

1 AN ACT concerning taxes.

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

4 Section 5. The Taxpayers' Bill of Rights Act is amended
5 by changing Section 5 and adding Sections 5.5 and 5.6 as
6 follows:

7 (20 ILCS 2520/5) (from Ch. 120, par. 2305)

8 Sec. 5. Taxpayer's suits. Taxpayers have the right to
9 sue the Department of Revenue if the ~~sueh~~ Department
10 negligently intentionally--or-reeklessly disregards tax laws
11 or regulations in collecting taxes. The maximum recovery for
12 damages in such a suit shall be \$100,000. If a taxpayer's
13 suit is determined by the court to be frivolous the court may
14 impose a penalty on the taxpayer not to exceed \$10,000 to be
15 collected as a tax.

16 (Source: P.A. 86-176; 86-189.)

17 (20 ILCS 2520/5.5 new)

18 Sec. 5.5. Burden of proof.

19 (a) Notwithstanding any other law to the contrary, in the
20 case of a taxpayer receiving a protestable notice, a bill, a
21 claim denial, or a reduction of refund regarding any tax,
22 until proven otherwise by the Department in the appropriate
23 proceeding, the taxpayer's position shall be presumed to be
24 the correct one and the burden of proof shall be on the
25 Department to prove otherwise.

26 (b) The provisions of subsection (a) apply only if (i)
27 the taxpayer asserts a reasonable dispute with respect to the
28 issue and (ii) the taxpayer has fully cooperated with the
29 Department with respect to the issue, including providing,
30 within a reasonable period of time, access to and inspection

1 of all witnesses, information, and documents within the
2 control of the taxpayer, as reasonably requested by the
3 Department.

4 (c) The Department shall adopt rules to implement the
5 provisions of this Section.

6 (20 ILCS 2520/5.6 new)

7 Sec. 5.6. Privileged communications; accountant and
8 client. In any non-criminal proceeding before the
9 Department, the taxpayer shall be entitled to the same common
10 law protections of confidentiality with respect to tax advice
11 furnished by a certified public accountant or a public
12 accountant licensed under the Illinois Public Accounting Act
13 as the taxpayer would have if the accountant were an
14 attorney.

15 Section 10. The Illinois Income Tax Act is amended by
16 changing Sections 902, 904, and 917 and adding Section 917.5
17 as follows:

18 (35 ILCS 5/902) (from Ch. 120, par. 9-902)

19 Sec. 902. Notice and Demand. (a) In general. Except as
20 provided in subsection (b) the Director shall, as soon as
21 practicable after an amount payable under this Act is deemed
22 assessed (as provided in Section 903), give notice to each
23 person liable for any unpaid portion of such assessment,
24 stating the amount unpaid and demanding payment thereof. In
25 the case of tax deemed assessed with the filing of a return,
26 the Director shall give notice no later than 3 years after
27 the date the return was filed. Upon receipt of any notice
28 and demand there shall be paid at the place and time stated
29 in such notice the amount stated in such notice. Such notice
30 shall be left at the dwelling or usual place of business of
31 such person or shall be sent by mail to the person's last

1 known address.

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

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

21 (d) Sales or transfers outside the usual course of
22 business-Report-Payment of Tax - Rights and duties of
23 purchaser or transferee - penalty. If any taxpayer, outside
24 the usual course of his business, sells or transfers the
25 major part of any one or more of (A) the stock of goods which
26 he is engaged in the business of selling, or (B) the
27 furniture or fixtures, or (C) the machinery and equipment, or
28 (D) the real property, of any business that is subject to the
29 provisions of this Act, the purchaser or transferee of such
30 assets shall, no later than 10 days after the sale or
31 transfer, file a notice of sale or transfer of business
32 assets with the Chicago office of the Department disclosing
33 the name and address of the seller or transferor, the name
34 and address of the purchaser or transferee, the date of the

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

24 Any order issued by the Department pursuant to this
25 Section to withhold from the purchase price shall be issued
26 within 10 days after the Department receives notification of
27 a sale as provided in this Section. The purchaser or
28 transferee shall withhold such portion of the purchase price
29 as may be directed by the Department, but not to exceed a
30 minimum amount varying by type of business, as determined by
31 the Department pursuant to regulations, plus twice the
32 outstanding unpaid liabilities and twice the average
33 liability of preceding filings times the number of unfiled
34 returns which were not filed when due, to cover the amount of

1 all tax, penalty, and interest due and unpaid by the seller
2 or transferor under this Act or, if the payment of money or
3 property is not involved, shall withhold the performance of
4 the condition that constitutes the consideration for the sale
5 or transfer. Within 60 days after issuance of the initial
6 order to withhold, the Department shall provide written
7 notice to the purchaser or transferee of the actual amount of
8 all taxes, penalties and interest then due and whether or not
9 additional amounts may become due as a result of unpaid taxes
10 required to be withheld by an employer, returns which were
11 not filed when due, pending assessments and audits not
12 completed. The purchaser or transferee shall continue to
13 withhold the amount directed to be withheld by the initial
14 order or such lesser amount as is specified by the final
15 withholding order or to withhold the performance of the
16 condition which constitutes the consideration for the sale or
17 transfer until the purchaser or transferee receives from the
18 Department a certificate showing that no unpaid tax, penalty
19 or interest is due from the seller or transferor under this
20 Act.

21 The purchaser or transferee is relieved of any duty to
22 continue to withhold from the purchase price and of any
23 liability for tax, penalty, or interest due hereunder from
24 the seller or transferor if the Department fails to notify
25 the purchaser or transferee in the manner provided herein of
26 the amount to be withheld within 10 days after the sale or
27 transfer has been reported to the Department or within 60
28 days after issuance of the initial order to withhold, as the
29 case may be. The Department shall have the right to determine
30 amounts claimed on an estimated basis to allow for periods
31 for which returns were not filed when due, pending
32 assessments and audits not completed, however the purchaser
33 or transferee shall be personally liable only for the actual
34 amount due when determined.

1 If the seller or transferor has failed to pay the tax,
2 penalty, and interest due from him hereunder and the
3 Department makes timely claim therefor against the purchaser
4 or transferee as hereinabove provided, then the purchaser or
5 transferee shall pay to the Department the amount so withheld
6 from the purchase price. If the purchaser or transferee
7 fails to comply with the requirements of this Section, the
8 purchaser or transferee shall be personally liable to the
9 Department for the amount owed hereunder by the seller or
10 transferor up to the amount of the reasonable value of the
11 property acquired by the purchaser or transferee.

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

19 (Source: P.A. 86-923; 86-953.)

20 (35 ILCS 5/904) (from Ch. 120, par. 9-904)

21 Sec. 904. Deficiencies and Overpayments.

22 (a) Examination of return. As soon as practicable after
23 a return is filed, the Department shall examine it to
24 determine the correct amount of tax. If the Department finds
25 that the amount of tax shown on the return is less than the
26 correct amount, it shall issue a notice of deficiency to the
27 taxpayer which shall set forth the amount of tax and
28 penalties proposed to be assessed. If the Department finds
29 that the tax paid is more than the correct amount, it shall
30 credit or refund the overpayment as provided by Section 909.
31 ~~The findings of the Department under this subsection shall be~~
32 ~~prima facie correct and shall be prima facie evidence of the~~
33 ~~correctness of the amount of tax and penalties due.~~

1 (b) No return filed. If the taxpayer fails to file a
2 tax return, the Department shall determine the amount of tax
3 due according to its best judgment and information, ~~which~~
4 ~~amount--so--fixed--by--the--Department--shall--be--prima--facie~~
5 ~~correct--and--shall--be--prima--facie--evidence--of--the--correctness~~
6 ~~of--the--amount--of--tax--due.~~ The Department shall issue a notice
7 of deficiency to the taxpayer which shall set forth the
8 amount of tax and penalties proposed to be assessed.

