

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 Uniform Penalty and Interest Act is amended  
5 by changing Section 3-3 as follows:

6 (35 ILCS 735/3-3) (from Ch. 120, par. 2603-3)

7 Sec. 3-3. Penalty for failure to file or pay.

8 (a) This subsection (a) is applicable before January 1,  
9 1996. A penalty of 5% of the tax required to be shown due on a  
10 return shall be imposed for failure to file the tax return on  
11 or before the due date prescribed for filing determined with  
12 regard for any extension of time for filing (penalty for late  
13 filing or nonfiling). If any unprocessable return is corrected  
14 and filed within 21 days after notice by the Department, the  
15 late filing or nonfiling penalty shall not apply. If a penalty  
16 for late filing or nonfiling is imposed in addition to a  
17 penalty for late payment, the total penalty due shall be the  
18 sum of the late filing penalty and the applicable late payment  
19 penalty. Beginning on the effective date of this amendatory  
20 Act of 1995, in the case of any type of tax return required to  
21 be filed more frequently than annually, when the failure to  
22 file the tax return on or before the date prescribed for filing  
23 (including any extensions) is shown to be nonfraudulent and

1 has not occurred in the 2 years immediately preceding the  
2 failure to file on the prescribed due date, the penalty  
3 imposed by Section 3-3(a) shall be abated.

4 (a-5) This subsection (a-5) is applicable to returns due  
5 on and after January 1, 1996 and on or before December 31,  
6 2000. A penalty equal to 2% of the tax required to be shown due  
7 on a return, up to a maximum amount of \$250, determined without  
8 regard to any part of the tax that is paid on time or by any  
9 credit that was properly allowable on the date the return was  
10 required to be filed, shall be imposed for failure to file the  
11 tax return on or before the due date prescribed for filing  
12 determined with regard for any extension of time for filing.  
13 However, if any return is not filed within 30 days after notice  
14 of nonfiling mailed by the Department to the last known  
15 address of the taxpayer contained in Department records, an  
16 additional penalty amount shall be imposed equal to the  
17 greater of \$250 or 2% of the tax shown on the return. However,  
18 the additional penalty amount may not exceed \$5,000 and is  
19 determined without regard to any part of the tax that is paid  
20 on time or by any credit that was properly allowable on the  
21 date the return was required to be filed (penalty for late  
22 filing or nonfiling). If any unprocessable return is corrected  
23 and filed within 30 days after notice by the Department, the  
24 late filing or nonfiling penalty shall not apply. If a penalty  
25 for late filing or nonfiling is imposed in addition to a  
26 penalty for late payment, the total penalty due shall be the

1 sum of the late filing penalty and the applicable late payment  
2 penalty. In the case of any type of tax return required to be  
3 filed more frequently than annually, when the failure to file  
4 the tax return on or before the date prescribed for filing  
5 (including any extensions) is shown to be nonfraudulent and  
6 has not occurred in the 2 years immediately preceding the  
7 failure to file on the prescribed due date, the penalty  
8 imposed by Section 3-3(a-5) shall be abated.

9 (a-10) This subsection (a-10) is applicable to returns due  
10 on and after January 1, 2001. A penalty equal to 2% of the tax  
11 required to be shown due on a return, up to a maximum amount of  
12 \$250, reduced by any tax that is paid on time or by any credit  
13 that was properly allowable on the date the return was  
14 required to be filed, shall be imposed for failure to file the  
15 tax return on or before the due date prescribed for filing  
16 determined with regard for any extension of time for filing.  
17 However, if any return is not filed within 30 days after notice  
18 of nonfiling mailed by the Department to the last known  
19 address of the taxpayer contained in Department records, an  
20 additional penalty amount shall be imposed equal to the  
21 greater of \$250 or 2% of the tax shown on the return. However,  
22 the additional penalty amount may not exceed \$5,000 and is  
23 determined without regard to any part of the tax that is paid  
24 on time or by any credit that was properly allowable on the  
25 date the return was required to be filed (penalty for late  
26 filing or nonfiling). If any unprocessable return is corrected

