

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 Retailers' Occupation Tax Act is amended by
5 changing Section 4 as follows:

6 (35 ILCS 120/4) (from Ch. 120, par. 443)

7 Sec. 4. As soon as practicable after any return is filed,
8 the Department shall examine such return and shall, if
9 necessary, correct such return according to its best judgment
10 and information. If the correction of a return results in an
11 amount of tax that is understated on the taxpayer's return due
12 to a mathematical error, the Department shall notify the
13 taxpayer that the amount of tax in excess of that shown on the
14 return is due and has been assessed. The term "mathematical
15 error" means arithmetic errors or incorrect computations on
16 the return or supporting schedules. No such notice of
17 additional tax due shall be issued on and after each July 1 and
18 January 1 covering gross receipts received during any month or
19 period of time more than 3 years prior to such July 1 and
20 January 1, respectively. Such notice of additional tax due
21 shall not be considered a notice of tax liability nor shall the
22 taxpayer have any right of protest. In the event that the
23 return is corrected for any reason other than a mathematical

1 error, any return so corrected by the Department shall be
2 prima facie correct and shall be prima facie evidence of the
3 correctness of the amount of tax due, as shown therein. In
4 correcting transaction by transaction reporting returns
5 provided for in Section 3 of this Act, it shall be permissible
6 for the Department to show a single corrected return figure
7 for any given period of a calendar month instead of having to
8 correct each transaction by transaction return form
9 individually and having to show a corrected return figure for
10 each of such transaction by transaction return forms. In
11 making a correction of transaction by transaction, monthly or
12 quarterly returns covering a period of 6 months or more, it
13 shall be permissible for the Department to show a single
14 corrected return figure for any given 6-month period.

15 Instead of requiring the person filing such return to file
16 an amended return, the Department may simply notify him of the
17 correction or corrections it has made.

18 Proof of such correction by the Department may be made at
19 any hearing before the Department or the Illinois Independent
20 Tax Tribunal or in any legal proceeding by a reproduced copy or
21 computer print-out of the Department's record relating thereto
22 in the name of the Department under the certificate of the
23 Director of Revenue. If reproduced copies of the Department's
24 records are offered as proof of such correction, the Director
25 must certify that those copies are true and exact copies of
26 records on file with the Department. If computer print-outs of

1 the Department's records are offered as proof of such
2 correction, the Director must certify that those computer
3 print-outs are true and exact representations of records
4 properly entered into standard electronic computing equipment,
5 in the regular course of the Department's business, at or
6 reasonably near the time of the occurrence of the facts
7 recorded, from trustworthy and reliable information. Such
8 certified reproduced copy or certified computer print-out
9 shall without further proof, be admitted into evidence before
10 the Department or in any legal proceeding and shall be prima
11 facie proof of the correctness of the amount of tax due, as
12 shown therein.

13 If the tax computed upon the basis of the gross receipts as
14 fixed by the Department is greater than the amount of tax due
15 under the return or returns as filed, the Department shall (or
16 if the tax or any part thereof that is admitted to be due by a
17 return or returns, whether filed on time or not, is not paid,
18 the Department may) issue the taxpayer a notice of tax
19 liability for the amount of tax claimed by the Department to be
20 due, together with a penalty in an amount determined in
21 accordance with Section 3-3 of the Uniform Penalty and
22 Interest Act. Provided, that if the incorrectness of any
23 return or returns as determined by the Department is due to
24 negligence or fraud, said penalty shall be in an amount
25 determined in accordance with Section 3-5 or Section 3-6 of
26 the Uniform Penalty and Interest Act, as the case may be. If

1 the notice of tax liability is not based on a correction of the
2 taxpayer's return or returns, but is based on the taxpayer's
3 failure to pay all or a part of the tax admitted by his return
4 or returns (whether filed on time or not) to be due, such
5 notice of tax liability shall be prima facie correct and shall
6 be prima facie evidence of the correctness of the amount of tax
7 due, as shown therein.

8 Proof of such notice of tax liability by the Department
9 may be made at any hearing before the Department or the
10 Illinois Independent Tax Tribunal or in any legal proceeding
11 by a reproduced copy of the Department's record relating
12 thereto in the name of the Department under the certificate of
13 the Director of Revenue. Such reproduced copy shall without
14 further proof, be admitted into evidence before the Department
15 or in any legal proceeding and shall be prima facie proof of
16 the correctness of the amount of tax due, as shown therein.

17 If the person filing any return dies or becomes a person
18 under legal disability at any time before the Department
19 issues its notice of tax liability, such notice shall be
20 issued to the administrator, executor or other legal
21 representative, as such, of such person.

