction, (a) the
21 numerator of which shall be (i) all receipts from any
22 movement or shipment of people, goods, mail, oil, gas, or
23 any other substance (other than by airline) that both
24 originates and terminates in this State, plus (ii) that
25 portion of the person's gross receipts from movements or
26 shipments of people, goods, mail, oil, gas, or any other

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

15 (A) relative railway operating income from total
16 passenger and total freight service, as reported to
17 the Surface Transportation Board, in the case of
18 transportation by railroad; and

19 (B) relative gross receipts from passenger and
20 freight transportation, in case of transportation
21 other than by railroad.

22 (4) For taxable years ending on or after December 31,
23 2008, business income derived from furnishing airline
24 transportation services shall be apportioned to this State
25 by multiplying such income by a fraction, the numerator of
26 which is the revenue miles of the person in this State, and

1 the denominator of which is the revenue miles of the
2 person everywhere. For purposes of this paragraph, a
3 revenue mile is the transportation of one passenger or one
4 net ton of freight the distance of one mile for a
5 consideration. If a person is engaged in the
6 transportation of both passengers and freight, the
7 fraction above referred to shall be determined by means of
8 an average of the passenger revenue mile fraction and the
9 freight revenue mile fraction, weighted to reflect the
10 person's relative gross receipts from passenger and
11 freight airline transportation.

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

18 (f) Alternative allocation. If the allocation and
19 apportionment provisions of subsections (a) through (e) and of
20 subsection (h) do not, for taxable years ending before
21 December 31, 2008, fairly represent the extent of a person's
22 business activity in this State, or, for taxable years ending
23 on or after December 31, 2008, fairly represent the market for
24 the person's goods, services, or other sources of business
25 income, the person may petition for, or the Director may,
26 without a petition, permit or require, in respect of all or any

1 part of the person's business activity, if reasonable:

2 (1) Separate accounting;

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

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

7 (4) The employment of any other method to effectuate
8 an equitable allocation and apportionment of the person's
9 business income.

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

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

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

19 (2) for tax years ending on or after December 31, 1999
20 and before December 31, 2000, $8 \frac{1}{3}\%$ of the property
21 factor plus $8 \frac{1}{3}\%$ of the payroll factor plus $83 \frac{1}{3}\%$ of
22 the sales factor;

23 (3) for tax years ending on or after December 31,
24 2000, the sales factor.

25 If, in any tax year ending on or after December 31, 1998 and
26 before December 31, 2000, the denominator of the payroll,

1 property, or sales factor is zero, the apportionment factor
2 computed in paragraph (1) or (2) of this subsection for that
3 year shall be divided by an amount equal to 100% minus the
4 percentage weight given to each factor whose denominator is
5 equal to zero.

6 (Source: P.A. 100-201, eff. 8-18-17; 101-31, eff. 6-28-19;
7 101-585, eff. 8-26-19; revised 9-12-19.)

8 (35 ILCS 5/710) (from Ch. 120, par. 7-710)

9 Sec. 710. Withholding from lottery, wagering, and gambling
10 winnings.

11 (a) In general.

12 (1) Any person making a payment to a resident or
13 nonresident of winnings under the Illinois Lottery Law and
14 not required to withhold Illinois income tax from such
15 payment under Subsection (b) of Section 701 of this Act
16 because those winnings are not subject to Federal income
17 tax withholding, must withhold Illinois income tax from
18 such payment at a rate equal to the percentage tax rate for
19 individuals provided in subsection (b) of Section 201,
20 provided that withholding is not required if such payment
21 of winnings is less than \$1,000.

22 (2) In the case of an assignment of a lottery prize
23 under Section 13.1 of the Illinois Lottery Law, any person
24 making a payment of the purchase price after December 31,
25 2013, shall withhold from the amount of each payment at a

1 rate equal to the percentage tax rate for individuals
2 provided in subsection (b) of Section 201.

3 (3) Any person making a payment after December 31,
4 2019 to a resident or nonresident of winnings from
5 pari-mutuel wagering conducted at a wagering facility
6 licensed under the Illinois Horse Racing Act of 1975 or
7 from gambling games conducted on a riverboat or in a
8 casino or organization gaming facility licensed under the
9 Illinois Gambling Act must withhold Illinois income tax
10 from such payment at a rate equal to the percentage tax
11 rate for individuals provided in subsection (b) of Section
12 201, provided that the person making the payment is
13 required to withhold under Section 3402(q) of the Internal
14 Revenue Code.

15 (4) Any person making a payment after December 31,
16 2021 to a resident or nonresident of winnings from sports
17 wagering conducted in accordance with the Sports Wagering
18 Act must withhold Illinois income tax from such payment at
19 a rate equal to the percentage tax rate for individuals
20 provided in subsection (b) of Section 201, provided that
21 the person making the payment is required to withhold
22 under Section 3402(q) of the Internal Revenue Code.

23 (b) Credit for taxes withheld. Any amount withheld under
24 Subsection (a) shall be a credit against the Illinois income
25 tax liability of the person to whom the payment of winnings was
26 made for the taxable year in which that person incurred an

1 Illinois income tax liability with respect to those winnings.

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

3 (35 ILCS 5/902) (from Ch. 120, par. 9-902)

4 Sec. 902. Notice and Demand.

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

18 (b) Judicial review. In the case of a deficiency deemed
19 assessed under Section 903(a)(2) after the filing of a
20 protest, notice and demand shall not be made with respect to
21 such assessment until all proceedings in court for the review
22 of such assessment have terminated or the time for the taking
23 thereof has expired without such proceedings being instituted.

24 (c) Action for recovery of taxes. At any time that the
25 Department might commence proceedings for a levy under Section

1 1109, regardless of whether a notice of lien was filed under
2 the provisions of Section 1103, it may bring an action in any
3 court of competent jurisdiction within or without this State
4 in the name of the people of this State to recover the amount
5 of any taxes, penalties and interest due and unpaid under this
6 Act. In such action, the certificate of the Department showing
7 the amount of the delinquency shall be prima facie evidence of
8 the correctness of such amount, its assessment and of the
9 compliance by the Department with all the provisions of this
10 Act.

11 (d) Sales or transfers outside the usual course of
12 business-Report-Payment of Tax - Rights and duties of
13 purchaser or transferee - penalty. If any taxpayer, outside
14 the usual course of his business, sells or transfers the major
15 part of any one or more of (A) the stock of goods which he is
16 engaged in the business of selling, or (B) the furniture or
17 fixtures, or (C) the machinery and equipment, or (D) the real
18 property, of any business that is subject to the provisions of
19 this Act, the purchaser or transferee of such assets shall, no
20 later than 10 business days before ~~after~~ the sale or transfer,
21 file a notice of sale or transfer of business assets with the
22 ~~Chicago office of the~~ Department disclosing the name and
23 address of the seller or transferor, the name and address of
24 the purchaser or transferee, the date of the sale or transfer,
25 a copy of the sales contract and financing agreements which
26 shall include a description of the property sold or

1 transferred, the amount of the purchase price or a statement
2 of other consideration for the sale or transfer, and the terms
3 for payment of the purchase price, and such other information
4 as the Department may reasonably require. If the purchaser or
5 transferee fails to file the above described notice of sale
6 with the Department within the prescribed time, the purchaser
7 or transferee shall be personally liable to the Department for
8 the amount owed hereunder by the seller or transferor but
9 unpaid, up to the amount of the reasonable value of the
10 property acquired by the purchaser or transferee. The
11 purchaser or transferee shall pay the Department the amount of
12 tax, penalties, and interest owed by the seller or transferor
13 under this Act, to the extent they have not been paid by the
14 seller or transferor. The seller or transferor, or the
15 purchaser or transferee, at least 10 business days before the
16 date of the sale or transfer, may notify the Department of the
17 intended sale or transfer and request the Department to make a
18 determination as to whether the seller or transferor owes any
19 tax, penalty or interest due under this Act. The Department
20 shall take such steps as may be appropriate to comply with such
21 request.

22 Any order issued by the Department pursuant to this
23 Section to withhold from the purchase price shall be issued
24 within 10 business days after the Department receives
25 notification of a sale as provided in this Section. The
26 purchaser or transferee shall withhold such portion of the

1 purchase price as may be directed by the Department, but not to
2 exceed a minimum amount varying by type of business, as
3 determined by the Department pursuant to regulations, plus
4 twice the outstanding unpaid liabilities and twice the average
5 liability of preceding filings times the number of unfiled
6 returns which were not filed when due, to cover the amount of
7 all tax, penalty, and interest due and unpaid by the seller or
8 transferor under this Act or, if the payment of money or
9 property is not involved, shall withhold the performance of
10 the condition that constitutes the consideration for the sale
11 or transfer. Within 60 business days after issuance of the
12 initial order to withhold, the Department shall provide
13 written notice to the purchaser or transferee of the actual
14 amount of all taxes, penalties and interest then due and
15 whether or not additional amounts may become due as a result of
16 unpaid taxes required to be withheld by an employer, returns
17 which were not filed when due, pending assessments and audits
18 not completed. The purchaser or transferee shall continue to
19 withhold the amount directed to be withheld by the initial
20 order or such lesser amount as is specified by the final
21 withholding order or to withhold the performance of the
22 condition which constitutes the consideration for the sale or
23 transfer until the purchaser or transferee receives from the
24 Department a certificate showing that no unpaid tax, penalty
25 or interest is due from the seller or transferor under this
26 Act.

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

15 If the seller or transferor has failed to pay the tax,
16 penalty, and interest due from him hereunder and the
17 Department makes timely claim therefor against the purchaser
18 or transferee as hereinabove provided, then the purchaser or
19 transferee shall pay to the Department the amount so withheld
20 from the purchase price. If the purchaser or transferee fails
21 to comply with the requirements of this Section, the purchaser
22 or transferee shall be personally liable to the Department for
23 the amount owed hereunder by the seller or transferor up to the
24 amount of the reasonable value of the property acquired by the
25 purchaser or transferee.

26 Any person who shall acquire any property or rights

1 thereto which, at the time of such acquisition, is subject to a
2 valid lien in favor of the Department, shall be personally
3 liable to the Department for a sum equal to the amount of
4 taxes, penalties and interests, secured by such lien, but not
5 to exceed the reasonable value of such property acquired by
6 him.