1 and filed within 30 days after notice by the Department, the  
2 late filing or nonfiling penalty shall not apply. If a penalty  
3 for late filing or nonfiling is imposed in addition to a  
4 penalty for late payment, the total penalty due shall be the  
5 sum of the late filing penalty and the applicable late payment  
6 penalty. In the case of any type of tax return required to be  
7 filed more frequently than annually, when the failure to file  
8 the tax return on or before the date prescribed for filing  
9 (including any extensions) is shown to be nonfraudulent and  
10 has not occurred in the 2 years immediately preceding the  
11 failure to file on the prescribed due date, the penalty  
12 imposed by this subsection (a-10) shall be abated. This  
13 subsection (a-10) does not apply to transaction reporting  
14 returns required by Section 3 of the Retailers' Occupation Tax  
15 Act and Section 9 of the Use Tax Act that would not, when  
16 properly prepared and filed, result in the imposition of a  
17 tax; however, those returns are subject to the penalty set  
18 forth in subsection (a-15).

19 (a-15) A penalty of \$100 shall be imposed for failure to  
20 file a transaction reporting return required by Section 3 of  
21 the Retailers' Occupation Tax Act and Section 9 of the Use Tax  
22 Act on or before the date a return is required to be filed;  
23 provided, however, that this penalty shall be imposed only if  
24 the return when properly prepared and filed would not result  
25 in the imposition of a tax. If such a transaction reporting  
26 return would result in the imposition of a tax when properly

1 prepared and filed, then that return is subject to the  
2 provisions of subsection (a-10).

3 (b) This subsection is applicable before January 1, 1998.  
4 A penalty of 15% of the tax shown on the return or the tax  
5 required to be shown due on the return shall be imposed for  
6 failure to pay:

7 (1) the tax shown due on the return on or before the  
8 due date prescribed for payment of that tax, an amount of  
9 underpayment of estimated tax, or an amount that is  
10 reported in an amended return other than an amended return  
11 timely filed as required by subsection (b) of Section 506  
12 of the Illinois Income Tax Act (penalty for late payment  
13 or nonpayment of admitted liability); or

14 (2) the full amount of any tax required to be shown due  
15 on a return and which is not shown (penalty for late  
16 payment or nonpayment of additional liability), within 30  
17 days after a notice of arithmetic error, notice and  
18 demand, or a final assessment is issued by the Department.  
19 In the case of a final assessment arising following a  
20 protest and hearing, the 30-day period shall not begin  
21 until all proceedings in court for review of the final  
22 assessment have terminated or the period for obtaining a  
23 review has expired without proceedings for a review having  
24 been instituted. In the case of a notice of tax liability  
25 that becomes a final assessment without a protest and  
26 hearing, the penalty provided in this paragraph (2) shall

1 be imposed at the expiration of the period provided for  
2 the filing of a protest.

3 (b-5) This subsection is applicable to returns due on and  
4 after January 1, 1998 and on or before December 31, 2000. A  
5 penalty of 20% of the tax shown on the return or the tax  
6 required to be shown due on the return shall be imposed for  
7 failure to pay:

8 (1) the tax shown due on the return on or before the  
9 due date prescribed for payment of that tax, an amount of  
10 underpayment of estimated tax, or an amount that is  
11 reported in an amended return other than an amended return  
12 timely filed as required by subsection (b) of Section 506  
13 of the Illinois Income Tax Act (penalty for late payment  
14 or nonpayment of admitted liability); or

15 (2) the full amount of any tax required to be shown due  
16 on a return and which is not shown (penalty for late  
17 payment or nonpayment of additional liability), within 30  
18 days after a notice of arithmetic error, notice and  
19 demand, or a final assessment is issued by the Department.  
20 In the case of a final assessment arising following a  
21 protest and hearing, the 30-day period shall not begin  
22 until all proceedings in court for review of the final  
23 assessment have terminated or the period for obtaining a  
24 review has expired without proceedings for a review having  
25 been instituted. In the case of a notice of tax liability  
26 that becomes a final assessment without a protest and

1 hearing, the penalty provided in this paragraph (2) shall  
2 be imposed at the expiration of the period provided for  
3 the filing of a protest.