22 Except in case of a fraudulent return, or in the case of an
23 amended return (where a notice of tax liability may be issued
24 on or after each January 1 and July 1 for an amended return
25 filed not more than 3 years prior to such January 1 or July 1,
26 respectively), no notice of tax liability shall be issued on

1 and after each January 1 and July 1 covering gross receipts
2 received during any month or period of time more than 3 years
3 prior to such January 1 and July 1, respectively. If, before
4 the expiration of the time prescribed in this Section for the
5 issuance of a notice of tax liability, both the Department and
6 the taxpayer have consented in writing to its issuance after
7 such time, such notice may be issued at any time prior to the
8 expiration of the period agreed upon. The period so agreed
9 upon may be extended by subsequent agreements in writing made
10 before the expiration of the period previously agreed upon.
11 The foregoing limitations upon the issuance of a notice of tax
12 liability shall not apply to the issuance of a notice of tax
13 liability with respect to any period of time prior thereto in
14 cases where the Department has, within the period of
15 limitation then provided, notified the person making the
16 return of a notice of tax liability even though such return,
17 with which the tax that was shown by such return to be due was
18 paid when the return was filed, had not been corrected by the
19 Department in the manner required herein prior to the issuance
20 of such notice, but in no case shall the amount of any such
21 notice of tax liability for any period otherwise barred by
22 this Act exceed for such period the amount shown in the notice
23 of tax liability theretofore issued.

24 If, when a tax or penalty under this Act becomes due and
25 payable, the person alleged to be liable therefor is out of the
26 State, the notice of tax liability may be issued within the

1 times herein limited after his coming into or return to the
2 State; and if, after the tax or penalty under this Act becomes
3 due and payable, the person alleged to be liable therefor
4 departs from and remains out of the State, the time of his or
5 her absence is no part of the time limited for the issuance of
6 the notice of tax liability; but the foregoing provisions
7 concerning absence from the State shall not apply to any case
8 in which, at the time when a tax or penalty becomes due under
9 this Act, the person allegedly liable therefor is not a
10 resident of this State.

11 The time limitation period on the Department's right to
12 issue a notice of tax liability shall not run during any period
13 of time in which the Order of any Court has the effect of
14 enjoining or restraining the Department from issuing the
15 notice of tax liability.

16 If such person or legal representative shall within 60
17 days after such notice of tax liability file a protest to said
18 notice of tax liability with the Department and request a
19 hearing thereon, the Department shall give notice to such
20 person or legal representative of the time and place fixed for
21 such hearing and shall hold a hearing in conformity with the
22 provisions of this Act, and pursuant thereto shall issue to
23 such person or legal representative a final assessment for the
24 amount found to be due as a result of such hearing. On or after
25 July 1, 2013, protests concerning matters that are subject to
26 the jurisdiction of the Illinois Independent Tax Tribunal

1 shall be filed with the Illinois Independent Tax Tribunal in
2 accordance with the Illinois Independent Tax Tribunal Act of
3 2012, and hearings concerning those matters shall be held
4 before the Tribunal in accordance with that Act. The Tribunal
5 shall give notice to such person of the time and place fixed
6 for such hearing and shall hold a hearing. With respect to
7 protests filed with the Department prior to July 1, 2013 that
8 would otherwise be subject to the jurisdiction of the Illinois
9 Independent Tax Tribunal, the taxpayer may elect to be subject
10 to the provisions of the Illinois Independent Tax Tribunal Act
11 of 2012 at any time on or after July 1, 2013, but not later
12 than 30 days after the date on which the protest was filed. If
13 made, the election shall be irrevocable.

14 If a protest to the notice of tax liability and a request
15 for a hearing thereon is not filed within 60 days after such
16 notice, such notice of tax liability shall become final
17 without the necessity of a final assessment being issued and
18 shall be deemed to be a final assessment.

19 Notwithstanding any other provisions of this Act, any
20 amount paid as tax or in respect of tax paid under this Act,
21 other than amounts paid as quarter-monthly payments, shall be
22 deemed assessed upon the date of receipt of payment.

23 After the issuance of a final assessment, or a notice of
24 tax liability which becomes final without the necessity of
25 actually issuing a final assessment as hereinbefore provided,
26 the Department, at any time before such assessment is reduced

1 to judgment, may (subject to rules of the Department) grant a
2 rehearing (or grant departmental review and hold an original
3 hearing if no previous hearing in the matter has been held)
4 upon the application of the person aggrieved. Pursuant to such
5 hearing or rehearing, the Department shall issue a revised
6 final assessment to such person or his legal representative
7 for the amount found to be due as a result of such hearing or
8 rehearing.