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

8 (35 ILCS 5/905) (from Ch. 120, par. 9-905)

9 Sec. 905. Limitations on Notices of Deficiency.

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

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

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

16 (a-5) Notwithstanding any other provision of this Act to
17 the contrary, for any taxable year included in a claim for
18 credit or refund for which the statute of limitations for
19 issuing a notice of deficiency under this Act will expire less
20 than 6 months after the date a taxpayer files the claim for
21 credit or refund, the statute of limitations is automatically
22 extended for 6 months from the date it would have otherwise
23 expired.

24 (b) Substantial omission of items.

25 (1) Omission of more than 25% of income. If the

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

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

19 (3) Withholding. If an employer omits from a return
20 required under Section 704A of this Act for any period
21 beginning on or after January 1, 2013, an amount required
22 to be withheld and to be reported on that return which is
23 in excess of 25% of the total amount of withholding
24 required to be reported on that return, a notice of
25 deficiency may be issued not later than 6 years after the
26 return was filed.

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

17 (d) Failure to report federal change. If a taxpayer fails
18 to notify the Department in any case where notification is
19 required by Section 304(c) or 506(b), or fails to report a
20 change or correction which is treated in the same manner as if
21 it were a deficiency for federal income tax purposes, a notice
22 of deficiency may be issued (i) at any time or (ii) on or after
23 August 13, 1999, at any time for the taxable year for which the
24 notification is required or for any taxable year to which the
25 taxpayer may carry an Article 2 credit, or a Section 207 loss,
26 earned, incurred, or used in the year for which the

1 notification is required; provided, however, that the amount
2 of any proposed assessment set forth in the notice shall be
3 limited to the amount of any deficiency resulting under this
4 Act from the recomputation of the taxpayer's net income,
5 Article 2 credits, or Section 207 loss earned, incurred, or
6 used in the taxable year for which the notification is
7 required after giving effect to the item or items required to
8 be reported.

9 (e) Report of federal change.

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

21 (2) On and after August 13, 1999, in any case where
22 notification of an alteration is given as required by
23 Section 506(b), a notice of deficiency may be issued at
24 any time within 2 years after the date such notification
25 is given for the taxable year for which the notification
26 is given or for any taxable year to which the taxpayer may

1 carry an Article 2 credit, or a Section 207 loss, earned,
2 incurred, or used in the year for which the notification
3 is given, provided, however, that the amount of any
4 proposed assessment set forth in such notice shall be
5 limited to the amount of any deficiency resulting under
6 this Act from recomputation of the taxpayer's net income,
7 Article 2 credits, or Section 207 loss earned, incurred,
8 or used in the taxable year for which the notification is
9 given after giving effect to the item or items reflected
10 in the reported alteration.

11 (f) Extension by agreement. Where, before the expiration
12 of the time prescribed in this Section for the issuance of a
13 notice of deficiency, both the Department and the taxpayer
14 shall have consented in writing to its issuance after such
15 time, such notice may be issued at any time prior to the
16 expiration of the period agreed upon. In the case of a taxpayer
17 who is a partnership, Subchapter S corporation, or trust and
18 who enters into an agreement with the Department pursuant to
19 this subsection on or after January 1, 2003, a notice of
20 deficiency may be issued to the partners, shareholders, or
21 beneficiaries of the taxpayer at any time prior to the
22 expiration of the period agreed upon. Any proposed assessment
23 set forth in the notice, however, shall be limited to the
24 amount of any deficiency resulting under this Act from
25 recomputation of items of income, deduction, credits, or other
26 amounts of the taxpayer that are taken into account by the

1 partner, shareholder, or beneficiary in computing its
2 liability under this Act. The period so agreed upon may be
3 extended by subsequent agreements in writing made before the
4 expiration of the period previously agreed upon.

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

14 Beginning July 1, 1993, in any case in which there has been
15 a refund of tax payable under this Act attributable to a net
16 loss carryback as provided for in Section 207, and that refund
17 is subsequently determined to be an erroneous refund due to a
18 reduction in the amount of the net loss which was originally
19 carried back, a notice of deficiency for the erroneous refund
20 amount may be issued at any time during the same time period in
21 which a notice of deficiency can be issued on the loss year
22 creating the carryback amount and subsequent erroneous refund.
23 The amount of any proposed assessment set forth in the notice
24 shall be limited to the amount of such erroneous refund.

25 (h) Time return deemed filed. For purposes of this Section
26 a tax return filed before the last day prescribed by law

1 (including any extension thereof) shall be deemed to have been
2 filed on such last day.

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

16 (1) (A) such written request notifies the Department
17 that the corporation contemplates dissolution at or before
18 the expiration of such 18-month period, (B) the
19 dissolution is begun in good faith before the expiration
20 of such 18-month period, and (C) the dissolution is
21 completed;

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

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

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

7 (k) Penalties for failure to make information reports. A
8 notice of deficiency for the penalties provided by Subsection
9 1405.1(c) of this Act may not be issued more than 3 years after
10 the due date of the reports with respect to which the penalties
11 are asserted.

12 (l) Penalty for failure to file withholding returns. A
13 notice of deficiency for penalties provided by Section 1004 of
14 this Act for taxpayer's failure to file withholding returns
15 may not be issued more than three years after the 15th day of
16 the 4th month following the close of the calendar year in which
17 the withholding giving rise to taxpayer's obligation to file
18 those returns occurred.

19 (m) Transferee liability. A notice of deficiency may be
20 issued to a transferee relative to a liability asserted under
21 Section 1405 during time periods defined as follows:

22 1) Initial Transferee. In the case of the liability of
23 an initial transferee, up to 2 years after the expiration
24 of the period of limitation for assessment against the
25 transferor, except that if a court proceeding for review
26 of the assessment against the transferor has begun, then

1 up to 2 years after the return of the certified copy of the
2 judgment in the court proceeding.

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

18 (n) Notice of decrease in net loss. On and after August 23,
19 2002, no notice of deficiency shall be issued as the result of
20 a decrease determined by the Department in the net loss
21 incurred by a taxpayer in any taxable year ending prior to
22 December 31, 2002 under Section 207 of this Act unless the
23 Department has notified the taxpayer of the proposed decrease
24 within 3 years after the return reporting the loss was filed or
25 within one year after an amended return reporting an increase
26 in the loss was filed, provided that in the case of an amended

1 return, a decrease proposed by the Department more than 3
2 years after the original return was filed may not exceed the
3 increase claimed by the taxpayer on the original return.

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

5 Section 15. The Use Tax Act is amended by changing Section
6 21 as follows:

7 (35 ILCS 105/21) (from Ch. 120, par. 439.21)

8 Sec. 21. As to any claim for credit or refund filed with
9 the Department on and after January 1 but on or before June 30
10 of any given year, no amount of tax or penalty or interest
11 erroneously paid (either in total or partial liquidation of a
12 tax or penalty or interest under this Act) more than 3 years
13 prior to such January 1 shall be credited or refunded, and as
14 to any such claim filed on and after July 1 but on or before
15 December 31 of any given year, no amount of tax or penalty or
16 interest erroneously paid (either in total or partial
17 liquidation of a tax or penalty or interest under this Act)
18 more than 3 years prior to such July 1 shall be credited or
19 refunded. Notwithstanding any other provision of this Act to
20 the contrary, for any period included in a claim for credit or
21 refund for which the statute of limitations for issuing a
22 notice of tax liability under this Act will expire less than 6
23 months after the date a taxpayer files the claim for credit or
24 refund, the statute of limitations is automatically extended

1 for 6 months from the date it would have otherwise expired. No
2 claim shall be allowed for any amount paid to the Department,
3 whether paid voluntarily or involuntarily, if paid in total or
4 partial liquidation of an assessment which had become final
5 before the claim for credit or refund to recover the amount so
6 paid is filed with the Department, or if paid in total or
7 partial liquidation of a judgment or order of court.

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

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

11 (35 ILCS 115/19) (from Ch. 120, par. 439.119)

12 Sec. 19. As to any claim for credit or refund filed with
13 the Department on or after each January 1 and July 1, no amount
14 of tax or penalty or interest erroneously paid (either in
15 total or partial liquidation of a tax or penalty or interest
16 under this Act) more than 3 years prior to such January 1 and
17 July 1, respectively, shall be credited or refunded, except
18 that if both the Department and taxpayer have agreed to an
19 extension of time to issue a notice of tax liability as
20 provided in Section 4 of the Retailers' Occupation Tax Act,
21 such claim may be filed at any time prior to the expiration of
22 the period agreed upon. Notwithstanding any other provision of
23 this Act to the contrary, for any period included in a claim
24 for credit or refund for which the statute of limitations for

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

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

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

15 (35 ILCS 120/2a) (from Ch. 120, par. 441a)

16 Sec. 2a. It is unlawful for any person to engage in the
17 business of selling tangible personal property at retail in
18 this State without a certificate of registration from the
19 Department. Application for a certificate of registration
20 shall be made to the Department upon forms furnished by it.
21 Each such application shall be signed and verified and shall
22 state: (1) the name and social security number of the
23 applicant; (2) the address of his principal place of business;
24 (3) the address of the principal place of business from which

1 he engages in the business of selling tangible personal
2 property at retail in this State and the addresses of all other
3 places of business, if any (enumerating such addresses, if
4 any, in a separate list attached to and made a part of the
5 application), from which he engages in the business of selling
6 tangible personal property at retail in this State; (4) the
7 name and address of the person or persons who will be
8 responsible for filing returns and payment of taxes due under
9 this Act; (5) in the case of a publicly traded corporation, the
10 name and title of the Chief Financial Officer, Chief Operating
11 Officer, and any other officer or employee with responsibility
12 for preparing tax returns under this Act, and, in the case of
13 all other corporations, the name, title, and social security
14 number of each corporate officer; (6) in the case of a limited
15 liability company, the name, social security number, and FEIN
16 number of each manager and member; and (7) such other
17 information as the Department may reasonably require. The
18 application shall contain an acceptance of responsibility
19 signed by the person or persons who will be responsible for
20 filing returns and payment of the taxes due under this Act. If
21 the applicant will sell tangible personal property at retail
22 through vending machines, his application to register shall
23 indicate the number of vending machines to be so operated. If
24 requested by the Department at any time, that person shall
25 verify the total number of vending machines he or she uses in
26 his or her business of selling tangible personal property at

1 retail.

2 The Department shall provide by rule for an expedited
3 business registration process for remote retailers required to
4 register and file under subsection (b) of Section 2 who use a
5 certified service provider to file their returns under this
6 Act. Such expedited registration process shall allow the
7 Department to register a taxpayer based upon the same
8 registration information required by the Streamlined Sales Tax
9 Governing Board for states participating in the Streamlined
10 Sales Tax Project.