9 (c) Notice of deficiency. A notice of deficiency issued
10 under this Act shall set forth the adjustments giving rise to
11 the proposed assessment and the reasons therefor. In the case
12 of a joint return, the notice of deficiency may be a single
13 joint notice except that if the Department is notified by
14 either spouse that separate residences have been established,
15 it shall issue joint notices to each spouse.

16 (d) Assessment when no protest. Upon the expiration of
17 60 days after the date on which it was issued (150 days if
18 the taxpayer is outside the United States), a notice of
19 deficiency shall constitute an assessment of the amount of
20 tax and penalties specified therein, except only for such
21 amounts as to which the taxpayer shall have filed a protest
22 with the Department, as provided in Section 908.

23 (Source: P.A. 87-192; 87-205.)

24 (35 ILCS 5/917) (from Ch. 120, par. 9-917)

25 Sec. 917. Confidentiality and information sharing.

26 (a) Confidentiality. Except as provided in this Section,
27 all information received by the Department from returns filed
28 under this Act, or from any investigation conducted under the
29 provisions of this Act, shall be confidential, except for
30 official purposes within the Department or pursuant to
31 official procedures for collection of any State tax or
32 pursuant to an investigation or audit by the Illinois State
33 Scholarship Commission of a delinquent student loan or

1 monetary award or enforcement of any civil or criminal
2 penalty or sanction imposed by this Act or by another statute
3 imposing a State tax, and any person who divulges any such
4 information in any manner, except for such purposes and
5 pursuant to order of the Director or in accordance with a
6 proper judicial order, shall be guilty of a Class A
7 misdemeanor. However, the provisions of this paragraph are
8 not applicable to information furnished to a licensed
9 attorney representing the taxpayer where an appeal or a
10 protest has been filed on behalf of the taxpayer. In
11 addition, the provisions of this paragraph are not applicable
12 in a non-criminal proceeding before the Department to
13 information furnished to a certified public accountant or a
14 public accountant licensed to practice in this State under
15 the Illinois Public Accounting Act.

16 (b) Public information. Nothing contained in this Act
17 shall prevent the Director from publishing or making
18 available to the public the names and addresses of persons
19 filing returns under this Act, or from publishing or making
20 available reasonable statistics concerning the operation of
21 the tax wherein the contents of returns are grouped into
22 aggregates in such a way that the information contained in
23 any individual return shall not be disclosed.

24 (c) Governmental agencies. The Director may make
25 available to the Secretary of the Treasury of the United
26 States or his delegate, or the proper officer or his delegate
27 of any other state imposing a tax upon or measured by income,
28 for exclusively official purposes, information received by
29 the Department in the administration of this Act, but such
30 permission shall be granted only if the United States or such
31 other state, as the case may be, grants the Department
32 substantially similar privileges. The Director may exchange
33 information with the Illinois Department of Public Aid and
34 the Department of Human Services (acting as successor to the

1 Department of Public Aid under the Department of Human
2 Services Act) for the purpose of verifying sources and
3 amounts of income and for other purposes directly connected
4 with the administration of this Act and the Illinois Public
5 Aid Code. The Director may exchange information with the
6 Director of the Department of Employment Security for the
7 purpose of verifying sources and amounts of income and for
8 other purposes directly connected with the administration of
9 this Act and Acts administered by the Department of
10 Employment Security. The Director may make available to the
11 Illinois Industrial Commission information regarding
12 employers for the purpose of verifying the insurance coverage
13 required under the Workers' Compensation Act and Workers'
14 Occupational Diseases Act.

15 The Director may make available to any State agency,
16 including the Illinois Supreme Court, which licenses persons
17 to engage in any occupation, information that a person
18 licensed by such agency has failed to file returns under this
19 Act or pay the tax, penalty and interest shown therein, or
20 has failed to pay any final assessment of tax, penalty or
21 interest due under this Act. The Director may also make
22 available to the Secretary of State information that a
23 corporation which has been issued a certificate of
24 incorporation by the Secretary of State has failed to file
25 returns under this Act or pay the tax, penalty and interest
26 shown therein, or has failed to pay any final assessment of
27 tax, penalty or interest due under this Act. An assessment is
28 final when all proceedings in court for review of such
29 assessment have terminated or the time for the taking thereof
30 has expired without such proceedings being instituted. For
31 taxable years ending on or after December 31, 1987, the
32 Director may make available to the Director or principal
33 officer of any Department of the State of Illinois,
34 information that a person employed by such Department has

1 failed to file returns under this Act or pay the tax, penalty
2 and interest shown therein. For purposes of this paragraph,
3 the word "Department" shall have the same meaning as provided
4 in Section 3 of the State Employees Group Insurance Act of
5 1971.

6 (d) The Director shall make available for public
7 inspection in the Department's principal office and for
8 publication, at cost, administrative decisions issued on or
9 after January 1, 1995. These decisions are to be made
10 available in a manner so that the following taxpayer
11 information is not disclosed:

12 (1) The names, addresses, and identification
13 numbers of the taxpayer, related entities, and employees.

14 (2) At the sole discretion of the Director, trade
15 secrets or other confidential information identified as
16 such by the taxpayer, no later than 30 days after receipt
17 of an administrative decision, by such means as the
18 Department shall provide by rule.

19 The Director shall determine the appropriate extent of
20 the deletions allowed in paragraph (2). In the event the
21 taxpayer does not submit deletions, the Director shall make
22 only the deletions specified in paragraph (1).

23 The Director shall make available for public inspection
24 and publication an administrative decision within 180 days
25 after the issuance of the administrative decision. The term
26 "administrative decision" has the same meaning as defined in
27 Section 3-101 of Article III of the Code of Civil Procedure.
28 Costs collected under this Section shall be paid into the Tax
29 Compliance and Administration Fund.

30 (e) Nothing contained in this Act shall prevent the
31 Director from divulging information to any person pursuant to
32 a request or authorization made by the taxpayer, by an
33 authorized representative of the taxpayer, or, in the case of
34 information related to a joint return, by the spouse filing

1 the joint return with the taxpayer.

2 (Source: P.A. 89-507, eff. 7-1-97; 90-491, eff. 1-1-98.)

3 (35 ILCS 5/917.5 new)

4 Sec. 917.5. Civil damages; disclosure of information.

5 (a) If any officer or employee of the Department, in
6 violation of Section 917, knowingly or negligently divulges
7 information received by the Department from returns filed by
8 a taxpayer under this Act or from any investigation conducted
9 with respect to a taxpayer under the provisions of this Act,
10 the taxpayer may bring a civil action for damages against the
11 Department in the Court of Claims.