9 (Source: P.A. 97-1129, eff. 8-28-12.)

10 Section 10. The Cigarette Machine Operators' Occupation
11 Tax Act is amended by changing Section 1-45 as follows:

12 (35 ILCS 128/1-45)

13 Sec. 1-45. Examination and correction of returns.

14 (a) As soon as practicable after any return is filed, the
15 Department shall examine that return and shall correct the
16 return according to its best judgment and information, which
17 return so corrected by the Department shall be prima facie
18 correct and shall be prima facie evidence of the correctness
19 of the amount of tax due, as shown on the corrected return.
20 Instead of requiring the cigarette machine operator to file an
21 amended return, the Department may simply notify the cigarette
22 machine operator of the correction or corrections it has made.
23 Proof of the correction by the Department may be made at any
24 hearing before the Department or in any legal proceeding by a

1 reproduced copy of the Department's record relating thereto in
2 the name of the Department under the certificate of the
3 Director of Revenue. Such reproduced copy shall, without
4 further proof, be admitted into evidence before the Department
5 or in any legal proceeding and shall be prima facie proof of
6 the correctness of the amount of tax due, as shown on the
7 reproduced copy. If the Department finds that any amount of
8 tax is due from the cigarette machine operator, the Department
9 shall issue the cigarette machine operator a notice of tax
10 liability for the amount of tax claimed by the Department to be
11 due, together with a penalty in an amount determined in
12 accordance with Sections 3-3, 3-5 and 3-6 of the Uniform
13 Penalty and Interest Act. If, in administering the provisions
14 of this Act, comparison of a return or returns of a cigarette
15 machine operator with the books, records, and inventories of
16 such cigarette machine operator discloses a deficiency that
17 cannot be allocated by the Department to a particular month or
18 months, the Department shall issue the cigarette machine
19 operator a notice of tax liability for the amount of tax
20 claimed by the Department to be due for a given period, but
21 without any obligation upon the Department to allocate that
22 deficiency to any particular month or months, together with a
23 penalty in an amount determined in accordance with Sections
24 3-3, 3-5, and 3-6 of the Uniform Penalty and Interest Act,
25 under which circumstances the aforesaid notice of tax
26 liability shall be prima facie correct and shall be prima

1 facie evidence of the correctness of the amount of tax due, as
2 shown therein; and proof of such correctness may be made in
3 accordance with, and the admissibility of a reproduced copy of
4 such notice of tax liability shall be governed by, all the
5 provisions of this Act applicable to corrected returns. If any
6 cigarette machine operator filing any return dies or becomes a
7 person under legal disability at any time before the
8 Department issues its notice of tax liability, such notice
9 shall be issued to the administrator, executor, or other legal
10 representative of the cigarette machine operator.

11 (b) If, within 60 days after such notice of tax liability,
12 the cigarette machine operator or his or her legal
13 representative files a written protest to such notice of tax
14 liability and requests a hearing thereon, the Department shall
15 give notice to such cigarette machine operator or legal
16 representative of the time and place fixed for such hearing,
17 and shall hold a hearing in conformity with the provisions of
18 this Act, and pursuant thereto shall issue a final assessment
19 to such cigarette machine operator or legal representative for
20 the amount found to be due as a result of such hearing. If a
21 written protest to the notice of tax liability and a request
22 for a hearing thereon is not filed within 60 days after such
23 notice of tax liability, such notice of tax liability shall
24 become final without the necessity of a final assessment being
25 issued and shall be deemed to be a final assessment.

26 (c) In case of failure to pay the tax, or any portion

1 thereof, or any penalty provided for in this Act, when due, the
2 Department may bring suit to recover the amount of such tax, or
3 portion thereof, or penalty; or, if the taxpayer dies or
4 becomes incompetent, by filing claim therefore against his or
5 her estate; provided that no such action with respect to any
6 tax, or portion thereof, or penalty, shall be instituted more
7 than 2 years after the cause of action accrues, except with the
8 consent of the person from whom such tax or penalty is due.