11 The Department may deny a certificate of registration to
12 any applicant if a person who is named as the owner, a partner,
13 a manager or member of a limited liability company, or a
14 corporate officer of the applicant on the application for the
15 certificate of registration is or has been named as the owner,
16 a partner, a manager or member of a limited liability company,
17 or a corporate officer on the application for the certificate
18 of registration of another retailer that is in default for
19 moneys due under this Act or any other tax or fee Act
20 administered by the Department. For purposes of this paragraph
21 only, in determining whether a person is in default for moneys
22 due, the Department shall include only amounts established as
23 a final liability within the 23 ~~20~~ years prior to the date of
24 the Department's notice of denial of a certificate of
25 registration.

26 The Department may require an applicant for a certificate

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

1 member of a limited liability company, or a corporate officer
2 of another retailer whose certificate of registration has been
3 revoked within the previous 5 years under this Act or any other
4 tax or fee Act administered by the Department. If a bond or
5 other security is required, the Department shall fix the
6 amount of the bond or other security, taking into
7 consideration the amount of money expected to become due from
8 the applicant under this Act and under any other State tax law
9 or municipal or county tax ordinance or resolution under which
10 the certificate of registration that is issued to the
11 applicant under this Act will permit the applicant to engage
12 in business without registering separately under such other
13 law, ordinance, or resolution. The amount of security required
14 by the Department shall be such as, in its opinion, will
15 protect the State of Illinois against failure to pay the
16 amount which may become due from the applicant under this Act
17 and under any other State tax law or municipal or county tax
18 ordinance or resolution under which the certificate of
19 registration that is issued to the applicant under this Act
20 will permit the applicant to engage in business without
21 registering separately under such other law, ordinance or
22 resolution, but the amount of the security required by the
23 Department shall not exceed three times the amount of the
24 applicant's average monthly tax liability, or \$50,000.00,
25 whichever amount is lower.

26 No certificate of registration under this Act shall be

1 issued by the Department until the applicant provides the
2 Department with satisfactory security, if required, as herein
3 provided for.

4 Upon receipt of the application for certificate of
5 registration in proper form, and upon approval by the
6 Department of the security furnished by the applicant, if
7 required, the Department shall issue to such applicant a
8 certificate of registration which shall permit the person to
9 whom it is issued to engage in the business of selling tangible
10 personal property at retail in this State. The certificate of
11 registration shall be conspicuously displayed at the place of
12 business which the person so registered states in his
13 application to be the principal place of business from which
14 he engages in the business of selling tangible personal
15 property at retail in this State.

16 No certificate of registration issued prior to July 1,
17 2017 to a taxpayer who files returns required by this Act on a
18 monthly basis or renewed prior to July 1, 2017 by a taxpayer
19 who files returns required by this Act on a monthly basis shall
20 be valid after the expiration of 5 years from the date of its
21 issuance or last renewal. No certificate of registration
22 issued on or after July 1, 2017 to a taxpayer who files returns
23 required by this Act on a monthly basis or renewed on or after
24 July 1, 2017 by a taxpayer who files returns required by this
25 Act on a monthly basis shall be valid after the expiration of
26 one year from the date of its issuance or last renewal. The

1 expiration date of a sub-certificate of registration shall be
2 that of the certificate of registration to which the
3 sub-certificate relates. Prior to July 1, 2017, a certificate
4 of registration shall automatically be renewed, subject to
5 revocation as provided by this Act, for an additional 5 years
6 from the date of its expiration unless otherwise notified by
7 the Department as provided by this paragraph. On and after
8 July 1, 2017, a certificate of registration shall
9 automatically be renewed, subject to revocation as provided by
10 this Act, for an additional one year from the date of its
11 expiration unless otherwise notified by the Department as
12 provided by this paragraph.

13 Where a taxpayer to whom a certificate of registration is
14 issued under this Act is in default to the State of Illinois
15 for delinquent returns or for moneys due under this Act or any
16 other State tax law or municipal or county ordinance
17 administered or enforced by the Department, the Department
18 shall, not less than 60 days before the expiration date of such
19 certificate of registration, give notice to the taxpayer to
20 whom the certificate was issued of the account period of the
21 delinquent returns, the amount of tax, penalty and interest
22 due and owing from the taxpayer, and that the certificate of
23 registration shall not be automatically renewed upon its
24 expiration date unless the taxpayer, on or before the date of
25 expiration, has filed and paid the delinquent returns or paid
26 the defaulted amount in full. A taxpayer to whom such a notice

1 is issued shall be deemed an applicant for renewal. The
2 Department shall promulgate regulations establishing
3 procedures for taxpayers who file returns on a monthly basis
4 but desire and qualify to change to a quarterly or yearly
5 filing basis and will no longer be subject to renewal under
6 this Section, and for taxpayers who file returns on a yearly or
7 quarterly basis but who desire or are required to change to a
8 monthly filing basis and will be subject to renewal under this
9 Section.

10 The Department may in its discretion approve renewal by an
11 applicant who is in default if, at the time of application for
12 renewal, the applicant files all of the delinquent returns or
13 pays to the Department such percentage of the defaulted amount
14 as may be determined by the Department and agrees in writing to
15 waive all limitations upon the Department for collection of
16 the remaining defaulted amount to the Department over a period
17 not to exceed 5 years from the date of renewal of the
18 certificate; however, no renewal application submitted by an
19 applicant who is in default shall be approved if the
20 immediately preceding renewal by the applicant was conditioned
21 upon the installment payment agreement described in this
22 Section. The payment agreement herein provided for shall be in
23 addition to and not in lieu of the security that may be
24 required by this Section of a taxpayer who is no longer
25 considered a prior continuous compliance taxpayer. The
26 execution of the payment agreement as provided in this Act

1 shall not toll the accrual of interest at the statutory rate.

2 The Department may suspend a certificate of registration
3 if the Department finds that the person to whom the
4 certificate of registration has been issued knowingly sold
5 contraband cigarettes.

6 A certificate of registration issued under this Act more
7 than 5 years before January 1, 1990 (the effective date of
8 Public Act 86-383) shall expire and be subject to the renewal
9 provisions of this Section on the next anniversary of the date
10 of issuance of such certificate which occurs more than 6
11 months after January 1, 1990 (the effective date of Public Act
12 86-383). A certificate of registration issued less than 5
13 years before January 1, 1990 (the effective date of Public Act
14 86-383) shall expire and be subject to the renewal provisions
15 of this Section on the 5th anniversary of the issuance of the
16 certificate.

17 If the person so registered states that he operates other
18 places of business from which he engages in the business of
19 selling tangible personal property at retail in this State,
20 the Department shall furnish him with a sub-certificate of
21 registration for each such place of business, and the
22 applicant shall display the appropriate sub-certificate of
23 registration at each such place of business. All
24 sub-certificates of registration shall bear the same
25 registration number as that appearing upon the certificate of
26 registration to which such sub-certificates relate.

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

20 Where the same person engages in 2 or more businesses of
21 selling tangible personal property at retail in this State,
22 which businesses are substantially different in character or
23 engaged in under different trade names or engaged in under
24 other substantially dissimilar circumstances (so that it is
25 more practicable, from an accounting, auditing or bookkeeping
26 standpoint, for such businesses to be separately registered),

1 the Department may require or permit such person (subject to
2 the same requirements concerning the furnishing of security as
3 those that are provided for hereinbefore in this Section as to
4 each application for a certificate of registration) to apply
5 for and obtain a separate certificate of registration for each
6 such business or for any of such businesses, under a single
7 certificate of registration supplemented by related
8 sub-certificates of registration.

9 Any person who is registered under the Retailers'
10 Occupation Tax Act as of March 8, 1963, and who, during the
11 3-year period immediately prior to March 8, 1963, or during a
12 continuous 3-year period part of which passed immediately
13 before and the remainder of which passes immediately after
14 March 8, 1963, has been so registered continuously and who is
15 determined by the Department not to have been either
16 delinquent or deficient in the payment of tax liability during
17 that period under this Act or under any other State tax law or
18 municipal or county tax ordinance or resolution under which
19 the certificate of registration that is issued to the
20 registrant under this Act will permit the registrant to engage
21 in business without registering separately under such other
22 law, ordinance or resolution, shall be considered to be a
23 Prior Continuous Compliance taxpayer. Also any taxpayer who
24 has, as verified by the Department, faithfully and
25 continuously complied with the condition of his bond or other
26 security under the provisions of this Act for a period of 3

1 consecutive years shall be considered to be a Prior Continuous
2 Compliance taxpayer.

3 Every Prior Continuous Compliance taxpayer shall be exempt
4 from all requirements under this Act concerning the furnishing
5 of a bond or other security as a condition precedent to his
6 being authorized to engage in the business of selling tangible
7 personal property at retail in this State. This exemption
8 shall continue for each such taxpayer until such time as he may
9 be determined by the Department to be delinquent in the filing
10 of any returns, or is determined by the Department (either
11 through the Department's issuance of a final assessment which
12 has become final under the Act, or by the taxpayer's filing of
13 a return which admits tax that is not paid to be due) to be
14 delinquent or deficient in the paying of any tax under this Act
15 or under any other State tax law or municipal or county tax
16 ordinance or resolution under which the certificate of
17 registration that is issued to the registrant under this Act
18 will permit the registrant to engage in business without
19 registering separately under such other law, ordinance or
20 resolution, at which time that taxpayer shall become subject
21 to all the financial responsibility requirements of this Act
22 and, as a condition of being allowed to continue to engage in
23 the business of selling tangible personal property at retail,
24 may be required to post bond or other acceptable security with
25 the Department covering liability which such taxpayer may
26 thereafter incur. Any taxpayer who fails to pay an admitted or

1 established liability under this Act may also be required to
2 post bond or other acceptable security with this Department
3 guaranteeing the payment of such admitted or established
4 liability.

5 No certificate of registration shall be issued to any
6 person who is in default to the State of Illinois for moneys
7 due under this Act or under any other State tax law or
8 municipal or county tax ordinance or resolution under which
9 the certificate of registration that is issued to the
10 applicant under this Act will permit the applicant to engage
11 in business without registering separately under such other
12 law, ordinance or resolution.