12 (b) If any person who is not an officer or employee of
13 the Department, in violation of Section 917, knowingly or
14 negligently divulges information from returns filed by a
15 taxpayer under this Act or from any investigation conducted
16 with respect to a taxpayer under the provision of this Act,
17 the taxpayer may bring a civil action for damages against
18 that person in the circuit court of the county where the
19 taxpayer has his or her residence or commercial domicile, or
20 Cook County if the taxpayer does not have his or her
21 residence or commercial domicile in this State.

22 (c) No liability shall arise under this Section if the
23 disclosure of information was a result of a good faith, but
24 erroneous, interpretation of Section 917.

25 (d) In any action brought under subsection (a) or (b),
26 upon a finding of liability on the part of the defendant, the
27 defendant shall be liable to the plaintiff (i) in an amount
28 equal to the greater of (A) \$1,000 for each act of
29 unauthorized disclosure of information or (B) the amount of
30 damages, up to \$100,000, in the case of willful disclosure or
31 a disclosure that is the result of gross negligence and (ii)
32 costs and reasonable attorney's fees.

1 Section 15. The Use Tax Act is amended by changing
2 Sections 19 and 20 as follows:

3 (35 ILCS 105/19) (from Ch. 120, par. 439.19)

4 Sec. 19. If it shall appear that an amount of tax or
5 penalty or interest has been paid in error hereunder to the
6 Department by a purchaser, as distinguished from the
7 retailer, whether such amount be paid through a mistake of
8 fact or an error of law, such purchaser may file a claim for
9 credit or refund with the Department in accordance with
10 Sections 6, 6a, 6b, and 6c of the Retailers' Occupation Tax
11 Act. If it shall appear that an amount of tax or penalty or
12 interest has been paid in error to the Department hereunder
13 by a retailer who is required or authorized to collect and
14 remit the use tax, whether such amount be paid through a
15 mistake of fact or an error of law, such retailer may file a
16 claim for credit or refund with the Department in accordance
17 with Sections 6, 6a, 6b, and 6c of the Retailers' Occupation
18 Tax Act, provided that no credit or refund shall be allowed
19 for any amount paid by any such retailer unless it shall
20 appear that he bore the burden of such amount and did not
21 shift the burden thereof to anyone else (as in the case of a
22 duplicated tax payment which the retailer made to the
23 Department and did not collect from anyone else), or unless
24 it shall appear that he or she or his or her legal
25 representative has unconditionally repaid such amount to his
26 vendee (1) who bore the burden thereof and has not shifted
27 such burden directly or indirectly in any manner whatsoever;
28 (2) who, if he has shifted such burden, has repaid
29 unconditionally such amount to his or her own vendee, and (3)
30 who is not entitled to receive any reimbursement therefor
31 from any other source than from his vendor, nor to be
32 relieved of such burden in any other manner whatsoever. If it
33 shall appear that an amount of tax has been paid in error

1 hereunder by the purchaser to a retailer, who retained such
2 tax as reimbursement for his or her tax liability on the same
3 sale under the Retailers' Occupation Tax Act, and who
4 remitted the amount involved to the Department under the
5 Retailers' Occupation Tax Act, whether such amount be paid
6 through a mistake of fact or an error of law, the procedure
7 for recovering such tax shall be that prescribed in Sections
8 6, 6a, 6b and 6c of the Retailers' Occupation Tax Act.

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

12 Any claim filed hereunder shall be filed upon a form
13 prescribed and furnished by the Department. The claim shall
14 be signed by the claimant (or by the claimant's legal
15 representative if the claimant shall have died or become a
16 person under legal disability), or by a duly authorized agent
17 of the claimant or his or her legal representative.

18 A claim for credit or refund shall be considered to have
19 been filed with the Department on the date upon which it is
20 received by the Department. Upon receipt of any claim for
21 credit or refund filed under this Act, any officer or
22 employee of the Department, authorized in writing by the
23 Director of Revenue to acknowledge receipt of such claims on
24 behalf of the Department, shall execute on behalf of the
25 Department, and shall deliver or mail to the claimant or his
26 duly authorized agent, a written receipt, acknowledging that
27 the claim has been filed with the Department, describing the
28 claim in sufficient detail to identify it and stating the
29 date upon which the claim was received by the Department.
30 Such written receipt shall be prima facie evidence that the
31 Department received the claim described in such receipt and
32 shall be prima facie evidence of the date when such claim was
33 received by the Department. ~~In the absence of such a written~~
34 ~~receipt, the records of the Department as to when the claim~~

1 was-received-by-the-Department, or-as-to-whether-or-not-the
2 claim-was-received-at-all-by-the-Department, shall-be-deemed
3 to-be-prima-facie-correct-upon-these-questions-in-the-event
4 of-any-dispute-between-the-claimant-(or-his-or-her-legal
5 representative)-and-the-Department-concerning-these
6 questions.

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

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

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

1 (35 ILCS 105/20) (from Ch. 120, par. 439.20)

2 Sec. 20. As soon as practicable after a claim for credit
3 or refund is filed, the Department shall examine the same and
4 determine the amount of credit or refund to which the
5 claimant or the claimant's legal representative, in the event
6 that the claimant shall have died or become a person under
7 legal disability, is entitled and shall, by its Notice of
8 Tentative Determination of Claim, notify the claimant or his
9 or her legal representative of such determination, ~~which~~
10 ~~determination shall be prima facie correct.~~ Proof of such
11 determination by the Department may be made at any hearing
12 before the Department or in any legal proceeding by a
13 reproduced copy of the Department's record relating thereto,
14 in the name of the Department under the certificate of the
15 Director of Revenue. Such reproduced copy shall, without
16 further proof, be admitted into evidence before the
17 Department or in any legal proceeding ~~and shall be prima~~
18 ~~facie proof of the correctness of the Department's~~
19 ~~determination, as shown therein.~~ If such claimant, or the
20 legal representative of a deceased claimant or a claimant who
21 is a person under legal disability shall, within 60 days
22 after the Department's Notice of Tentative Determination of
23 Claim, file a protest thereto and request a hearing thereon,
24 the Department shall give notice to such claimant, or the
25 legal representative of a deceased claimant, or a claimant
26 who is a person under legal disability of the time and place
27 fixed for such hearing, and shall hold a hearing in
28 conformity with the provisions of this Act, and pursuant
29 thereto shall issue its Final Determination of the amount, if
30 any, found to be due as a result of such hearing, to such
31 claimant, or the legal representative of a deceased claimant
32 or a claimant who is a person under legal disability.

33 If a protest to the Department's Notice of Tentative
34 Determination of Claim is not filed within 60 days and a

1 request for a hearing thereon is not made as provided herein,
2 the said Notice shall thereupon become and operate as a Final
3 Determination; and, if the Department's Notice of Tentative
4 Determination, upon becoming a Final Determination, indicates
5 no amount due to the claimant, or, upon issuance of a credit
6 or refund for the amount, if any, found by the Department to
7 be due, the claim in all its aspects shall be closed and no
8 longer open to protest, hearing, judicial review, or by any
9 other proceeding or action whatever, either before the
10 Department or in any court of this State. Claims for credit
11 or refund hereunder must be filed with and initially
12 determined by the Department, the remedy herein provided
13 being exclusive; and no court shall have jurisdiction to
14 determine the merits of any claim except upon review as
15 provided in this Act.