9 After the expiration of the period within which the person
10 assessed may file an action for judicial review under the
11 Administrative Review Law without such an action being filed,
12 a certified copy of the final assessment or revised final
13 assessment of the Department may be filed with the circuit
14 court of the county in which the taxpayer has his or her
15 principal place of business, or of Sangamon County in those
16 cases in which the taxpayer does not have his or her principal
17 place of business in this State. The certified copy of the
18 final assessment or revised final assessment shall be
19 accompanied by a certification which recites facts that are
20 sufficient to show that the Department complied with the
21 jurisdictional requirements of the law in arriving at its
22 final assessment or its revised final assessment and that the
23 taxpayer had his or her opportunity for an administrative
24 hearing and for judicial review, whether he or she availed
25 himself or herself of either or both of these opportunities or
26 not. If the court is satisfied that the Department complied

1 with the jurisdictional requirements of the law in arriving at
2 its final assessment or its revised final assessment and that
3 the taxpayer had his or her opportunity for an administrative
4 hearing and for judicial review, whether he or she availed
5 himself or herself of either or both of these opportunities or
6 not, the court shall enter judgment in favor of the Department
7 and against the taxpayer for the amount shown to be due by the
8 final assessment or the revised final assessment, and such
9 judgment shall be filed of record in the court. Such judgment
10 shall bear the rate of interest set in the Uniform Penalty and
11 Interest Act, but otherwise shall have the same effect as
12 other judgments. The judgment may be enforced, and all laws
13 applicable to sales for the enforcement of a judgment shall be
14 applicable to sales made under such judgments. The Department
15 shall file the certified copy of its assessment, as herein
16 provided, with the circuit court within 2 years after such
17 assessment becomes final except when the taxpayer consents in
18 writing to an extension of such filing period.

19 If, when the cause of action for a proceeding in court
20 accrues against a person, he or she is out of the State, the
21 action may be commenced within the times herein limited, after
22 his or her coming into or returning to the State; and if, after
23 the cause of action accrues, he or she departs from and remains
24 out of the State, the time of his or her absence is no part of
25 the time limited for the commencement of the action; but the
26 foregoing provisions concerning absence from the State shall

1 not apply to any case in which, at the time the cause of action
2 accrues, the party against whom the cause of action accrues is
3 not a resident of this State. The time within which a court
4 action is to be commenced by the Department hereunder shall
5 not run while the taxpayer is a debtor in any proceeding under
6 the federal Bankruptcy Code nor thereafter until 90 days after
7 the Department is notified by such debtor of being discharged
8 in bankruptcy.

9 No claim shall be filed against the estate of any deceased
10 person or a person under legal disability for any tax or
11 penalty or part of either except in the manner prescribed and
12 within the time limited by the Probate Act of 1975.

13 The remedies provided for herein shall not be exclusive,
14 but all remedies available to creditors for the collection of
15 debts shall be available for the collection of any tax or
16 penalty due hereunder.

17 The collection of tax or penalty by any means provided for
18 herein shall not be a bar to any prosecution under this Act.

19 The certificate of the Director of the Department to the
20 effect that a tax or amount required to be paid by this Act has
21 not been paid, that a return has not been filed, or that
22 information has not been supplied pursuant to the provisions
23 of this Act, shall be prima facie evidence thereof.

24 Notwithstanding any other provisions of this Act, any
25 amount paid as tax or in respect of tax paid under this Act
26 shall be deemed assessed upon the date of receipt of payment.

1 All of the provisions of Sections 5a, 5b, 5c, 5d, 5e, 5f,
2 5g, 5i and 5j of the Retailers' Occupation Tax Act, which are
3 not inconsistent with this Act, shall apply, as far as
4 practicable, to the subject matter of this Act to the same
5 extent as if such provisions were included herein. References
6 in such incorporated Sections of the Retailers' Occupation Tax
7 Act to retailers, to sellers, or to persons engaged in the
8 business of selling tangible personal property shall mean
9 cigarette machine operator when used in this Act.

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

11 Section 15. The Cigarette Tax Act is amended by changing
12 Section 9a as follows:

13 (35 ILCS 130/9a) (from Ch. 120, par. 453.9a)

14 Sec. 9a. Examination and correction of returns.

15 (1) As soon as practicable after any return is filed, the
16 Department shall examine such return and shall correct such
17 return according to its best judgment and information, which
18 return so corrected by the Department shall be prima facie
19 correct and shall be prima facie evidence of the correctness
20 of the amount of tax due, as shown therein. Instead of
21 requiring the distributor to file an amended return, the
22 Department may simply notify the distributor of the correction
23 or corrections it has made. Proof of such correction by the
24 Department may be made at any hearing before the Department or