13 Any person aggrieved by any decision of the Department
14 under this Section may, within 20 days after notice of such
15 decision, protest and request a hearing, whereupon the
16 Department shall give notice to such person of the time and
17 place fixed for such hearing and shall hold a hearing in
18 conformity with the provisions of this Act and then issue its
19 final administrative decision in the matter to such person. In
20 the absence of such a protest within 20 days, the Department's
21 decision shall become final without any further determination
22 being made or notice given.

23 With respect to security other than bonds (upon which the
24 Department may sue in the event of a forfeiture), if the
25 taxpayer fails to pay, when due, any amount whose payment such
26 security guarantees, the Department shall, after such

1 liability is admitted by the taxpayer or established by the
2 Department through the issuance of a final assessment that has
3 become final under the law, convert the security which that
4 taxpayer has furnished into money for the State, after first
5 giving the taxpayer at least 10 days' written notice, by
6 registered or certified mail, to pay the liability or forfeit
7 such security to the Department. If the security consists of
8 stocks or bonds or other securities which are listed on a
9 public exchange, the Department shall sell such securities
10 through such public exchange. If the security consists of an
11 irrevocable bank letter of credit, the Department shall
12 convert the security in the manner provided for in the Uniform
13 Commercial Code. If the security consists of a bank
14 certificate of deposit, the Department shall convert the
15 security into money by demanding and collecting the amount of
16 such bank certificate of deposit from the bank which issued
17 such certificate. If the security consists of a type of stocks
18 or other securities which are not listed on a public exchange,
19 the Department shall sell such security to the highest and
20 best bidder after giving at least 10 days' notice of the date,
21 time and place of the intended sale by publication in the
22 "State Official Newspaper". If the Department realizes more
23 than the amount of such liability from the security, plus the
24 expenses incurred by the Department in converting the security
25 into money, the Department shall pay such excess to the
26 taxpayer who furnished such security, and the balance shall be

1 paid into the State Treasury.

2 The Department shall discharge any surety and shall
3 release and return any security deposited, assigned, pledged
4 or otherwise provided to it by a taxpayer under this Section
5 within 30 days after:

6 (1) such taxpayer becomes a Prior Continuous
7 Compliance taxpayer; or

8 (2) such taxpayer has ceased to collect receipts on
9 which he is required to remit tax to the Department, has
10 filed a final tax return, and has paid to the Department an
11 amount sufficient to discharge his remaining tax
12 liability, as determined by the Department, under this Act
13 and under every other State tax law or municipal or county
14 tax ordinance or resolution under which the certificate of
15 registration issued under this Act permits the registrant
16 to engage in business without registering separately under
17 such other law, ordinance or resolution. The Department
18 shall make a final determination of the taxpayer's
19 outstanding tax liability as expeditiously as possible
20 after his final tax return has been filed; if the
21 Department cannot make such final determination within 45
22 days after receiving the final tax return, within such
23 period it shall so notify the taxpayer, stating its
24 reasons therefor.

25 (Source: P.A. 100-302, eff. 8-24-17; 100-303, eff. 8-24-17;
26 100-863, eff. 8-14-18; 101-31, eff. 6-28-19.)

1 (35 ILCS 120/6) (from Ch. 120, par. 445)

2 Sec. 6. Credit memorandum or refund. If it appears, after
3 claim therefor filed with the Department, that an amount of
4 tax or penalty or interest has been paid which was not due
5 under this Act, whether as the result of a mistake of fact or
6 an error of law, except as hereinafter provided, then the
7 Department shall issue a credit memorandum or refund to the
8 person who made the erroneous payment or, if that person died
9 or became a person under legal disability, to his or her legal
10 representative, as such. For purposes of this Section, the tax
11 is deemed to be erroneously paid by a retailer when the
12 manufacturer of a motor vehicle sold by the retailer accepts
13 the return of that automobile and refunds to the purchaser the
14 selling price of that vehicle as provided in the New Vehicle
15 Buyer Protection Act. When a motor vehicle is returned for a
16 refund of the purchase price under the New Vehicle Buyer
17 Protection Act, the Department shall issue a credit memorandum
18 or a refund for the amount of tax paid by the retailer under
19 this Act attributable to the initial sale of that vehicle.
20 Claims submitted by the retailer are subject to the same
21 restrictions and procedures provided for in this Act. If it is
22 determined that the Department should issue a credit
23 memorandum or refund, the Department may first apply the
24 amount thereof against any tax or penalty or interest due or to
25 become due under this Act or under the Use Tax Act, the Service

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

20 No claim may be allowed for any amount paid to the
21 Department, whether paid voluntarily or involuntarily, if paid
22 in total or partial liquidation of an assessment which had
23 become final before the claim for credit or refund to recover
24 the amount so paid is filed with the Department, or if paid in
25 total or partial liquidation of a judgment or order of court.
26 No credit may be allowed or refund made for any amount paid by

1 or collected from any claimant unless it appears (a) that the
2 claimant bore the burden of such amount and has not been
3 relieved thereof nor reimbursed therefor and has not shifted
4 such burden directly or indirectly through inclusion of such
5 amount in the price of the tangible personal property sold by
6 him or her or in any manner whatsoever; and that no
7 understanding or agreement, written or oral, exists whereby he
8 or she or his or her legal representative may be relieved of
9 the burden of such amount, be reimbursed therefor or may shift
10 the burden thereof; or (b) that he or she or his or her legal
11 representative has repaid unconditionally such amount to his
12 or her vendee (1) who bore the burden thereof and has not
13 shifted such burden directly or indirectly, in any manner
14 whatsoever; (2) who, if he or she has shifted such burden, has
15 repaid unconditionally such amount to his own vendee; and (3)
16 who is not entitled to receive any reimbursement therefor from
17 any other source than from his or her vendor, nor to be
18 relieved of such burden in any manner whatsoever. No credit
19 may be allowed or refund made for any amount paid by or
20 collected from any claimant unless it appears that the
21 claimant has unconditionally repaid, to the purchaser, any
22 amount collected from the purchaser and retained by the
23 claimant with respect to the same transaction under the Use
24 Tax Act.

25 Any credit or refund that is allowed under this Section
26 shall bear interest at the rate and in the manner specified in

1 the Uniform Penalty and Interest Act.

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

13 If a retailer who has failed to pay retailers' occupation
14 tax on gross receipts from retail sales is required by the
15 Department to pay such tax, such retailer, without filing any
16 formal claim with the Department, shall be allowed to take
17 credit against such retailers' occupation tax liability to the
18 extent, if any, to which such retailer has paid an amount
19 equivalent to retailers' occupation tax or has paid use tax in
20 error to his or her vendor or vendors of the same tangible
21 personal property which such retailer bought for resale and
22 did not first use before selling it, and no penalty or interest
23 shall be charged to such retailer on the amount of such credit.
24 However, when such credit is allowed to the retailer by the
25 Department, the vendor is precluded from refunding any of that
26 tax to the retailer and filing a claim for credit or refund

1 with respect thereto with the Department. The provisions of
2 this amendatory Act shall be applied retroactively, regardless
3 of the date of the transaction.

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

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

7 (35 ILCS 128/1-55)

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

17 If it is determined that the Department should issue a
18 credit or refund under this Act, the Department may first
19 apply the amount thereof against any amount of tax or penalty
20 due under this Act, the Cigarette Tax Act, the Cigarette Use
21 Tax Act, or the Tobacco Products Act of 1995 from the person
22 entitled to that credit or refund. For this purpose, if
23 proceedings are pending to determine whether or not any tax or
24 penalty is due under this Act or under the Cigarette Tax Act,

1 Cigarette Use Tax Act, or the Tobacco Products Act of 1995 from
2 the person, the Department may withhold issuance of the credit
3 or refund pending the final disposition of such proceedings
4 and may apply such credit or refund against any amount found to
5 be due to the Department under this Act, the Cigarette Tax Act,
6 the Cigarette Use Tax Act, or the Tobacco Products Act of 1995
7 as a result of such proceedings. The balance, if any, of the
8 credit or refund shall be issued to the person entitled
9 thereto.

10 If no tax or penalty is due and no proceeding is pending to
11 determine whether such taxpayer is indebted to the Department
12 for the payment of a tax or penalty, the credit memorandum or
13 refund shall be issued to the claimant; or (in the case of a
14 credit memorandum) the credit memorandum may be assigned and
15 set over by the lawful holder thereof, subject to reasonable
16 rules of the Department, to any other person who is subject to
17 this Act, the Cigarette Tax Act, the Cigarette Use Tax Act, or
18 the Tobacco Products Act of 1995, and the amount thereof shall
19 be applied by the Department against any tax or penalty due or
20 to become due under this Act, the Cigarette Tax Act, the
21 Cigarette Use Tax Act, or the Tobacco Products Act of 1995 from
22 such assignee.

23 As to any claim filed hereunder with the Department on and
24 after each January 1 and July 1, no amount of tax or penalty
25 erroneously paid (either in total or partial liquidation of a
26 tax or penalty under this Act) more than 3 years prior to such

1 January 1 and July 1, respectively, shall be credited or
2 refunded, except that, if both the Department and the taxpayer
3 have agreed to an extension of time to issue a notice of tax
4 liability under this Act, the claim may be filed at any time
5 prior to the expiration of the period agreed upon.
6 Notwithstanding any other provision of this Act to the
7 contrary, for any period included in a claim for credit or
8 refund for which the statute of limitations for issuing a
9 notice of tax liability under this Act will expire less than 6
10 months after the date a taxpayer files the claim for credit or
11 refund, the statute of limitations is automatically extended
12 for 6 months from the 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 set forth 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
18 appropriations available for that purpose. If it appears
19 unlikely that the amount appropriated would permit everyone
20 having a claim allowed during the period covered by such
21 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 The provisions of Sections 6a, 6b, and 6c of the
26 Retailers' Occupation Tax Act which are not inconsistent with

1 this Act shall apply, as far as practicable, to the subject
2 matter of this Act to the same extent as if such provisions
3 were included herein.

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

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

7 (35 ILCS 130/9d) (from Ch. 120, par. 453.9d)

8 Sec. 9d. If it appears, after claim therefor filed with
9 the Department, that an amount of tax or penalty has been paid
10 which was not due under this Act, whether as the result of a
11 mistake of fact or an error of law, except as hereinafter
12 provided, then the Department shall issue a credit memorandum
13 or refund to the person who made the erroneous payment or, if
14 that person has died or become a person under legal
15 disability, to his or her 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 due under this Act or under the Cigarette Use Tax Act from the
20 person entitled to such credit or refund. For this purpose, if
21 proceedings are pending to determine whether or not any tax or
22 penalty is due under this Act or under the Cigarette Use Tax
23 Act from such person, the Department may withhold issuance of
24 the credit or refund pending the final disposition of such

1 proceedings and may apply such credit or refund against any
2 amount found to be due to the Department under this Act or
3 under the Cigarette Use Tax Act as a result of such
4 proceedings. The balance, if any, of the credit or refund
5 shall be issued to the person entitled thereto.