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

17 Section 20. The Service Use Tax Act is amended by
18 changing Sections 17 and 18 as follows:

19 (35 ILCS 110/17) (from Ch. 120, par. 439.47)

20 Sec. 17. If it shall appear that an amount of tax or
21 penalty or interest has been paid in error hereunder to the
22 Department by a purchaser, as distinguished from the
23 serviceman, whether such amount be paid through a mistake of
24 fact or an error of law, such purchaser may file a claim for
25 credit or refund with the Department. If it shall appear that
26 an amount of tax or penalty or interest has been paid in
27 error to the Department hereunder by a serviceman who is
28 required or authorized to collect and remit the Service Use
29 Tax, whether such amount be paid through a mistake of fact or
30 an error of law, such serviceman may file a claim for credit
31 or refund with the Department, provided that no credit shall
32 be allowed or refund made for any amount paid by any such

1 serviceman unless it shall appear that he bore the burden of
2 such amount and did not shift the burden thereof to anyone
3 else (as in the case of a duplicated tax payment which the
4 serviceman made to the Department and did not collect from
5 anyone else), or unless it shall appear that he or his legal
6 representative has unconditionally repaid such amount to his
7 vendee (1) who bore the burden thereof and has not shifted
8 such burden directly or indirectly in any manner whatsoever;
9 (2) who, if he has shifted such burden, has repaid
10 unconditionally such amount to his own vendee, and (3) who is
11 not entitled to receive any reimbursement therefor from any
12 other source than from his vendor, nor to be relieved of such
13 burden in any other manner whatsoever. If it shall appear
14 that an amount of tax has been paid in error hereunder by the
15 purchaser to a serviceman, who retained such tax as
16 reimbursement for his tax liability on the same sale of
17 service under the Service Occupation Tax Act, and who paid
18 such tax as required by the Service Occupation Tax Act,
19 whether such amount be paid through a mistake of fact or an
20 error of law, the procedure for recovering such tax shall be
21 that prescribed in Sections 17, 18, 19 and 20 of the Service
22 Occupation Tax Act.

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

26 Any claim filed hereunder shall be filed upon a form
27 prescribed and furnished by the Department. The claim shall
28 be signed by the claimant (or by the claimant's legal
29 representative if the claimant shall have died or become a
30 person under legal disability), or by a duly authorized agent
31 of the claimant or his or her legal representative.

32 A claim for credit or refund shall be considered to have
33 been filed with the Department on the date upon which it is
34 received by the Department. Upon receipt of any claim for

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

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

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

31 (35 ILCS 110/18) (from Ch. 120, par. 439.48)

32 Sec. 18. As soon as practicable after a claim for credit
 33 or refund is filed, the Department shall examine the same and

1 determine the amount of credit or refund to which the
2 claimant or the claimant's legal representative, in the event
3 that the claimant shall have died or become a person under
4 legal disability, is entitled and shall, by its Notice of
5 Tentative Determination of Claim, notify the claimant or his
6 legal representative of such determination,~~---which~~
7 ~~determination-shall-be-prima-facie--correct.~~ Proof of such
8 determination by the Department may be made at any hearing
9 before the Department or in any legal proceeding by a
10 reproduced copy of the Department's record relating thereto,
11 in the name of the Department under the certificate of the
12 Director of Revenue. Such reproduced copy shall, without
13 further proof, be admitted into evidence before the
14 Department or in any legal proceeding ~~and-shall-be-prima~~
15 ~~facie--proof--of--the---correctness---of---the---Department's~~
16 ~~determination,--as--shown--therein.~~ If such claimant, or the
17 legal representative of a deceased claimant or a claimant who
18 is a person under legal disability, shall, within 60 days
19 after the Department's Notice of Tentative Determination of
20 Claim, file a protest thereto and request a hearing thereon,
21 the Department shall give notice to such claimant, or the
22 legal representative of a deceased claimant or claimant who
23 is a person under legal disability, of the time and place
24 fixed for such hearing, and shall hold a hearing in
25 conformity with the provisions of this Act, and pursuant
26 thereto shall issue its Final Determination of the amount, if
27 any, found to be due as a result of such hearing, to such
28 claimant, or the legal representative of a deceased or
29 incompetent claimant.

30 If a protest to the Department's Notice of Tentative
31 Determination of Claim is not filed within 60 days and a
32 request for a hearing thereon is not made as provided herein,
33 the Notice shall thereupon become and operate as a Final
34 Determination; and, if the Department's Notice of Tentative

1 Determination upon becoming a Final Determination, indicates
2 no amount due to the claimant, or, upon issuance of a credit
3 or refund for the amount, if any, found by the Department to
4 be due, the claim in all its aspects shall be closed and no
5 longer open to protest, hearing, judicial review, or by any
6 other proceeding or action whatever, either before the
7 Department or in any court of this State. Claims for credit
8 or refund hereunder must be filed with and initially
9 determined by the Department, the remedy herein provided
10 being exclusive; and no court shall have jurisdiction to
11 determine the merits of any claim except upon review as
12 provided in this Act.

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

14 Section 25. The Service Occupation Tax Act is amended by
15 changing Sections 17 and 18 as follows:

16 (35 ILCS 115/17) (from Ch. 120, par. 439.117)

17 Sec. 17. If it shall appear that an amount of tax or
18 penalty or interest has been paid in error hereunder directly
19 to the Department by a serviceman, whether such amount be
20 paid through a mistake of fact or an error of law, such
21 serviceman may file a claim for credit or refund with the
22 Department. If it shall appear that an amount of tax or
23 penalty or interest has been paid in error to the Department
24 hereunder by a supplier who is required or authorized to
25 collect and remit the Service Occupation Tax, whether such
26 amount be paid through a mistake of fact or an error of law,
27 such supplier may file a claim for credit or refund with the
28 Department, provided that no credit shall be allowed nor any
29 refund made for any amount paid by any such supplier unless
30 it shall appear that he bore the burden of such amount and
31 did not shift the burden thereof to anyone else (as in the
32 case of a duplicated tax payment which the supplier made to

1 the Department and did not collect from anyone else), or
2 unless it shall appear that he or his legal representative
3 has unconditionally repaid such amount to his vendee (1) who
4 bore the burden thereof and has not shifted such burden
5 directly or indirectly in any manner whatsoever; (2) who, if
6 he has shifted such burden, has repaid unconditionally such
7 amount to his own vendee, and (3) who is not entitled to
8 receive any reimbursement therefor from any other source than
9 from his supplier, nor to be relieved of such burden in any
10 other manner whatsoever.

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

14 Any claim filed hereunder shall be filed upon a form
15 prescribed and furnished by the Department. The claim shall
16 be signed by the claimant (or by the claimant's legal
17 representative if the claimant shall have died or become a
18 person under legal disability), or by a duly authorized agent
19 of the claimant or his or her legal representative.