1 in any legal proceeding by a reproduced copy of the
2 Department's record relating thereto in the name of the
3 Department under the certificate of the Director of Revenue.
4 Such reproduced copy shall, without further proof, be admitted
5 into evidence before the Department or in any legal proceeding
6 and shall be prima facie proof of the correctness of the amount
7 of tax due, as shown therein. If the Department finds that any
8 amount of tax is due from the distributor, the Department
9 shall issue the distributor a notice of tax liability for the
10 amount of tax claimed by the Department to be due, together
11 with a penalty in an amount determined in accordance with
12 Sections 3-3, 3-5 and 3-6 of the Uniform Penalty and Interest
13 Act. If, in administering the provisions of this Act,
14 comparison of a return or returns of a distributor with the
15 books, records and inventories of such distributor discloses a
16 deficiency which cannot be allocated by the Department to a
17 particular month or months, the Department shall issue the
18 distributor a notice of tax liability for the amount of tax
19 claimed by the Department to be due for a given period, but
20 without any obligation upon the Department to allocate such
21 deficiency to any particular month or months, together with a
22 penalty in an amount determined in accordance with Sections
23 3-3, 3-5 and 3-6 of the Uniform Penalty and Interest Act, under
24 which circumstances the aforesaid notice of tax liability
25 shall be prima facie correct and shall be prima facie evidence
26 of the correctness of the amount of tax due, as shown therein;

1 and proof of such correctness may be made in accordance with,
2 and the admissibility of a reproduced copy of such notice of
3 tax liability shall be governed by, all the provisions of this
4 Act applicable to corrected returns. If any distributor filing
5 any return dies or becomes a person under legal disability at
6 any time before the Department issues its notice of tax
7 liability, such notice shall be issued to the administrator,
8 executor or other legal representative, as such, of such
9 distributor.

10 (2) Except as otherwise provided in this Section, if,
11 within 60 days after such notice of tax liability, the
12 distributor or his or her legal representative files a protest
13 to such notice of tax liability and requests a hearing
14 thereon, the Department shall give notice to such distributor
15 or legal representative of the time and place fixed for such
16 hearing, and shall hold a hearing in conformity with the
17 provisions of this Act, and pursuant thereto shall issue a
18 final assessment to such distributor or legal representative
19 for the amount found to be due as a result of such hearing. On
20 or after July 1, 2013, protests concerning matters that are
21 subject to the jurisdiction of the Illinois Independent Tax
22 Tribunal shall be filed in accordance with the Illinois
23 Independent Tax Tribunal Act of 2012, and hearings concerning
24 those matters shall be held before the Tribunal in accordance
25 with that Act. With respect to protests filed with the
26 Department prior to July 1, 2013 that would otherwise be

1 subject to the jurisdiction of the Illinois Independent Tax
2 Tribunal, the taxpayer may elect to be subject to the
3 provisions of the Illinois Independent Tax Tribunal Act of
4 2012 at any time on or after July 1, 2013, but not later than
5 30 days after the date on which the protest was filed. If made,
6 the election shall be irrevocable. If a protest to the notice
7 of tax liability and a request for a hearing thereon is not
8 filed within the time allowed by law, such notice of tax
9 liability shall become final without the necessity of a final
10 assessment being issued and shall be deemed to be a final
11 assessment.

12 (3) In case of failure to pay the tax, or any portion
13 thereof, or any penalty provided for in this Act, when due, the
14 Department may bring suit to recover the amount of such tax, or
15 portion thereof, or penalty; or, if the taxpayer dies or
16 becomes incompetent, by filing claim therefor against his
17 estate; provided that no such action with respect to any tax,
18 or portion thereof, or penalty, shall be instituted more than
19 2 years after the cause of action accrues, except with the
20 consent of the person from whom such tax or penalty is due.

21 After the expiration of the period within which the person
22 assessed may file an action for judicial review under the
23 Administrative Review Law without such an action being filed,
24 a certified copy of the final assessment or revised final
25 assessment of the Department may be filed with the Circuit
26 Court of the county in which the taxpayer has his or her

1 principal place of business, or of Sangamon County in those
2 cases in which the taxpayer does not have his principal place
3 of business in this State. The certified copy of the final
4 assessment or revised final assessment shall be accompanied by
5 a certification which recites facts that are sufficient to
6 show that the Department complied with the jurisdictional
7 requirements of the Law in arriving at its final assessment or
8 its revised final assessment and that the taxpayer had his or
9 her opportunity for an administrative hearing and for judicial
10 review, whether he availed himself or herself of either or
11 both of these opportunities or not. If the court is satisfied
12 that the Department complied with the jurisdictional
13 requirements of the Law in arriving at its final assessment or
14 its revised final assessment and that the taxpayer had his or
15 her opportunity for an administrative hearing and for judicial
16 review, whether he or she availed himself or herself of either
17 or both of these opportunities or not, the court shall enter
18 judgment in favor of the Department and against the taxpayer
19 for the amount shown to be due by the final assessment or the
20 revised final assessment, and such judgment shall be filed of
21 record in the court. Such judgment shall bear the rate of
22 interest set in the Uniform Penalty and Interest Act, but
23 otherwise shall have the same effect as other judgments. The
24 judgment may be enforced, and all laws applicable to sales for
25 the enforcement of a judgment shall be applicable to sales
26 made under such judgments. The Department shall file the