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

17 As to any claim filed hereunder with the Department on and
18 after each January 1 and July 1, no amount of tax or penalty
19 erroneously paid (either in total or partial liquidation of a
20 tax or penalty under this Act) more than 3 years prior to such
21 January 1 and July 1, respectively, shall be credited or
22 refunded, except that if both the Department and the taxpayer
23 have agreed to an extension of time to issue a notice of tax
24 liability under this Act, the claim may be filed at any time
25 prior to the expiration of the period agreed upon.
26 Notwithstanding any other provision of this Act to the

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

7 If the Department approves a claim for stamps affixed to a
8 product returned to a manufacturer or for replacement of
9 stamps, the credit memorandum shall not exceed the face value
10 of stamps originally affixed, and replacement stamps shall be
11 issued only in an amount equal to the value of the stamps
12 previously affixed. Higher denomination stamps shall not be
13 issued as replacements for lower value stamps. Distributors
14 must prove the face value of the stamps which have been
15 destroyed or returned to manufacturers when filing claims.

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

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

1 types of cases qualify as hardship cases.

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

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

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

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

16 (35 ILCS 135/14a) (from Ch. 120, par. 453.44a)

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

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

15 If no tax or penalty is due and no proceeding is pending to
16 determine whether such taxpayer is indebted to the Department
17 for tax or penalty, the credit memorandum or refund shall be
18 issued to the claimant; or (in the case of a credit memorandum)
19 may be assigned and set over by the lawful holder thereof,
20 subject to reasonable rules of the Department, to any other
21 person who is subject to this Act or the Cigarette Tax Act, and
22 the amount thereof shall be applied by the Department against
23 any tax or penalty due or to become due under this Act or under
24 the Cigarette Tax Act 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 period included in a claim for credit or
10 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 In case the Department determines that the claimant is
16 entitled to a refund, such refund shall be made only from such
17 appropriation as may be available for that purpose. If it
18 appears unlikely that the amount appropriated would permit
19 everyone having a claim allowed during the period covered by
20 such appropriation to elect to receive a cash refund, the
21 Department, by rule or regulation, shall provide for the
22 payment of refunds in hardship cases and shall define what
23 types of cases qualify as hardship cases.

24 If the Department approves a claim for the physical
25 replacement of cigarette tax stamps, the Department (subject
26 to the same limitations as those provided for hereinbefore in

1 this Section) may issue an assignable credit memorandum or
2 refund to the claimant or to the claimant's legal
3 representative.

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

7 The provisions of Sections 6a, 6b and 6c of the
8 "Retailers' Occupation Tax Act", approved June 28, 1933, as
9 amended, in effect on the effective date of this amendatory
10 Act, as subsequently amended, which are not inconsistent with
11 this Act, shall apply, as far as practicable, to the subject
12 matter of this Act to the same extent as if such provisions
13 were included herein.

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

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

17 (35 ILCS 143/10-5)

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

19 "Business" means any trade, occupation, activity, or
20 enterprise engaged in, at any location whatsoever, for the
21 purpose of selling tobacco products.

22 "Cigarette" has the meaning ascribed to the term in
23 Section 1 of the Cigarette Tax Act.

24 "Contraband little cigar" means:

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

4 (2) packages of little cigars containing 20 or 25
5 little cigars that bear a fraudulent, imitation, or
6 counterfeit tax stamp;

7 (3) packages of little cigars containing 20 or 25
8 little cigars that are improperly tax stamped, including
9 packages of little cigars that bear only a tax stamp of
10 another state or taxing jurisdiction; or

11 (4) packages of little cigars containing other than 20
12 or 25 little cigars in the possession of a distributor,
13 retailer or wholesaler, unless the distributor, retailer,
14 or wholesaler possesses, or produces within the time frame
15 provided in Section 10-27 or 10-28 of this Act, an invoice
16 from a stamping distributor, distributor, or wholesaler
17 showing that the tax on the packages has been or will be
18 paid.

19 "Correctional Industries program" means a program run by a
20 State penal institution in which residents of the penal
21 institution produce tobacco products for sale to persons
22 incarcerated in penal institutions or resident patients of a
23 State operated mental health facility.

24 "Department" means the Illinois Department of Revenue.

25 "Distributor" means any of the following:

26 (1) Any manufacturer or wholesaler in this State

1 engaged in the business of selling tobacco products who
2 sells, exchanges, or distributes tobacco products to
3 retailers or consumers in this State.

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

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

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

24 "Electronic cigarette" means:

25 (1) any device that employs a battery or other
26 mechanism to heat a solution or substance to produce a

1 vapor or aerosol intended for inhalation, except for (A)
2 any device designed solely for use with cannabis that
3 contains a statement on the retail packaging that the
4 device is designed solely for use with cannabis and not
5 for use with tobacco or (B) any device that contains a
6 solution or substance that contains cannabis subject to
7 tax under the Compassionate Use of Medical Cannabis
8 Program Act or the Cannabis Regulation and Tax Act;

9 (2) any cartridge or container of a solution or
10 substance intended to be used with or in the device or to
11 refill the device, except for any cartridge or container
12 of a solution or substance that contains cannabis subject
13 to tax under the Compassionate Use of Medical Cannabis
14 Program Act or the Cannabis Regulation and Tax Act; or

15 (3) any solution or substance, whether or not it
16 contains nicotine, intended for use in the device, except
17 for any solution or substance that contains cannabis
18 subject to tax under the Compassionate Use of Medical
19 Cannabis Program Act or the Cannabis Regulation and Tax
20 Act.

21 The changes made to the definition of "electronic
22 cigarette" by this amendatory Act of the 102nd General
23 Assembly apply on and after June 28, 2019, but no claim for
24 credit or refund is allowed on or after the effective date of
25 this amendatory Act of the 102nd General Assembly for such
26 taxes paid during the period beginning June 28, 2019 and the

1 effective date of this amendatory Act of the 102nd General
2 Assembly.

3 "Electronic cigarette" includes, but is not limited to,
4 any electronic nicotine delivery system, electronic cigar,
5 electronic cigarillo, electronic pipe, electronic hookah, vape
6 pen, or similar product or device, and any component or part
7 that can be used to build the product or device. "Electronic
8 cigarette" does not include: cigarettes, as defined in Section
9 1 of the Cigarette Tax Act; any product approved by the United
10 States Food and Drug Administration for sale as a tobacco
11 cessation product, a tobacco dependence product, or for other
12 medical purposes that is marketed and sold solely for that
13 approved purpose; any asthma inhaler prescribed by a physician
14 for that condition that is marketed and sold solely for that
15 approved purpose; or any therapeutic product approved for use
16 under the Compassionate Use of Medical Cannabis Program Act.

17 "Little cigar" means and includes any roll, made wholly or
18 in part of tobacco, where such roll has an integrated
19 cellulose acetate filter and weighs less than 4 pounds per
20 thousand and the wrapper or cover of which is made in whole or
21 in part of tobacco.

22 "Manufacturer" means any person, wherever resident or
23 located, who manufactures and sells tobacco products, except a
24 person who makes, manufactures, or fabricates tobacco products
25 as a part of a Correctional Industries program for sale to
26 persons incarcerated in penal institutions or resident

1 patients of a State operated mental health facility.

2 Beginning on January 1, 2013, "moist snuff" means any
3 finely cut, ground, or powdered tobacco that is not intended
4 to be smoked, but shall not include any finely cut, ground, or
5 powdered tobacco that is intended to be placed in the nasal
6 cavity.

7 "Person" means any natural individual, firm, partnership,
8 association, joint stock company, joint venture, limited
9 liability company, or public or private corporation, however
10 formed, or a receiver, executor, administrator, trustee,
11 conservator, or other representative appointed by order of any
12 court.

13 "Place of business" means and includes any place where
14 tobacco products are sold or where tobacco products are
15 manufactured, stored, or kept for the purpose of sale or
16 consumption, including any vessel, vehicle, airplane, train,
17 or vending machine.

18 "Retailer" means any person in this State engaged in the
19 business of selling tobacco products to consumers in this
20 State, regardless of quantity or number of sales.

21 "Sale" means any transfer, exchange, or barter in any
22 manner or by any means whatsoever for a consideration and
23 includes all sales made by persons.

24 "Stamp" or "stamps" mean the indicia required to be
25 affixed on a package of little cigars that evidence payment of
26 the tax on packages of little cigars containing 20 or 25 little

1 cigars under Section 10-10 of this Act. These stamps shall be
2 the same stamps used for cigarettes under the Cigarette Tax
3 Act.

4 "Stamping distributor" means a distributor licensed under
5 this Act and also licensed as a distributor under the
6 Cigarette Tax Act or Cigarette Use Tax Act.

7 "Tobacco products" means any cigars, including little
8 cigars; cheroots; stogies; periques; granulated, plug cut,
9 crimp cut, ready rubbed, and other smoking tobacco; snuff
10 (including moist snuff) or snuff flour; cavendish; plug and
11 twist tobacco; fine-cut and other chewing tobaccos; shorts;
12 refuse scraps, clippings, cuttings, and sweeping of tobacco;
13 and other kinds and forms of tobacco, prepared in such manner
14 as to be suitable for chewing or smoking in a pipe or
15 otherwise, or both for chewing and smoking; but does not
16 include cigarettes as defined in Section 1 of the Cigarette
17 Tax Act or tobacco purchased for the manufacture of cigarettes
18 by cigarette distributors and manufacturers defined in the
19 Cigarette Tax Act and persons who make, manufacture, or
20 fabricate cigarettes as a part of a Correctional Industries
21 program for sale to residents incarcerated in penal
22 institutions or resident patients of a State operated mental
23 health facility.

24 Beginning on July 1, 2019, "tobacco products" also
25 includes electronic cigarettes.

26 "Wholesale price" means the established list price for

1 which a manufacturer sells tobacco products to a distributor,
2 before the allowance of any discount, trade allowance, rebate,
3 or other reduction. In the absence of such an established list
4 price, the manufacturer's invoice price at which the
5 manufacturer sells the tobacco product to unaffiliated
6 distributors, before any discounts, trade allowances, rebates,
7 or other reductions, shall be presumed to be the wholesale
8 price.