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

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

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

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

19 (35 ILCS 115/18) (from Ch. 120, par. 439.118)

20 Sec. 18. As soon as practicable after a claim for credit
 21 or refund is filed, the Department shall examine the same and
 22 determine the amount of credit or refund to which the
 23 claimant or the claimant's legal representative, in the event
 24 that the claimant shall have died or become a person under
 25 legal disability, is entitled and shall, by its Notice of
 26 Tentative Determination of Claim, notify the claimant or his
 27 or her legal representative of such determination,--which
 28 determination--shall--be--prima--facie--correct. Proof of such
 29 determination by the Department may be made at any hearing
 30 before the Department or in any legal proceeding by a
 31 reproduced copy of the Department's record relating thereto,
 32 in the name of the Department under the certificate of the
 33 Director of Revenue. Such reproduced copy shall, without

1 further proof, be admitted into evidence before the
2 Department or in any legal proceeding and--shall--be--prima
3 facie---proof---of---the---correctness--of--the--Department's
4 determination, as shown therein. If such claimant, or the
5 legal representative of a deceased claimant or a claimant who
6 is under legal disability shall, within 60 days after the
7 Department's Notice of Tentative Determination of Claim, file
8 a protest thereto and request a hearing thereon, the
9 Department shall give notice to such claimant, or the legal
10 representative of a deceased claimant or a claimant who is
11 under legal disability, of the time and place fixed for such
12 hearing, and shall hold a hearing in conformity with the
13 provisions of this Act, and pursuant thereto shall issue its
14 Final Determination of the amount, if any, found to be due as
15 a result of such hearing, to such claimant, or the legal
16 representative of a deceased claimant or a claimant who is
17 under legal disability.

18 If a protest to the Department's Notice of Tentative
19 Determination of Claim is not filed within 60 days and a
20 request for a hearing thereon is not made as provided herein,
21 the Notice shall thereupon become and operate as a Final
22 Determination; and, if the Department's Notice of Tentative
23 Determination, upon becoming a Final Determination, indicates
24 no amount due to the claimant, or, upon issuance of a credit
25 or refund for the amount, if any, found by the Department to
26 be due, the claim in all its aspects shall be closed and no
27 longer open to protest, hearing, judicial review, or by any
28 other proceeding or action whatever, either before the
29 Department or in any court of this State. Claims for credit
30 or refund hereunder must be filed with and initially
31 determined by the Department, the remedy herein provided
32 being exclusive; and no court shall have jurisdiction to
33 determine the merits of any claim except upon review as
34 provided in this Act.

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

2 Section 30. The Retailers' Occupation Tax Act is amended
3 by changing Sections 4, 5, 6a, and 6b as follows:

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

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

21 ~~In the event that the return is corrected for any reason~~
22 ~~other than a mathematical error, any return so corrected by~~
23 ~~the Department shall be prima facie correct and shall be~~
24 ~~prima facie evidence of the correctness of the amount of tax~~
25 ~~due, as shown therein.~~ In correcting transaction by
26 transaction reporting returns provided for in Section 3 of
27 this Act, it shall be permissible for the Department to show
28 a single corrected return figure for any given period of a
29 calendar month instead of having to correct each transaction
30 by transaction return form individually and having to show a
31 corrected return figure for each of such transaction by
32 transaction return forms. In making a correction of

1 transaction by transaction, monthly or quarterly returns
2 covering a period of 6 months or more, it shall be
3 permissible for the Department to show a single corrected
4 return figure for any given 6-month period.

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

8 Proof of such correction by the Department may be made at
9 any hearing before the Department or in any legal proceeding
10 by a reproduced copy or computer print-out of the
11 Department's record relating thereto in the name of the
12 Department under the certificate of the Director of Revenue.
13 If reproduced copies of the Department's records are offered
14 as proof of such correction, the Director must certify that
15 those copies are true and exact copies of records on file
16 with the Department. If computer print-outs of the
17 Department's records are offered as proof of such correction,
18 the Director must certify that those computer print-outs are
19 true and exact representations of records properly entered
20 into standard electronic computing equipment, in the regular
21 course of the Department's business, at or reasonably near
22 the time of the occurrence of the facts recorded, from
23 trustworthy and reliable information. Such certified
24 reproduced copy or certified computer print-out shall without
25 further proof, be admitted into evidence before the
26 Department or in any legal proceeding ~~and--shall--be--prima~~
27 ~~faeie--proof--of--the--correctness--of--the--amount--of--tax--due--as~~
28 ~~shown--therein.~~

29 If the tax computed upon the basis of the gross receipts
30 as fixed by the Department is greater than the amount of tax
31 due under the return or returns as filed, the Department
32 shall (or if the tax or any part thereof that is admitted to
33 be due by a return or returns, whether filed on time or not,
34 is not paid, the Department may) issue the taxpayer a notice

1 of tax liability for the amount of tax claimed by the
2 Department to be due, together with a penalty in an amount
3 determined in accordance with Section 3-3 of the Uniform
4 Penalty and Interest Act. Provided, that if the incorrectness
5 of any return or returns as determined by the Department is
6 due to negligence or fraud, said penalty shall be in an
7 amount determined in accordance with Section 3-5 or Section
8 3-6 of the Uniform Penalty and Interest Act, as the case may
9 be. ~~If--the--notice--of--tax--liability--is--not--based--on--a~~
10 ~~correction--of--the--taxpayer's--return--or--returns,--but--is--based~~
11 ~~on--the--taxpayer's--failure--to--pay--all--or--a--part--of--the--tax~~
12 ~~admitted--by--his--return--or--returns--(whether--filed--on--time--or~~
13 ~~not)--to--be--due,--such--notice--of--tax--liability--shall--be--prima~~
14 ~~facie--correct--and--shall--be--prima--facie--evidence--of--the~~
15 ~~correctness--of--the--amount--of--tax--due,--as--shown--therein.~~

16 Proof of such notice of tax liability by the Department
17 may be made at any hearing before the Department or in any
18 legal proceeding by a reproduced copy of the Department's
19 record relating thereto in the name of the Department under
20 the certificate of the Director of Revenue. ~~Such--reproduced~~
21 ~~copy--shall--without--further--proof,--be--admitted--into--evidence~~
22 ~~before--the--Department--or--in--any--legal--proceeding--and--shall--be~~
23 ~~prima--facie--proof--of--the--correctness--of--the--amount--of--tax~~
24 ~~due,--as--shown--therein.~~

25 If the person filing any return dies or becomes a person
26 under legal disability at any time before the Department
27 issues its notice of tax liability, such notice shall be
28 issued to the administrator, executor or other legal
29 representative, as such, of such person.

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

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

25 If, when a tax or penalty under this Act becomes due and
26 payable, the person alleged to be liable therefor is out of
27 the State, the notice of tax liability may be issued within
28 the times herein limited after his coming into or return to
29 the State; and if, after the tax or penalty under this Act
30 becomes due and payable, the person alleged to be liable
31 therefor departs from and remains out of the State, the time
32 of his or her absence is no part of the time limited for the
33 issuance of the notice of tax liability; but the foregoing
34 provisions concerning absence from the State shall not apply

1 to any case in which, at the time when a tax or penalty
2 becomes due under this Act, the person allegedly liable
3 therefor is not a resident of this State.

4 The time limitation period on the Department's right to
5 issue a notice of tax liability shall not run during any
6 period of time in which the Order of any Court has the effect
7 of enjoining or restraining the Department from issuing the
8 notice of tax liability.

9 If such person or legal representative shall within 60
10 days after such notice of tax liability file a protest to
11 said notice of tax liability and request a hearing thereon,
12 the Department shall give notice to such person or legal
13 representative of the time and place fixed for such hearing
14 and shall hold a hearing in conformity with the provisions of
15 this Act, and pursuant thereto shall issue to such person or
16 legal representative a final assessment for the amount found
17 to be due as a result 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, such notice of tax liability shall become final
21 without the necessity of a final assessment being issued and
22 shall be deemed to be a final assessment.