1 certified copy of its assessment, as herein provided, with the
2 Circuit Court within 2 years after such assessment becomes
3 final except when the taxpayer consents in writing to an
4 extension of such filing period.

5 If, when the cause of action for a proceeding in court
6 accrues against a person, he or she is out of the State, the
7 action may be commenced within the times herein limited, after
8 his or her coming into or return to the State; and if, after
9 the cause of action accrues, he or she departs from and remains
10 out of the State, the time of his or her absence is no part of
11 the time limited for the commencement of the action; but the
12 foregoing provisions concerning absence from the State shall
13 not apply to any case in which, at the time the cause of action
14 accrues, the party against whom the cause of action accrues is
15 not a resident of this State. The time within which a court
16 action is to be commenced by the Department hereunder shall
17 not run while the taxpayer is a debtor in any proceeding under
18 the Federal Bankruptcy Act nor thereafter until 90 days after
19 the Department is notified by such debtor of being discharged
20 in bankruptcy.

21 No claim shall be filed against the estate of any deceased
22 person or a person under legal disability for any tax or
23 penalty or part of either except in the manner prescribed and
24 within the time limited by the Probate Act of 1975, as amended.

25 The remedies provided for herein shall not be exclusive,
26 but all remedies available to creditors for the collection of

1 debts shall be available for the collection of any tax or
2 penalty due hereunder.

3 The collection of tax or penalty by any means provided for
4 herein shall not be a bar to any prosecution under this Act.

5 The certificate of the Director of the Department to the
6 effect that a tax or amount required to be paid by this Act has
7 not been paid, that a return has not been filed, or that
8 information has not been supplied pursuant to the provisions
9 of this Act, shall be prima facie evidence thereof.

10 Notwithstanding any other provisions of this Act, any
11 amount paid as tax or in respect of tax paid under this Act
12 shall be deemed assessed upon the date of receipt of payment.

13 All of the provisions of Sections 5a, 5b, 5c, 5d, 5e, 5f,
14 5g, 5i and 5j of the Retailers' Occupation Tax Act, which are
15 not inconsistent with this Act, and Section 3-7 of the Uniform
16 Penalty and Interest Act shall apply, as far as practicable,
17 to the subject matter of this Act to the same extent as if such
18 provisions were included herein. References in such
19 incorporated Sections of the "Retailers' Occupation Tax Act"
20 to retailers, to sellers or to persons engaged in the business
21 of selling tangible personal property shall mean distributors
22 when used in this Act.

23 (Source: P.A. 97-1129, eff. 8-28-12; 98-463, eff. 8-16-13.)

24 Section 20. The Cigarette Use Tax Act is amended by
25 changing Section 13 as follows:

1 (35 ILCS 135/13) (from Ch. 120, par. 453.43)

2 Sec. 13. Examination and correction of return. As soon as
3 practicable after any return is filed, the Department shall
4 examine such return and shall correct such return according to
5 its best judgment and information, which return so corrected
6 by the Department shall be prima facie correct and shall be
7 prima facie evidence of the correctness of the amount of tax
8 due, as shown therein. Proof of such correction by the
9 Department may be made at any hearing before the Department or
10 in any legal proceeding by a reproduced copy of the
11 Department's record relating thereto in the name of the
12 Department under the certificate of the Director of Revenue.
13 Such reproduced copy shall, without further proof, be admitted
14 into evidence before the Department or in any legal proceeding
15 and shall be prima facie proof of the correctness of the amount
16 of tax due, as shown therein. If the tax as fixed by the
17 Department is greater than the amount of the tax due under the
18 return as filed, the Department shall issue the person filing
19 such return a notice of tax liability for the amount of tax
20 claimed by the Department to be due, together with a penalty in
21 an amount determined in accordance with Sections 3-3, 3-5 and
22 3-6 of the Uniform Penalty and Interest Act. If, in
23 administering the provisions of this Act, comparison of a
24 return or returns of a distributor with the books, records and
25 inventories of such distributor discloses a deficiency which