4 (b-10) This subsection (b-10) is applicable to returns due  
5 on and after January 1, 2001 and on or before December 31,  
6 2003. A penalty shall be imposed for failure to pay:

7 (1) the tax shown due on a return on or before the due  
8 date prescribed for payment of that tax, an amount of  
9 underpayment of estimated tax, or an amount that is  
10 reported in an amended return other than an amended return  
11 timely filed as required by subsection (b) of Section 506  
12 of the Illinois Income Tax Act (penalty for late payment  
13 or nonpayment of admitted liability). The amount of  
14 penalty imposed under this subsection (b-10)(1) shall be  
15 2% of any amount that is paid no later than 30 days after  
16 the due date, 5% of any amount that is paid later than 30  
17 days after the due date and not later than 90 days after  
18 the due date, 10% of any amount that is paid later than 90  
19 days after the due date and not later than 180 days after  
20 the due date, and 15% of any amount that is paid later than  
21 180 days after the due date. If notice and demand is made  
22 for the payment of any amount of tax due and if the amount  
23 due is paid within 30 days after the date of the notice and  
24 demand, then the penalty for late payment or nonpayment of  
25 admitted liability under this subsection (b-10)(1) on the  
26 amount so paid shall not accrue for the period after the

1 date of the notice and demand.

2 (2) the full amount of any tax required to be shown due  
3 on a return and that is not shown (penalty for late payment  
4 or nonpayment of additional liability), within 30 days  
5 after a notice of arithmetic error, notice and demand, or  
6 a final assessment is issued by the Department. In the  
7 case of a final assessment arising following a protest and  
8 hearing, the 30-day period shall not begin until all  
9 proceedings in court for review of the final assessment  
10 have terminated or the period for obtaining a review has  
11 expired without proceedings for a review having been  
12 instituted. The amount of penalty imposed under this  
13 subsection (b-10)(2) shall be 20% of any amount that is  
14 not paid within the 30-day period. In the case of a notice  
15 of tax liability that becomes a final assessment without a  
16 protest and hearing, the penalty provided in this  
17 subsection (b-10)(2) shall be imposed at the expiration of  
18 the period provided for the filing of a protest.

19 (b-15) This subsection (b-15) is applicable to returns due  
20 on and after January 1, 2004 and on or before December 31,  
21 2004. A penalty shall be imposed for failure to pay the tax  
22 shown due or required to be shown due on a return on or before  
23 the due date prescribed for payment of that tax, an amount of  
24 underpayment of estimated tax, or an amount that is reported  
25 in an amended return other than an amended return timely filed  
26 as required by subsection (b) of Section 506 of the Illinois



1 Income Tax Act (penalty for late payment or nonpayment of  
2 admitted liability). The amount of penalty imposed under this  
3 subsection (b-15)(1) shall be 2% of any amount that is paid no  
4 later than 30 days after the due date, 10% of any amount that  
5 is paid later than 30 days after the due date and not later  
6 than 90 days after the due date, 15% of any amount that is paid  
7 later than 90 days after the due date and not later than 180  
8 days after the due date, and 20% of any amount that is paid  
9 later than 180 days after the due date. If notice and demand is  
10 made for the payment of any amount of tax due and if the amount  
11 due is paid within 30 days after the date of this notice and  
12 demand, then the penalty for late payment or nonpayment of  
13 admitted liability under this subsection (b-15)(1) on the  
14 amount so paid shall not accrue for the period after the date  
15 of the notice and demand.

16 (b-20) This subsection (b-20) is applicable to returns due  
17 on and after January 1, 2005 and before January 1, 2024.

18 (1) A penalty shall be imposed for failure to pay,  
19 prior to the due date for payment, any amount of tax the  
20 payment of which is required to be made prior to the filing  
21 of a return or without a return (penalty for late payment  
22 or nonpayment of estimated or accelerated tax). The amount  
23 of penalty imposed under this paragraph (1) shall be 2% of  
24 any amount that is paid no later than 30 days after the due  
25 date and 10% of any amount that is paid later than 30 days  
26 after the due date.