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
27 to judgment, may (subject to rules of the Department) grant a
28 rehearing (or grant departmental review and hold an original
29 hearing if no previous hearing in the matter has been held)
30 upon the application of the person aggrieved. Pursuant to
31 such hearing or rehearing, the Department shall issue a
32 revised final assessment to such person or his legal
33 representative for the amount found to be due as a result of
34 such hearing or rehearing.

1 (Source: P.A. 89-379, eff. 1-1-96.)

2 (35 ILCS 120/5) (from Ch. 120, par. 444)

3 Sec. 5. In case any person engaged in the business of
4 selling tangible personal property at retail fails to file a
5 return when and as herein required, but thereafter, prior to
6 the Department's issuance of a notice of tax liability under
7 this Section, files a return and pays the tax, he shall also
8 pay a penalty in an amount determined in accordance with
9 Section 3-3 of the Uniform Penalty and Interest Act.

10 In case any person engaged in the business of selling
11 tangible personal property at retail files the return at the
12 time required by this Act but fails to pay the tax, or any
13 part thereof, when due, a penalty in an amount determined in
14 accordance with Section 3-3 of the Uniform Penalty and
15 Interest Act shall be added thereto.

16 In case any person engaged in the business of selling
17 tangible personal property at retail fails to file a return
18 when and as herein required, but thereafter, prior to the
19 Department's issuance of a notice of tax liability under this
20 Section, files a return but fails to pay the entire tax, a
21 penalty in an amount determined in accordance with Section
22 3-3 of the Uniform Penalty and Interest Act shall be added
23 thereto.

24 In case any person engaged in the business of selling
25 tangible personal property at retail fails to file a return,
26 the Department shall determine the amount of tax due from him
27 according to its best judgment and information, ~~which amount~~
28 ~~so fixed by the Department shall be prima facie correct and~~
29 ~~shall be prima facie evidence of the correctness of the~~
30 ~~amount of tax due, as shown in such determination.~~ In making
31 any such determination of tax due, it shall be permissible
32 for the Department to show a figure that represents the tax
33 due for any given period of 6 months instead of showing the

1 amount of tax due for each month separately. Proof of such
2 determination by the Department may be made at any hearing
3 before the Department or in any legal proceeding by a
4 reproduced copy or computer print-out of the Department's
5 record relating thereto in the name of the Department under
6 the certificate of the Director of Revenue. If reproduced
7 copies of the Department's records are offered as proof of
8 such determination, the Director must certify that those
9 copies are true and exact copies of records on file with the
10 Department. If computer print-outs of the Department's
11 records are offered as proof of such determination, the
12 Director must certify that those computer print-outs are true
13 and exact representations of records properly entered into
14 standard electronic computing equipment, in the regular
15 course of the Department's business, at or reasonably near
16 the time of the occurrence of the facts recorded, from
17 trustworthy and reliable information. Such certified
18 reproduced copy or certified computer print-out shall,
19 without further proof, be admitted into evidence before the
20 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.~~ The Department shall issue the taxpayer a
23 notice of tax liability for the amount of tax claimed by the
24 Department to be due, together with a penalty of 30% thereof.

25 However, where the failure to file any tax return
26 required under this Act on the date prescribed therefor
27 (including any extensions thereof), is shown to be
28 unintentional and nonfraudulent and has not occurred in the 2
29 years immediately preceding the failure to file on the
30 prescribed date or is due to other reasonable cause the
31 penalties imposed by this Act shall not apply.

32 If such person or the legal representative of such person
33 files, within 60 days after such notice, a protest to such
34 notice of tax liability and requests a hearing thereon, the

1 Department shall give notice to such person or the legal
2 representative of such person of the time and place fixed for
3 such hearing, and shall hold a hearing in conformity with the
4 provisions of this Act, and pursuant thereto shall issue a
5 final assessment to such person or to the legal
6 representative of such person for the amount found to be due
7 as a result of such hearing.

8 If a protest to the notice of tax liability and a request
9 for a hearing thereon is not filed within 60 days after such
10 notice, such notice of tax liability shall become final
11 without the necessity of a final assessment being issued and
12 shall be deemed to be a final assessment.

13 After the issuance of a final assessment, or a notice of
14 tax liability which becomes final without the necessity of
15 actually issuing a final assessment as hereinbefore provided,
16 the Department, at any time before such assessment is reduced
17 to judgment, may (subject to rules of the Department) grant a
18 rehearing (or grant departmental review and hold an original
19 hearing if no previous hearing in the matter has been held)
20 upon the application of the person aggrieved. Pursuant to
21 such hearing or rehearing, the Department shall issue a
22 revised final assessment to such person or his legal
23 representative for the amount found to be due as a result of
24 such hearing or rehearing.

25 Except in case of failure to file a return, or with the
26 consent of the person to whom the notice of tax liability is
27 to be issued, no notice of tax liability shall be issued on
28 and after each July 1 and January 1 covering gross receipts
29 received during any month or period of time more than 3 years
30 prior to such July 1 and January 1, respectively, except that
31 if a return is not filed at the required time, a notice of
32 tax liability may be issued not later than 3 years after the
33 time the return is filed. The foregoing limitations upon the
34 issuance of a notice of tax liability shall not apply to the

1 issuance of any such notice with respect to any period of
2 time prior thereto in cases where the Department has, within
3 the period of limitation then provided, notified a person of
4 the amount of tax computed even though the Department had not
5 determined the amount of tax due from such person in the
6 manner required herein prior to the issuance of such notice,
7 but in no case shall the amount of any such notice of tax
8 liability for any period otherwise barred by this Act exceed
9 for such period the amount shown in the notice theretofore
10 issued.

11 If, when a tax or penalty under this Act becomes due and
12 payable, the person alleged to be liable therefor is out of
13 the State, the notice of tax liability may be issued within
14 the times herein limited after his or her coming into or
15 return to the State; and if, after the tax or penalty under
16 this Act becomes due and payable, the person alleged to be
17 liable therefor departs from and remains out of the State,
18 the time of his or her absence is no part of the time limited
19 for the issuance of the notice of tax liability; but the
20 foregoing provisions concerning absence from the State shall
21 not apply to any case in which, at the time when a tax or
22 penalty becomes due under this Act, the person allegedly
23 liable therefor is not a resident of this State.

24 The time limitation period on the Department's right to
25 issue a notice of tax liability shall not run during any
26 period of time in which the order of any court has the effect
27 of enjoining or restraining the Department from issuing the
28 notice of tax liability.

29 In case of failure to pay the tax, or any portion
30 thereof, or any penalty provided for in this Act, or
31 interest, when due, the Department may bring suit to recover
32 the amount of such tax, or portion thereof, or penalty or
33 interest; or, if the taxpayer has died or become a person
34 under legal disability, may file a claim therefor against his

1 estate; provided that no such suit with respect to any tax,
2 or portion thereof, or penalty, or interest shall be
3 instituted more than 2 years after the date any proceedings
4 in court for review thereof have terminated or the time for
5 the taking thereof has expired without such proceedings being
6 instituted, except with the consent of the person from whom
7 such tax or penalty or interest is due; nor, except with such
8 consent, shall such suit be instituted more than 2 years
9 after the date any return is filed with the Department in
10 cases where the return constitutes the basis for the suit for
11 unpaid tax, or portion thereof, or penalty provided for in
12 this Act, or interest: Provided that the time limitation
13 period on the Department's right to bring any such suit shall
14 not run during any period of time in which the order of any
15 court has the effect of enjoining or restraining the
16 Department from bringing such suit.