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

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

16 Section 50. The Messages Tax Act is amended by changing
17 Section 6 as follows:

18 (35 ILCS 610/6) (from Ch. 120, par. 467.6)

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

1 payment or, if that person has died or become a person under
2 legal disability, to his or her legal representative, as such.

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

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

26 As to any claim for credit or refund filed with the

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

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

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

25 In case the Department determines that the claimant is
26 entitled to a refund, such refund shall be made only from such

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

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

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

11 (35 ILCS 615/6) (from Ch. 120, par. 467.21)

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

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

1 to determine whether or not any tax or penalty or interest is
2 due under this Act from such person, the Department may
3 withhold issuance of the credit or refund pending the final
4 disposition of such proceedings and may apply such credit or
5 refund against any amount found to be due to the Department as
6 a result of such proceedings. The balance, if any, of the
7 credit or refund shall be issued to the person entitled
8 thereto.

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

19 As to any claim for credit or refund filed with the
20 Department on or after each January 1 and July 1, no amounts
21 erroneously paid more than 3 years prior to such January 1 and
22 July 1, respectively, shall be credited or refunded, except
23 that if both the Department and the taxpayer have agreed to an
24 extension of time to issue a notice of tax liability under this
25 Act, the claim may be filed at any time prior to the expiration
26 of the period agreed upon. Notwithstanding any other provision

1 of this Act to the contrary, for any period included in a claim
2 for credit or refund for which the statute of limitations for
3 issuing a notice of tax liability under this Act will expire
4 less than 6 months after the date a taxpayer files the claim
5 for credit or refund, the statute of limitations is
6 automatically extended for 6 months from the date it would
7 have otherwise expired.

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

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

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

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

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

4 (35 ILCS 620/6) (from Ch. 120, par. 473)

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

13 If it is determined that the Department should issue a
14 credit or refund under this Act, the Department may first
15 apply the amount thereof against any amount of tax or penalty
16 or interest due hereunder from the person entitled to such
17 credit or refund. Any credit memorandum issued under the
18 Electricity Excise Tax Law may be applied against any
19 liability incurred under the tax previously imposed by Section
20 2 of this Act. For this purpose, if proceedings are pending to
21 determine whether or not any tax or penalty or interest is due
22 under this Act from such person, the Department may withhold
23 issuance of the credit or refund pending the final disposition
24 of such proceedings and may apply such credit or refund

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

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

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

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

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

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

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

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

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

1 (35 ILCS 625/6) (from Ch. 120, par. 1416)

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 incompetent, to
9 his 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
26 memorandum or refund shall be issued to the claimant; or (in

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

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

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

1 claimant of such determination, which amount shall be prima
2 facie correct.

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

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

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

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

18 (35 ILCS 630/10) (from Ch. 120, par. 2010)

19 Sec. 10. If it shall appear that an amount of tax or
20 penalty or interest has been paid in error hereunder to the
21 Department by a taxpayer, as distinguished from the retailer,
22 whether such amount be paid through a mistake of fact or an
23 error of law, such taxpayer may file a claim for credit or
24 refund with the Department. If it shall appear that an amount

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

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

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

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

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

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

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

13 A claim for credit or refund shall be considered to have
14 been filed with the Department on the date upon which it is
15 received by the Department. Upon receipt of any claim for
16 credit or refund filed under this Article, any officer or
17 employee of the Department, authorized in writing by the
18 Director of Revenue to acknowledge receipt of such claims on
19 behalf of the Department, shall execute on behalf of the
20 Department, and shall deliver or mail to the claimant or his
21 duly authorized agent, a written receipt, acknowledging that
22 the claim has been filed with the Department, describing the
23 claim in sufficient detail to identify it and stating the date
24 upon which the claim was received by the Department. Such
25 written receipt shall be prima facie evidence that the
26 Department received the claim described in such receipt and

1 shall be prima facie evidence of the date when such claim was
2 received by the Department. In the absence of such a written
3 receipt, the records of the Department as to when the claim was
4 received by the Department, or as to whether or not the claim
5 was received at all by the Department, shall be deemed to be
6 prima facie correct upon these questions in the event of any
7 dispute between the claimant (or his or her legal
8 representative) and the Department concerning these questions.

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

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

21 If a retailer who has failed to pay tax on gross charges
22 for telecommunications is required by the Department to pay
23 such tax, such retailer, without filing any formal claim with
24 the Department, shall be allowed to take credit against such
25 tax liability to the extent, if any, to which such retailer has
26 paid the tax to its vendor of the telecommunications which

1 such retailer purchased and used for resale, and no penalty or
2 interest shall be charged to such retailer on the amount of
3 such credit. However, when such credit is allowed to the
4 retailer by the Department, the vendor is precluded from
5 refunding any of the tax to the retailer and filing a claim for
6 credit or refund with respect thereto with the Department. The
7 provisions of this Section added by this amendatory Act of
8 1988 shall be applied retroactively, regardless of the date of
9 the transaction.

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

11 Section 75. The Local Government Revenue Recapture Act is
12 amended by changing Sections 5-5, 5-10, 5-15, 5-20, 5-30,
13 5-35, 5-37, 10-15, 10-20, 10-30, 10-35, and 10-40 as follows:

14 (50 ILCS 355/5-5)

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

16 "Department" means the Department of Revenue.

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

19 (1) a parent or step-parent;

20 (2) a child or step-child;

21 (3) a grandparent or step-grandparent;

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

23 (4.1) a niece, nephew, great-niece, or great-nephew;

24 (5) a sibling;

1 (6) a spouse or domestic partner; and

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

4 "Financial information" means the information provided to
5 the municipality or county by the Department under Section 11
6 of the Retailers' Occupation Tax Act that is reported to the
7 Department by a business located in a given municipality or
8 county.

9 "Person" means an individual, sole proprietorship,
10 corporation, registered limited liability partnership, limited
11 liability company, partnership, professional service
12 corporation, or any other form of organization.

13 "Misallocation" means tax paid by the taxpayer and
14 allocated to one unit of local government that should have
15 been allocated to a different unit of local government. This
16 includes misallocations discovered by a unit of local
17 government through the tax location verification process under
18 Section 8-11-16 of the Illinois Municipal Code and
19 misallocations discovered by the Department other than through
20 an audit of the taxpayer. "Misallocation" does not, however,
21 include any amount reported by a taxpayer in an amended return
22 or any amount discovered in an audit of the taxpayer by the
23 Department or discovered in an audit of the taxpayer by a
24 qualified practitioner under Article 10 of this Act.

25 "Misallocation" also does not include amounts overpaid by the
26 taxpayer and therefore not owed to any unit of local

1 government, nor amounts underpaid by the taxpayer and
2 therefore not previously allocated to any unit of local
3 government.

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

7 "Third party" means a person, partnership, corporation, or
8 other entity or individual registered to do business in
9 Illinois who contracts with a municipality or county to review
10 financial information related to the disbursement of local
11 taxes by the Department to the municipality or county.

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

13 (50 ILCS 355/5-10)

14 Sec. 5-10. Contracts with third parties. A municipality or
15 county that receives a disbursement of tax proceeds from the
16 Department may contract with a third party for the purpose of
17 ensuring that the municipality or county receives the correct
18 disbursement from the Department and monitoring disbursements.
19 The third party may not contact the Department on behalf of the
20 municipality or county, but instead must work directly with
21 the municipality or county to acquire financial information. A
22 third party may, however, directly access a municipality's or
23 county's financial information that is provided by the
24 Department by electronic means under Section 11 of the
25 Retailers' Occupation Tax Act, provided that the third party

1 meets all other conditions under this Section for the receipt
2 of financial information. To be eligible to receive financial
3 information from the municipality or county, the third party
4 must:

5 (1) enter into a confidentiality agreement with the
6 municipality or county in the form and manner required by
7 the Department prior to receiving the financial
8 information;

9 (2) have an existing contract with the municipality or
10 county at the time the third party enters into the
11 confidentiality agreement with the municipality or county;
12 a copy of that existing contract must be on file with the
13 Department;

14 (3) abide by the same conditions as the municipality
15 or county with respect to the furnishing of financial
16 information under Section 11 of the Retailers' Occupation
17 Tax Act; and

18 (4) be registered with the Department as required by
19 Section 5-35 of this Act.

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

21 (50 ILCS 355/5-15)

22 Sec. 5-15. Financial information. The third party may use
23 the financial information it receives from the contracting
24 municipality or county only for the purpose of providing
25 services to the municipality or county as specified in this

1 Act and may not use the information for any other purpose.
2 Electronic data submitted to third parties ~~or~~ by the
3 contracting municipality or county must be accessible only to
4 third parties who have entered into a confidentiality
5 agreement with the municipality or county or who have an
6 existing contract with the municipality or county.

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

8 (50 ILCS 355/5-20)

9 Sec. 5-20. Retention, collection, disclosure, and
10 destruction of financial information.

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

15 (1) if the taxpayer is not referred to the Department,
16 within 30 days after receipt of the taxpayer's financial
17 information from either the municipality or county, unless
18 the third party is monitoring disbursements from the
19 Department on an ongoing basis for a municipality or
20 county, in which case, the financial information shall be
21 destroyed no later than 3 years after receipt; or

22 (2) within 30 days after the Department receives a
23 taxpayer audit referral from a third party referring the
24 taxpayer to the Department for additional review.

25 (b) No third party in possession of financial information

1 may sell, lease, trade, market, or otherwise utilize or profit
2 from a taxpayer's financial information. The ~~, except for a~~
3 ~~fee as negotiated by the~~ municipality or county may, however,
4 negotiate a fee with the third party. The fee may be in the
5 form of a contingency fee for a percentage of the amount of
6 additional distributions the municipality or county receives
7 for no more than 3 years following the first disbursement to
8 the municipality or county as a result of the services of the
9 third party under this Act.

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

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

17 (e) A third party must dispose of the materials containing
18 financial information in a manner that renders the financial
19 information unreadable, unusable, and undecipherable. Proper
20 disposal methods include, but are not limited to, the
21 following:

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

25 (2) in the case of electronic media and other
26 non-paper media containing information, destroying or

1 erasing so that information cannot practicably be read,
2 reconstructed, or otherwise utilized by the third party or
3 others.