1 cannot be allocated by the Department to a particular month or
2 months, the Department shall issue the distributor a notice of
3 tax liability for the amount of tax claimed by the Department
4 to be due for a given period, but without any obligation upon
5 the Department to allocate such deficiency to any particular
6 month or months, together with a penalty in an amount
7 determined in accordance with Sections 3-3, 3-5 and 3-6 of the
8 Uniform Penalty and Interest Act, under which circumstances
9 the aforesaid notice of tax liability shall be prima facie
10 correct and shall be prima facie evidence of the correctness
11 of the amount of tax due, as shown therein; and proof of such
12 correctness may be made in accordance with, and the
13 admissibility of a reproduced copy of such notice of tax
14 liability shall be governed by, all the provisions of this Act
15 applicable to corrected returns.

16 If any person filing any return dies or becomes a person
17 under legal disability at any time before the Department
18 issues its notice of tax liability, such notice shall be
19 issued to the administrator, executor or other legal
20 representative, as such, of such person.

21 Except as otherwise provided in this Section, if within 60
22 days after such notice of tax liability, the person to whom
23 such notice is issued or his legal representative files a
24 protest to such notice of tax liability and requests a hearing
25 thereon, the Department shall give notice to such person or
26 legal representative of the time and place fixed for such

1 hearing, and shall hold a hearing in conformity with the
2 provisions of this Act, and pursuant thereto shall issue a
3 final assessment to such person or legal representative for
4 the amount found to be due as a result of such hearing.
5 Effective July 1, 2013, protests concerning matters that are
6 subject to the jurisdiction of the Illinois Independent Tax
7 Tribunal shall be filed with the Tribunal in accordance with
8 the Illinois Independent Tax Tribunal Act of 2012, and
9 hearings concerning those matters shall be held before the
10 Tribunal in accordance with that Act. With respect to protests
11 filed with the Department prior to July 1, 2013 that would
12 otherwise be subject to the jurisdiction of the Illinois
13 Independent Tax Tribunal, the person filing the protest may
14 elect to be subject to the provisions of the Illinois
15 Independent Tax Tribunal Act of 2012 at any time on or after
16 July 1, 2013, but not later than 30 days after the date on
17 which the protest was filed. If made, the election shall be
18 irrevocable. If a protest to the notice of tax liability and a
19 request for a hearing thereon is not filed within the time
20 allowed by law, such notice of tax liability shall become
21 final without the necessity of a final assessment being issued
22 and shall be deemed to be a final assessment.

23 Notwithstanding any other provisions of this Act, any
24 amount paid as tax or in respect of tax paid under this Act
25 shall be deemed assessed upon the date of receipt of payment.

26 (Source: P.A. 97-1129, eff. 8-28-12.)

1 Section 25. The Liquor Control Act of 1934 is amended by
2 changing Section 8-5 as follows:

3 (235 ILCS 5/8-5) (from Ch. 43, par. 163a)

4 Sec. 8-5. As soon as practicable after any return is
5 filed, the Department shall examine such return or amended
6 return and shall correct such return according to its best
7 judgment and information, which return so corrected by the
8 Department shall be prima facie correct and shall be prima
9 facie evidence of the correctness of the amount of tax due, as
10 shown therein. Instead of requiring the licensee to file an
11 amended return, the Department may simply notify the licensee
12 of the correction or corrections it has made. Proof of such
13 correction by the Department, or of the determination of the
14 amount of tax due as provided in Sections 8-4 and 8-10, may be
15 made at any hearing before the Department or in any legal
16 proceeding by a reproduced copy of the Department's record
17 relating thereto in the name of the Department under the
18 certificate of the Director of Revenue. Such reproduced copy
19 shall, without further proof, be admitted into evidence before
20 the Department or in any legal proceeding and shall be prima
21 facie proof of the correctness of the amount of tax due, as
22 shown therein. If the return so corrected by the Department
23 discloses the sale or use, by a licensed manufacturer or
24 importing distributor, of alcoholic liquors as to which the