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

1 requirements of the Act in arriving at its final assessment
2 or its revised final assessment and that the taxpayer had his
3 opportunity for an administrative hearing and for judicial
4 review, whether he availed himself of either or both of these
5 opportunities or not, the court shall render judgment in
6 favor of the Department and against the taxpayer for the
7 amount shown to be due by the final assessment or the revised
8 final assessment, plus any interest which may be due, and
9 such judgment shall be entered in the judgment docket of the
10 court. Such judgment shall bear the rate of interest as set
11 by the Uniform Penalty and Interest Act, but otherwise shall
12 have the same effect as other judgments. The judgment may be
13 enforced, and all laws applicable to sales for the
14 enforcement of a judgment shall be applicable to sales made
15 under such judgments. The Department shall file the certified
16 copy of its assessment, as herein provided, with the Circuit
17 Court within 2 years after such assessment becomes final
18 except when the taxpayer consents in writing to an extension
19 of such filing period, and except that the time limitation
20 period on the Department's right to file the certified copy
21 of its assessment with the Circuit Court shall not run during
22 any period of time in which the order of any court has the
23 effect of enjoining or restraining the Department from filing
24 such certified copy of its assessment with the Circuit Court.

25 If, when the cause of action for a proceeding in court
26 accrues against a person, he or she is out of the State, the
27 action may be commenced within the times herein limited,
28 after his or her coming into or return to the State; and if,
29 after the cause of action accrues, he or she departs from and
30 remains out of the State, the time of his or her absence is
31 no part of the time limited for the commencement of the
32 action; but the foregoing provisions concerning absence from
33 the State shall not apply to any case in which, at the time
34 the cause of action accrues, the party against whom the cause

1 of action accrues is not a resident of this State. The time
2 within which a court action is to be commenced by the
3 Department hereunder shall not run from the date the taxpayer
4 files a petition in bankruptcy under the Federal Bankruptcy
5 Act until 30 days after notice of termination or expiration
6 of the automatic stay imposed by the Federal Bankruptcy Act.

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

12 The collection of tax or penalty or interest by any means
13 provided for herein shall not be a bar to any prosecution
14 under this Act.

15 In addition to any penalty provided for in this Act, any
16 amount of tax which is not paid when due shall bear interest
17 at the rate and in the manner specified in Sections 3-2 and
18 3-9 of the Uniform Penalty and Interest Act from the date
19 when such tax becomes past due until such tax is paid or a
20 judgment therefor is obtained by the Department. If the time
21 for making or completing an audit of a taxpayer's books and
22 records is extended with the taxpayer's consent, at the
23 request of and for the convenience of the Department, beyond
24 the date on which the statute of limitations upon the
25 issuance of a notice of tax liability by the Department
26 otherwise would run, no interest shall accrue during the
27 period of such extension or until a Notice of Tax Liability
28 is issued, whichever occurs first.

29 In addition to any other remedy provided by this Act, and
30 regardless of whether the Department is making or intends to
31 make use of such other remedy, where a corporation or limited
32 liability company registered under this Act violates the
33 provisions of this Act or of any rule or regulation
34 promulgated thereunder, the Department may give notice to the

1 Attorney General of the identity of such a corporation or
2 limited liability company and of the violations committed by
3 such a corporation or limited liability company, for such
4 action as is not already provided for by this Act and as the
5 Attorney General may deem appropriate.

6 If the Department determines that an amount of tax or
7 penalty or interest was incorrectly assessed, whether as the
8 result of a mistake of fact or an error of law, the
9 Department shall waive the amount of tax or penalty or
10 interest that accrued due to the incorrect assessment.

11 (Source: P.A. 87-193; 87-205; 87-895; 88-480.)

12 (35 ILCS 120/6a) (from Ch. 120, par. 445a)

13 Sec. 6a. Claims for credit or refund shall be prepared
14 and filed upon forms provided by the Department. Each claim
15 shall state: (1) The name and principal business address of
16 the claimant; (2) the period covered by the claim; (3) the
17 total amount of credit or refund claimed, giving in detail
18 the net amount of taxable receipts reported each month or
19 other return period used by the claimant as the basis for
20 filing returns in the period covered by the claim; (4) the
21 total amount of tax paid for each return period; (5) receipts
22 upon which tax liability is admitted for each return period;
23 (6) the amount of receipts on which credit or refund is
24 claimed for each return period; (7) the tax due for each
25 return period as corrected; (8) the amount of credit or
26 refund claimed for each return period; (9) reason or reasons
27 why the amount, for which the claim is filed, is alleged to
28 have been paid in error; (10) a list of the evidence
29 (documentary or otherwise) which the claimant has available
30 to establish his compliance with Section 6 as to bearing the
31 burden of the tax for which he seeks credit or refund; (11)
32 payments or parts thereof (if any) included in the claim and
33 paid by the claimant under protest; (12) sufficient

1 information to identify any suit which involves this Act, and
 2 to which the claimant is a party, and (13) such other
 3 information as the Department may reasonably require. Where
 4 the claimant is a corporation or limited liability company,
 5 the claim filed on behalf of such corporation or limited
 6 liability company shall be signed by the president,
 7 vice-president, secretary or treasurer, by the properly
 8 accredited agent of such corporation, or by a manager,
 9 member, or properly accredited agent of the limited liability
 10 company.

11 A claim for credit or refund shall be considered to have
 12 been filed with the Department on the date upon which it is
 13 received by the Department. Upon receipt of any claim for
 14 credit or refund filed under this Act, any officer or
 15 employee of the Department, authorized in writing by the
 16 Director of Revenue to acknowledge receipt of such claims on
 17 behalf of the Department, shall execute on behalf of the
 18 Department, and shall deliver or mail to the claimant or his
 19 duly authorized agent, a written receipt, acknowledging that
 20 the claim has been filed with the Department, describing the
 21 claim in sufficient detail to identify it and stating the
 22 date upon which the claim was received by the Department.
 23 Such written receipt shall be prima facie evidence that the
 24 Department received the claim described in such receipt and
 25 shall be prima facie evidence of the date when such claim was
 26 received by the Department. ~~In-the-absence-of-such-a-written~~
 27 ~~receipt,-the-records-of-the-Department-as-to-when-the-claim~~
 28 ~~was-received-by-the-Department,-or-as-to-whether-or-not-the~~
 29 ~~claim-was-received-at-all-by-the-Department,-shall-be-deemed~~
 30 ~~to-be-prima-facie-correct-upon-these-questions-in-the-event~~
 31 ~~of-any-dispute-between-the-claimant-(or-his-legal~~
 32 ~~representative)-and-the-Department-concerning-these~~
 33 ~~questions.~~

34 (Source: P.A. 88-480.)