1           (2) A penalty shall be imposed for failure to pay the  
2 tax shown due or required to be shown due on a return on or  
3 before the due date prescribed for payment of that tax or  
4 an amount that is reported in an amended return other than  
5 an amended return timely filed as required by subsection  
6 (b) of Section 506 of the Illinois Income Tax Act (penalty  
7 for late payment or nonpayment of tax). The amount of  
8 penalty imposed under this paragraph (2) shall be 2% of  
9 any amount that is paid no later than 30 days after the due  
10 date, 10% of any amount that is paid later than 30 days  
11 after the due date and prior to the date the Department has  
12 initiated an audit or investigation of the taxpayer, and  
13 20% of any amount that is paid after the date the  
14 Department has initiated an audit or investigation of the  
15 taxpayer; provided that the penalty shall be reduced to  
16 15% if the entire amount due is paid not later than 30 days  
17 after the Department has provided the taxpayer with an  
18 amended return (following completion of an occupation,  
19 use, or excise tax audit) or a form for waiver of  
20 restrictions on assessment (following completion of an  
21 income tax audit); provided further that the reduction to  
22 15% shall be rescinded if the taxpayer makes any claim for  
23 refund or credit of the tax, penalties, or interest  
24 determined to be due upon audit, except in the case of a  
25 claim filed pursuant to subsection (b) of Section 506 of  
26 the Illinois Income Tax Act or to claim a carryover of a

1 loss or credit, the availability of which was not  
2 determined in the audit. For purposes of this paragraph  
3 (2), any overpayment reported on an original return that  
4 has been allowed as a refund or credit to the taxpayer  
5 shall be deemed to have not been paid on or before the due  
6 date for payment and any amount paid under protest  
7 pursuant to the provisions of the State Officers and  
8 Employees Money Disposition Act shall be deemed to have  
9 been paid after the Department has initiated an audit and  
10 more than 30 days after the Department has provided the  
11 taxpayer with an amended return (following completion of  
12 an occupation, use, or excise tax audit) or a form for  
13 waiver of restrictions on assessment (following completion  
14 of an income tax audit).

15 (3) The penalty imposed under this subsection (b-20)  
16 shall be deemed assessed at the time the tax upon which the  
17 penalty is computed is assessed, except that, if the  
18 reduction of the penalty imposed under paragraph (2) of  
19 this subsection (b-20) to 15% is rescinded because a claim  
20 for refund or credit has been filed, the increase in  
21 penalty shall be deemed assessed at the time the claim for  
22 refund or credit is filed.

23 (b-25) This subsection (b-25) is applicable to returns due  
24 on or after January 1, 2024.

25 (1) A penalty shall be imposed for failure to pay,  
26 prior to the due date for payment, any amount of tax the

1 payment of which is required to be made prior to the filing  
2 of a return or without a return (penalty for late payment  
3 or nonpayment of estimated or accelerated tax). The amount  
4 of penalty imposed under this paragraph (1) shall be 2% of  
5 any amount that is paid no later than 30 days after the due  
6 date and 10% of any amount that is paid later than 30 days  
7 after the due date.

8 (2) A penalty shall be imposed for failure to pay the  
9 tax shown due or required to be shown due on a return on or  
10 before the due date prescribed for payment of that tax  
11 (penalty for late payment or nonpayment of tax). The  
12 amount of penalty imposed under this paragraph (2) shall  
13 be 2% of any amount that is paid no later than 30 days  
14 after the due date, 10% of any amount that is paid later  
15 than 30 days after the due date and prior to the date the  
16 Department initiates an audit or investigation of the  
17 taxpayer, and 20% of any amount that is paid after the date  
18 the Department initiates an audit or investigation of the  
19 taxpayer; provided that the penalty shall be reduced to  
20 15% if the entire amount due is paid not later than 30 days  
21 after the Department provides the taxpayer with an amended  
22 return (following completion of an occupation, use, or  
23 excise tax audit) or a form for waiver of restrictions on  
24 assessment (following completion of an income tax audit);  
25 provided further that the reduction to 15% shall be  
26 rescinded if the taxpayer makes any claim for refund or

1 credit of the tax, penalties, or interest determined to be  
2 due upon audit, except in the case of a claim filed  
3 pursuant to subsection (b) of Section 506 of the Illinois  
4 Income Tax Act or to claim a carryover of a loss or credit,  
5 the availability of which was not determined in the audit.  
6 For purposes of this paragraph (2):