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

5 (50 ILCS 355/5-30)

6 Sec. 5-30. Posting results. Annually, the third party
7 shall provide the municipality or county with a final summary
8 of the review for publication. It is the responsibility of the
9 third party to ensure that this summary includes no personal
10 or identifying information of taxpayers and that all such
11 taxpayer information is kept confidential. If the summary
12 includes any discussion of tax revenue, it shall include only
13 aggregate amounts by tax type, and shall in no way include
14 information about an individual return or an individual
15 taxpayer, even with identifying information redacted. No
16 aggregated data may be published that includes taxpayer
17 information for 4 or fewer taxpayers. In addition, due to the
18 preliminary nature of such a summary based only on unaudited
19 financial information, no claim of specific tax savings or
20 revenue generation may be made in the summary.

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

22 (50 ILCS 355/5-35)

23 Sec. 5-35. Third party registration.

24 (a) Beginning on January 1, 2021, no person shall engage

1 in business as a third party pursuant to this Act in this State
2 without first having registered with the Department.
3 Application for registration or renewal of registration shall
4 be made to the Department, by electronic means, in a form and
5 at the time prescribed by the Department. Each applicant for
6 registration or renewal of registration under this Section
7 shall furnish to the Department, in an electronic format
8 established by the Department, the following information:

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

10 (2) the address of the location at which the applicant
11 proposes to engage in business as a third party in this
12 State;

13 (3) valid and updated contact information;

14 (4) attestation of good standing to do business in
15 Illinois;

16 (5) a copy of each contract it has entered into with a
17 municipality or county; if an applicant has a contract
18 with a municipality or county prior to the effective date
19 of this Act, a copy of all existing contracts must be
20 provided;

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

22 (A) is signed by an attorney or certified public
23 accountant licensed and authorized to practice in the
24 State of Illinois;

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

1 (i) the third party's confidentiality
2 standards for storing encrypted data at rest,
3 using a cryptographic algorithm, conform to
4 Security Level 1 of the Federal Information
5 Processing Standard (FIPS) Publication 140-2, or
6 conform to similar security requirements contained
7 in any successor publication;

8 (ii) the third party uses multi-factor
9 authentication;

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

13 (iv) the third party adheres to best practices
14 as recommended by the Open Web Application
15 Security Project (OWASP);

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

18 (vi) the third party shall maintain a physical
19 location in this State at all times; if, at any
20 time, the third party fails to have a physical
21 location in this State, the third party's
22 registration shall be revoked; and

23 (7) such other additional information as the
24 Department may require by rule.

25 The annual registration fee payable to the Department for
26 each third party shall be \$15,000. The fee shall be deposited

1 into the Tax Compliance and Administration Fund and shall be
2 used for the cost of administering the certified audit pilot
3 project under Article 10.

4 Each applicant shall pay the fee to the Department at the
5 time of submitting its application or renewal to the
6 Department. The Department may require an applicant under this
7 Section to electronically file and pay the fee.

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

10 (1) a person who has been convicted of a felony
11 related to financial crimes under any federal or State
12 law, if the Department, after investigation and a hearing
13 if requested by the applicant, determines that the person
14 has not been sufficiently rehabilitated to warrant the
15 public trust, including an individual or any employee,
16 officer, manager, member, partner, or director of an
17 entity that has been convicted as provided in this
18 paragraph (1);

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

24 (3) a person, if any employee, contractual employee,
25 officer, manager, or director thereof, or any person or
26 persons owning in the aggregate more than 5% thereof, is

1 not or would not be eligible to receive a certificate of
2 registration under this Act or a license under the
3 Illinois Public Accounting Act for any reason;

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

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

9 (6) a third party owned, in whole or in part, by any
10 entity that competes directly or indirectly with any
11 taxpayer whose financial information they are seeking or
12 receiving; and

13 (7) a third party owning in whole or in part, directly
14 or indirectly, any entity that competes, directly or
15 indirectly, with any taxpayer whose financial information
16 they are seeking or receiving.

17 (c) The Department shall begin accepting applications no
18 later than January 1, 2021. Upon receipt of an application and
19 registration fee in proper form from a person who is eligible
20 to register as a third party under this Act, the Department
21 shall issue, within 60 days after receipt of an application, a
22 certificate of registration to such applicant in such form as
23 prescribed by the Department. That certificate of registration
24 shall permit the applicant to whom it is issued to engage in
25 business as a third party under this Act. All certificates of
26 registration issued by the Department under this Section shall

1 be valid for a period not to exceed one year after issuance
2 unless sooner revoked or suspended as provided in this Act. No
3 certificate of registration issued under this Section is
4 transferable or assignable. A person who obtains a certificate
5 of registration as a third party who ceases to do business as
6 specified in the certificate of registration, or who never
7 commenced business, or whose certificate of registration is
8 suspended or revoked, shall immediately surrender the
9 certificate of registration to the Department.

10 (d) Any person aggrieved by any decision of the Department
11 under this Section may, within 60 days after notice of the
12 decision, protest and request a hearing. Upon receiving a
13 request for a hearing, the Department shall give written
14 notice to the person requesting the hearing of the time and
15 place fixed for the hearing and shall hold a hearing and then
16 issue its final administrative decision in the matter to that
17 person within 60 days after the date of the hearing or at a
18 later date upon agreement of all of the parties. In the absence
19 of a protest and request for a hearing within 60 days, the
20 Department's decision shall become final without any further
21 determination being made or notice given.

22 (e) All final decisions by the Department under this
23 Section are subject to judicial review under the provisions of
24 the Administrative Review Law.

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

1 (50 ILCS 355/5-37)

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

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

1 (50 ILCS 355/10-15)

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

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

7 "Certification program" means an instructional curriculum,
8 examination, and process for certification, recertification,
9 and revocation of certification of certified public
10 accountants that is administered by the Department with the
11 assistance of the Illinois CPA Society and that is officially
12 approved by the Department to ensure that a certified public
13 accountant possesses the necessary skills and abilities to
14 successfully perform an attestation engagement for a
15 limited-scope tax compliance review in a certified audit
16 project under this Act.

17 "Department" means the Department of Revenue.

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

20 (1) a parent or step-parent;

21 (2) a child or step-child;

22 (3) a grandparent or step-grandparent;

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

24 (4.1) a niece, nephew, great-niece, or great-nephew;

25 (5) a sibling;

1 (6) a spouse or domestic partner; and

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

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

21 "Participating taxpayer" means any person subject to the
22 revenue laws administered by the Department who is the subject
23 of a tax compliance referral by a municipality, county, or
24 third party, who enters into an engagement with a qualified
25 practitioner for a limited-scope tax compliance review under
26 this Act, and who is approved by the Department under the local

1 government revenue recapture certified audit pilot project.

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

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

18 (50 ILCS 355/10-20)

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

21 (a) The Department shall initiate a certified audit pilot
22 project to further enhance tax compliance reviews performed by
23 qualified practitioners and to encourage taxpayers to hire
24 qualified practitioners at their own expense to review and
25 report on certain aspects of their sales tax and use tax

1 compliance in cases where the Department has notified the
2 taxpayer that it has received a tax compliance referral from a
3 municipality, county, or third party under this Act. The
4 nature of the certified audit work performed by qualified
5 practitioners shall be agreed-upon procedures of a Compliance
6 Attestation in which the Department is the specified user of
7 the resulting report. Qualified practitioners are prohibited
8 from using information obtained from audit manuals, training
9 materials, or any other materials provided by the Department
10 under this Act for any purpose other than to perform the tax
11 compliance reviews under the certified audit pilot program
12 under this Act.

13 The tax compliance reviews shall be limited in scope and
14 may include only: (i) whether the taxpayer is reporting
15 receipts in the proper jurisdiction; (ii) whether tangible
16 personal property ~~asset~~ purchases that were used or consumed
17 by the taxpayer were taxed properly; (iii) an evaluation of
18 sales reported as exempt from tax; (iv) whether the proper tax
19 rate was charged; (v) whether the tax was properly reported as
20 retailers' occupation tax or use tax; and (vi) any other
21 factor that impacts the Department's allocation of sales and
22 use tax revenues to the jurisdiction in which the taxpayer
23 reports sales or use tax.

24 (b) As an incentive for taxpayers to incur the costs of a
25 certified audit, the Department shall abate penalties due on
26 any tax liabilities revealed by a certified audit, except that

1 this authority to abate penalties shall not apply to any
2 liability for taxes that were collected by the participating
3 taxpayer but not remitted to the Department, nor shall the
4 Department have the authority to abate fraud penalties.

5 (c) The certified audit pilot project shall apply only to
6 taxpayers who have been notified that an audit referral has
7 been received by the Department under this Act and only to
8 occupation and use taxes administered and collected by the
9 Department.

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

12 (d) The certified audit pilot project shall begin with
13 audit referrals received on and after January 1, 2021. Upon
14 obtaining proper certification, qualified practitioners may
15 initiate certified audits beginning January 1, 2021.

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

17 (50 ILCS 355/10-30)

18 Sec. 10-30. Local government revenue recapture audit
19 referral.

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

23 (b) If, based on a review of the financial information
24 provided by the Department to a municipality or county, or
25 provided by a municipality or county to a registered third

1 party, the municipality or county discovers that a taxpayer
2 may have underpaid local retailers' or service occupation
3 taxes, then it may refer the matter to the Department for audit
4 consideration. The tax compliance referral may be made only by
5 the municipality, county, or third party and shall be made in
6 the form and manner required by the Department, including any
7 requirement that the referral be submitted electronically. The
8 tax compliance referral shall, at a minimum, include proof of
9 registration as a third party, a copy of a contract between the
10 third party and the county or municipality, the taxpayer's
11 name, Department account identification number, mailing
12 address, and business location, and the specific reason for
13 the tax compliance referral, including as much detail as
14 possible.