1 tax provided for in this Article should have been paid, but has
2 not been paid, in excess of the alcoholic liquors reported as
3 being taxable by the licensee, and as to which the proper tax
4 was paid the Department shall notify the licensee that it
5 shall issue the taxpayer a notice of tax liability for the
6 amount of tax claimed by the Department to be due, together
7 with penalties at the rates prescribed by Sections 3-3, 3-5
8 and 3-6 of the Uniform Penalty and Interest Act, which amount
9 of tax shall be equivalent to the amount of tax which, at the
10 prescribed rate per gallon, should have been paid with respect
11 to the alcoholic liquors disposed of in excess of those
12 reported as being taxable. No earlier than 90 days after the
13 due date of the return, the Department may compare filed
14 returns, or any amendments thereto, against reports of sales
15 of alcoholic liquor submitted to the Department by other
16 manufacturers and distributors. If a return or amended return
17 is corrected by the Department because the return or amended
18 return failed to disclose the purchase of alcoholic liquor
19 from manufacturers or distributors on which the tax provided
20 for in this Article should have been paid, but has not been
21 paid, the Department shall issue the taxpayer a notice of tax
22 liability for the amount of tax claimed by the Department to be
23 due, together with penalties at the rates prescribed by
24 Sections 3-3, 3-5, and 3-6 of the Uniform Penalty and Interest
25 Act. In a case where no return has been filed, the Department
26 shall determine the amount of tax due according to its best

1 judgment and information and shall issue the taxpayer a notice
2 of tax liability for the amount of tax claimed by the
3 Department to be due as herein provided together with
4 penalties at the rates prescribed by Sections 3-3, 3-5 and 3-6
5 of the Uniform Penalty and Interest Act. If, in administering
6 the provisions of this Act, a comparison of a licensee's
7 return or returns with the books, records and physical
8 inventories of such licensee discloses a deficiency which
9 cannot be allocated by the Department to a particular month or
10 months, the Department shall issue the taxpayer a notice of
11 tax liability for the amount of tax claimed by the Department
12 to be due for a given period, but without any obligation upon
13 the Department to allocate such deficiency to any particular
14 month or months, together with penalties at the rates
15 prescribed by Sections 3-3, 3-5 and 3-6 of the Uniform Penalty
16 and Interest Act, which amount of tax shall be equivalent to
17 the amount of tax which, at the prescribed rate per gallon,
18 should have been paid with respect to the alcoholic liquors
19 disposed of in excess of those reported being taxable, with
20 the tax thereon having been paid under which circumstances the
21 aforesaid notice of tax liability shall be prima facie correct
22 and shall be prima facie evidence of the correctness of the
23 amount of tax due as shown therein; and proof of such
24 correctness may be made in accordance with, and the
25 admissibility of a reproduced copy of such notice of the
26 Department's notice of tax liability shall be governed by, all

1 the provisions of this Act applicable to corrected returns.

2 If the licensee dies or becomes a person under legal
3 disability at any time before the Department issues its notice
4 of tax liability, such notice shall be issued to the
5 administrator, executor or other legal representative, as
6 such, of the deceased or licensee who is under legal
7 disability.

8 If such licensee or legal representative, within 60 days
9 after such notice of tax liability, files a protest to such
10 notice of tax liability and requests a hearing thereon, the
11 Department shall give at least 7 days' notice to such licensee
12 or legal representative, as the case may be, of the time and
13 place fixed for such hearing and shall hold a hearing in
14 conformity with the provisions of this Act, and pursuant
15 thereto shall issue a final assessment to such licensee or
16 legal representative for the amount found to be due as a result
17 of such hearing.

18 If a protest to the notice of tax liability and a request
19 for a hearing thereon is not filed within 60 days after such
20 notice of tax liability, such notice of tax liability shall
21 become final without the necessity of a final assessment being
22 issued and shall be deemed to be a final assessment.

23 Notwithstanding any other provisions of this Act, any
24 amount paid as tax or in respect of tax paid under this Act
25 shall be deemed assessed upon the date of receipt of payment.

26 In case of failure to pay the tax, or any portion thereof,

1 or any penalty provided for herein, when due, the Department
2 may recover the amount of such tax, or portion thereof, or
3 penalty in a civil action; or if the licensee dies or becomes a
4 person under legal disability, by filing a claim therefor
5 against his or her estate; provided that no such claim shall be
6 filed against the estate of any deceased or of the licensee who
7 is under legal disability for any tax or penalty or portion
8 thereof except in the manner prescribed and within the time
9 limited by the Probate Act of 1975, as amended.

10 The collection of any such tax and penalty, or either, by
11 any means provided for herein, shall not be a bar to any
12 prosecution under this Act.

13 In addition to any other penalty provided for in this
14 Article, all provisions of the Uniform Penalty and Interest
15 Act that are not inconsistent with this Act apply.

16 (Source: P.A. 100-1050, eff. 7-1-19; 101-16, eff. 6-14-19.)

17 Section 99. Effective date. This Act takes effect January
18 1, 2024.