7 (A) any overpayment reported on an original return  
8 that has been allowed as a refund or credit to the  
9 taxpayer shall be deemed to have not been paid on or  
10 before the due date for payment;

11 (B) any amount paid under protest pursuant to the  
12 provisions of the State Officers and Employees Money  
13 Disposition Act shall be deemed to have been paid  
14 after the Department has initiated an audit and more  
15 than 30 days after the Department has provided the  
16 taxpayer with an amended return (following completion  
17 of an occupation, use, or excise tax audit) or a form  
18 for waiver of restrictions on assessment (following  
19 completion of an income tax audit); and

20 (C) any liability resulting from a federal change  
21 required to be reported under subsection (b) of  
22 Section 506 of the Illinois Income Tax Act that is  
23 reported and paid no later than the due date for filing  
24 the federal change amended return shall be deemed to  
25 have been paid on or before the due date prescribed for  
26 payment.

1       (3) The penalty imposed under this subsection (b-25) shall  
2 be deemed assessed at the time the tax upon which the penalty  
3 is computed is assessed, except that, if the reduction of the  
4 penalty imposed under paragraph (2) of this subsection (b-25)  
5 to 15% is rescinded because a claim for refund or credit has  
6 been filed, the increase in penalty shall be deemed assessed  
7 at the time the claim for refund or credit is filed.

8       (c) For purposes of the late payment penalties, the basis  
9 of the penalty shall be the tax shown or required to be shown  
10 on a return, whichever is applicable, reduced by any part of  
11 the tax which is paid on time and by any credit which was  
12 properly allowable on the date the return was required to be  
13 filed.

14       (d) A penalty shall be applied to the tax required to be  
15 shown even if that amount is less than the tax shown on the  
16 return.

17       (e) This subsection (e) is applicable to returns due  
18 before January 1, 2001. If both a subsection (b)(1) or  
19 (b-5)(1) penalty and a subsection (b)(2) or (b-5)(2) penalty  
20 are assessed against the same return, the subsection (b)(2) or  
21 (b-5)(2) penalty shall be assessed against only the additional  
22 tax found to be due.

23       (e-5) This subsection (e-5) is applicable to returns due  
24 on and after January 1, 2001. If both a subsection (b-10)(1)  
25 penalty and a subsection (b-10)(2) penalty are assessed  
26 against the same return, the subsection (b-10)(2) penalty

1 shall be assessed against only the additional tax found to be  
2 due.

3 (f) If the taxpayer has failed to file the return, the  
4 Department shall determine the correct tax according to its  
5 best judgment and information, which amount shall be prima  
6 facie evidence of the correctness of the tax due.

7 (g) The time within which to file a return or pay an amount  
8 of tax due without imposition of a penalty does not extend the  
9 time within which to file a protest to a notice of tax  
10 liability or a notice of deficiency.

11 (h) No return shall be determined to be unprocessable  
12 because of the omission of any information requested on the  
13 return pursuant to Section 2505-575 of the Department of  
14 Revenue Law (20 ILCS 2505/2505-575).

15 (i) If a taxpayer has a tax liability for the taxable  
16 period ending after June 30, 1983 and prior to July 1, 2002  
17 that is eligible for amnesty under the Tax Delinquency Amnesty  
18 Act and the taxpayer fails to satisfy the tax liability during  
19 the amnesty period provided for in that Act for that taxable  
20 period, then the penalty imposed by the Department under this  
21 Section shall be imposed in an amount that is 200% of the  
22 amount that would otherwise be imposed under this Section.

23 (j) If a taxpayer has a tax liability for the taxable  
24 period ending after June 30, 2002 and prior to July 1, 2009  
25 that is eligible for amnesty under the Tax Delinquency Amnesty  
26 Act, except for any tax liability reported pursuant to Section

1 506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)) that  
2 is not final, and the taxpayer fails to satisfy the tax  
3 liability during the amnesty period provided for in that Act  
4 for that taxable period, then the penalty imposed by the  
5 Department under this Section shall be imposed in an amount  
6 that is 200% of the amount that would otherwise be imposed  
7 under this Section.

8 (Source: P.A. 98-425, eff. 8-16-13; 99-335, eff. 8-10-15.)