15 (c) The Department shall complete its evaluation of all
16 audit referrals under this Act within 90 ~~60~~ days after receipt
17 of the referral and shall handle all audit referrals as
18 follows:

19 (1) the Department shall evaluate the referral to
20 determine whether it is sufficient to warrant further
21 action based on the information provided in the referral,
22 any other information the Department possesses, and audit
23 selection procedures of the Department;

24 (2) if the Department determines that the referral is
25 not actionable, then the Department shall notify the local
26 government that it has evaluated the referral and has

1 determined that no action is deemed necessary and provide
2 the local government with an explanation for that
3 decision, including, but not limited to an explanation
4 that (i) the Department has previously conducted an audit;
5 (ii) the Department is in the process of conducting an
6 investigation or other examination of the taxpayer's
7 records; (iii) the taxpayer has already been referred to
8 the Department and the Department determined an audit
9 referral is not actionable; (iv) the Department or a
10 qualified practitioner has previously conducted an audit
11 after referral under this Section 10-30; or (v) for just
12 cause;

13 (3) if the Department determines that the referral is
14 actionable, then it shall determine whether the taxpayer
15 is currently under audit or scheduled for audit by the
16 Department;

17 (A) if the taxpayer is not currently under audit
18 by the Department or scheduled for audit by the
19 Department, the Department shall determine whether it
20 will schedule the taxpayer for audit; and

21 (B) if the taxpayer is not under audit by the
22 Department ~~or scheduled for audit by the Department~~
23 and the Department decides under subparagraph (A) not
24 to schedule the taxpayer for audit by the Department,
25 then the Department shall notify the taxpayer that the
26 Department has received an actionable audit referral

1 on the taxpayer and issue a notice to the taxpayer as
2 provided under subsection (d) of this Section.

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

6 (1) that the taxpayer must either: (A) engage a
7 qualified practitioner, at the taxpayer's expense, to
8 complete a certified audit, limited in scope to the
9 taxpayer's Retailers' Occupation Tax, Use Tax, Service
10 Occupation Tax, or Service Use Tax liability, and the
11 taxpayer's liability for any local retailers' or service
12 occupation tax administered by the Department; or (B) be
13 subject to audit by the Department;

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

17 (3) A statement that reads: "[INSERT THE NAME OF THE
18 ELECTED CHIEF EXECUTIVE OF THE CORPORATE AUTHORITY] has
19 contracted with [INSERT THIRD PARTY] to review your
20 Retailers' Occupation Tax, Use Tax, Service Occupation
21 Tax, Service Use Tax, and any local retailers' or service
22 occupation taxes reported to the Illinois Department of
23 Revenue ("Department"). [INSERT THE NAME OF THE ELECTED
24 CHIEF EXECUTIVE OF THE CORPORATE AUTHORITY] and [INSERT
25 THE THIRD PARTY] have selected and referred your business
26 to the Department for a certified audit of your Retailers'

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

24 (e) Within 90 days after notice by the Department, the
25 taxpayer must respond by stating in writing whether it will or
26 will not arrange for the performance of a certified audit

1 under this Act. If the taxpayer states that it will arrange for
2 the performance of a certified audit, then it must do so within
3 60 days after responding to the Department or within 90 days
4 after notice by the Department, whichever comes first. If the
5 taxpayer states that it will not arrange for the performance
6 of a certified audit or if the taxpayer does not arrange for
7 the performance of a certified audit within 180 days after
8 notice by the Department, then the Department may schedule the
9 taxpayer for audit by the Department.

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

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

14 (50 ILCS 355/10-35)

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

16 (a) A qualified practitioner hired by a taxpayer who
17 elects to perform a certified audit under Section 10-30 shall
18 notify the Department of an engagement to perform a certified
19 audit and shall provide the Department with the information
20 the Department deems necessary to identify the taxpayer, to
21 confirm that the taxpayer is not already under audit by the
22 Department, and to establish the basic nature of the
23 taxpayer's business and the taxpayer's potential exposure to
24 Illinois occupation and use tax laws. The information provided
25 in the notification shall be submitted in the form and manner

1 required by the Department and shall include the taxpayer's
2 name, federal employer identification number or social
3 security number, Department account identification number,
4 mailing address, and business location, and the specific
5 occupation and use taxes and period proposed to be covered by
6 the engagement for the certified audit. In addition, the
7 notice shall include the name, address, identification number,
8 contact person, and telephone number of the engaged firm. An
9 engagement for a qualified practitioner to perform a certified
10 audit under this Act shall not be authorized by the Department
11 unless the taxpayer received notice from the Department under
12 subparagraph (B) ~~(b)~~ of paragraph (3) of subsection (c) of
13 Section 10-30.

14 (b) If the taxpayer has received notice of an audit
15 referral from the Department and has not been issued a written
16 notice of intent to conduct an audit, the taxpayer shall be a
17 participating taxpayer and the Department shall so advise the
18 qualified practitioner in writing within 10 days after receipt
19 of the engagement notice. However, the Department may ~~exclude~~
20 ~~a taxpayer from a certified audit or may~~ limit the taxes or
21 periods subject to the certified audit ~~on the basis that: (i)~~
22 ~~the Department has previously conducted an audit; (ii) the~~
23 ~~Department is in the process of conducting an investigation or~~
24 ~~other examination of the taxpayer's records; (iii) the~~
25 ~~taxpayer has already been referred to the Department pursuant~~
26 ~~to Section 10 30 and the Department determined an audit~~

1 ~~referral is not actionable; (iv) the Department or a qualified~~
2 ~~practitioner has previously conducted an audit under Section~~
3 ~~10-30 of this Act; or (v) for just cause.~~

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

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

17 (50 ILCS 355/10-40)

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

19 (a) Upon the Department's designation of the agreed-upon
20 procedures to be followed by a practitioner in a certified
21 audit, the qualified practitioner shall perform the engagement
22 and shall timely submit a completed report to the Department
23 in the form and manner required by the Department and
24 professional standards. The report shall affirm completion of
25 the agreed-upon procedures and shall provide any required

1 disclosures.

2 (b) The Department shall review the report of the
3 certified audit and shall accept it when it is determined to be
4 complete by the qualified practitioner. Once the report is
5 accepted by the Department, the Department shall ~~issue a~~
6 ~~notice of proposed assessment reflecting the determination of~~
7 ~~any additional liability reflected in the report and shall~~
8 provide the taxpayer with all the normal payment, protest, and
9 appeal rights with respect to any the liability reflected in
10 the report, including the right to a review by the Informal
11 Conference Board. In cases in which the report indicates an
12 overpayment has been made, the taxpayer shall submit a
13 properly executed claim for credit or refund to the
14 Department. Otherwise, the certified audit report is a final
15 and conclusive determination with respect to the tax and
16 period covered. No additional assessment may be made by the
17 Department for the specific taxes and period referenced in the
18 report, except upon a showing of fraud or material
19 misrepresentation. This determination shall not prevent the
20 Department from collecting liabilities not covered by the
21 report or from conducting an audit or investigation and making
22 an assessment for additional tax, penalty, or interest for any
23 tax or period not covered by the report.

24 (c) Any ~~A notice of proposed~~ assessment issued by the
25 Department under this Act is subject to the statute of
26 limitations for assessments under the Retailers' Occupation

1 Tax Act, the Use Tax Act, the Service Occupation Tax Act, the
2 Service Use Tax Act, and any local retailers' or service
3 occupation tax, as appropriate, and local taxes collected on
4 assessments issued shall be allocated to units of local
5 government for the full period of the statute of limitations
6 in accordance with those Acts and any applicable local
7 retailers' or service occupation tax Act. The Department shall
8 provide notice in writing to the municipality or county and
9 the third party, if applicable, of any audit findings,
10 determinations, or collections once finalized, but limited to
11 the amount of additional liability, if any, for distribution
12 to the municipality or county as part of the municipality's or
13 county's share of the State Retailers' Occupation Tax or
14 Service Occupation Tax or under the municipality's or county's
15 locally imposed retailer's or service occupation tax.

16 Claims for credit or refund filed by taxpayers under this
17 Act are subject to the statute of limitations under the
18 Retailers' Occupation Tax Act, the Use Tax Act, the Service
19 Occupation Tax Act, the Service Use Tax Act, and any local
20 retailers' or service occupation tax Act, as appropriate, and
21 any credit or refund of local taxes allowed to the taxpayer
22 shall be de-allocated from units of local government for the
23 full period of the statute of limitations in accordance with
24 those Acts and any applicable local retailers' or service
25 occupation tax Act.

26 If a reallocation of tax from one unit of local government

1 to another occurs as a result of an amended return filed by a
2 taxpayer or an audit of a taxpayer, the Department shall make
3 the reallocation for the full period of the statute of
4 limitations under the Retailers' Occupation Tax Act, the Use
5 Tax Act, the Service Occupation Tax Act, the Service Use Tax
6 Act, and any applicable local retailer's or service occupation
7 tax Act.

8 With respect to misallocations discovered under this Act,
9 the Department shall increase or decrease the amount allocated
10 to a unit of local government by an amount necessary to offset
11 any misallocation of previous disbursements. The offset amount
12 shall be the amount erroneously disbursed within the previous
13 6 months from the time a misallocation is discovered.

14 (d) Under no circumstances may a person, including a
15 municipality or county or third party, other than the person
16 audited and his or her attorney, have any right to participate
17 in an appeal or other proceeding regarding the audit,
18 participate in settlement negotiations, challenge the validity
19 of any settlement between the Department and any person, or
20 review any materials, other than financial information as
21 otherwise provided in this Act, that are subject to the
22 confidentiality provisions of the underlying tax Act. In
23 addition, the Department's determination of whether to audit a
24 taxpayer or the result of the audit creates no justiciable
25 cause of action, and any adjudication related to this program
26 is limited to the taxpayer's rights in an administrative

1 hearing held by the Department, an administrative hearing held
2 by the Illinois Independent Tax Tribunal, or related to
3 payments made under protest as provided in Section 2a.1 of the
4 State Officers and Employees Money Disposition Act, as
5 appropriate.

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

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

9 (235 ILCS 5/8-3) (from Ch. 43, par. 159a)

10 Sec. 8-3. If it appears, after claim therefor filed with
11 the Department, that an amount of tax or penalty or interest
12 has been paid which was not due under this Article, whether as
13 the result of a mistake of fact or an error of law, except as
14 hereinafter provided, then the Department shall issue a credit
15 memorandum or refund to the person who made the erroneous
16 payment or, if that person died or became a person under legal
17 disability, to his or her legal representative, as such.

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

1 withhold issuance of the credit or refund pending the final
2 disposition of such proceedings and may apply such credit or
3 refund against any amount found to be due to the Department as
4 a result of such proceedings. The balance, if any, of the
5 credit or refund shall be issued to the person entitled
6 thereto.

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

18 As to any claim filed hereunder with the Department on and
19 after each January 1 and July 1, no amount of tax or penalty or
20 interest, erroneously paid (either in total or partial
21 liquidation of a tax or penalty or interest under this
22 Article) more than 3 years prior to such January 1 and July 1,
23 respectively, shall be credited or refunded. Notwithstanding
24 any other provision of this Act to the contrary, for any period
25 included in a claim for credit or refund for which the statute
26 of limitations for issuing a notice of tax liability under

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

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

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

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

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.