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

2 Sec. 6b. As soon as practicable after a claim for credit
3 or refund is filed, the Department shall examine the same and
4 determine the amount of credit or refund to which the
5 claimant or the taxpayer's legal representative, in the event
6 that the taxpayer has died or become incompetent, is entitled
7 and shall, by its Notice of Tentative Determination of Claim,
8 notify the claimant or his legal representative of such
9 determination, ~~which determination shall be prima facie~~
10 ~~correct~~. Proof of such determination by the Department may be
11 made at any hearing before the Department or in any legal
12 proceeding by a reproduced copy of the Department's record
13 relating thereto, in the name of the Department under the
14 certificate of the Director of Revenue. Such reproduced copy
15 shall, without further proof, be admitted into evidence
16 before the Department or in any legal proceeding ~~and shall be~~
17 ~~prima facie proof of the correctness of the Department's~~
18 ~~determination, as shown therein~~. If such claimant, or the
19 legal representative of a deceased or incompetent taxpayer,
20 within 60 days after the Department's Notice of Tentative
21 Determination of Claim, files a protest thereto and requests
22 a hearing thereon, the Department shall give notice to such
23 claimant, or the legal representative of a deceased taxpayer,
24 or a taxpayer who is under legal disability of the time and
25 place fixed for such hearing, and shall hold a hearing in
26 conformity with the provisions of this Act, and pursuant
27 thereto shall issue its Final Determination of the amount, if
28 any, found to be due as a result of such hearing, to such
29 claimant, or the legal representative of a deceased taxpayer,
30 or a taxpayer who is under legal disability. The Department's
31 Final Determination may be reviewed by the proper Circuit
32 Court, in the same manner, within the same time, upon the
33 same terms and conditions and to the same extent, as provided
34 by Section 12 of this Act.

1 In any case in which there has been an erroneous refund
 2 of tax payable under this Act, a notice of tax liability may
 3 be issued at any time within 3 years from the making of that
 4 refund, or within 5 years from the making of that refund if
 5 it appears that any part of the refund was induced by fraud
 6 or the misrepresentation of a material fact. The amount of
 7 any proposed assessment set forth in the notice shall be
 8 limited to the amount of the erroneous refund.

9 (Source: P.A. 87-876; 87-879; 88-45.)

10 Section 35. The Cigarette Tax Act is amended by changing
 11 Sections 9a and 9b as follows:

12 (35 ILCS 130/9a) (from Ch. 120, par. 453.9a)

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

14 (1) As soon as practicable after any return is filed,
 15 the Department shall examine such return and shall correct
 16 such return according to its best judgment and information,
 17 ~~which return so corrected by the Department shall be prima~~
 18 ~~faeie correct and shall be prima faeie evidence of the~~
 19 ~~correctness of the amount of tax due, as shown therein.~~
 20 Instead of requiring the distributor to file an amended
 21 return, the Department may simply notify the distributor of
 22 the correction or corrections it has made. Proof of such
 23 correction by the Department may be made at any hearing
 24 before the Department or in any legal proceeding by a
 25 reproduced copy of the Department's record relating thereto
 26 in the name of the Department under the certificate of the
 27 Director of Revenue. Such reproduced copy shall, without
 28 further proof, be admitted into evidence before the
 29 Department or in any legal proceeding ~~and shall be prima~~
 30 ~~faeie proof of the correctness of the amount of tax due, as~~
 31 ~~shown therein.~~ If the Department finds that any amount of tax
 32 is due from the distributor, the Department shall issue the

1 distributor a notice of tax liability for the amount of tax
2 claimed by the Department to be due, together with a penalty
3 in an amount determined in accordance with Sections 3-3, 3-5
4 and 3-6 of the Uniform Penalty and Interest Act. If, in
5 administering the provisions of this Act, comparison of a
6 return or returns of a distributor with the books, records
7 and inventories of such distributor discloses a deficiency
8 which cannot be allocated by the Department to a particular
9 month or months, the Department shall issue the distributor a
10 notice of tax liability for the amount of tax claimed by the
11 Department to be due for a given period, but without any
12 obligation upon the Department to allocate such deficiency to
13 any particular month or months, together with a penalty in an
14 amount determined in accordance with Sections 3-3, 3-5 and
15 3-6 of the Uniform Penalty and Interest Act, ~~under which~~
16 ~~circumstances the aforesaid notice of tax liability shall be~~
17 ~~prima facie correct and shall be prima facie evidence of the~~
18 ~~correctness of the amount of tax due, as shown therein;~~ and
19 proof of such correctness may be made in accordance with, and
20 the admissibility of a reproduced copy of such notice of tax
21 liability shall be governed by, all the provisions of this
22 Act applicable to corrected returns. If any distributor
23 filing any return dies or becomes a person under legal
24 disability at any time before the Department issues its
25 notice of tax liability, such notice shall be issued to the
26 administrator, executor or other legal representative, as
27 such, of such distributor.

28 (2) If, within 60 days after such notice of tax
29 liability, the distributor or his or her legal representative
30 files a protest to such notice of tax liability and requests
31 a hearing thereon, the Department shall give notice to such
32 distributor or legal representative of the time and place
33 fixed for such hearing, and shall hold a hearing in
34 conformity with the provisions of this Act, and pursuant

1 thereto shall issue a final assessment to such distributor or
2 legal representative for the amount found to be due as a
3 result of such hearing. If a protest to the notice of tax
4 liability and a request for a hearing thereon is not filed
5 within 60 days after such notice of tax liability, such
6 notice of tax liability shall become final without the
7 necessity of a final assessment being issued and shall be
8 deemed to be a final assessment.

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

18 After the expiration of the period within which the
19 person assessed may file an action for judicial review under
20 the Administrative Review Law without such an action being
21 filed, a certified copy of the final assessment or revised
22 final assessment of the Department may be filed with the
23 Circuit Court of the county in which the taxpayer has his or
24 her principal place of business, or of Sangamon County in
25 those cases in which the taxpayer does not have his principal
26 place of business in this State. The certified copy of the
27 final assessment or revised final assessment shall be
28 accompanied by a certification which recites facts that are
29 sufficient to show that the Department complied with the
30 jurisdictional requirements of the Law in arriving at its
31 final assessment or its revised final assessment and that the
32 taxpayer had his or her opportunity for an administrative
33 hearing and for judicial review, whether he availed himself
34 or herself of either or both of these opportunities or not.

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

21 If, when the cause of action for a proceeding in court
22 accrues against a person, he or she is out of the State, the
23 action may be commenced within the times herein limited,
24 after his or her coming into or return to the State; and if,
25 after the cause of action accrues, he or she departs from and
26 remains out of the State, the time of his or her absence is
27 no part of the time limited for the commencement of the
28 action; but the foregoing provisions concerning absence from
29 the State shall not apply to any case in which, at the time
30 the cause of action accrues, the party against whom the cause
31 of action accrues is not a resident of this State. The time
32 within which a court action is to be commenced by the
33 Department hereunder shall not run while the taxpayer is a
34 debtor in any proceeding under the Federal Bankruptcy Act nor

1 thereafter until 90 days after the Department is notified by
2 such debtor of being discharged in bankruptcy.

3 No claim shall be filed against the estate of any
4 deceased person or a person under legal disability for any
5 tax or penalty or part of either except in the manner
6 prescribed and within the time limited by the Probate Act of
7 1975, as amended.

8 The remedies provided for herein shall not be exclusive,
9 but all remedies available to creditors for the collection of
10 debts shall be available for the collection of any tax or
11 penalty due hereunder.

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

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

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

30 (Source: P.A. 92-322, eff. 1-1-02.)

31 (35 ILCS 130/9b) (from Ch. 120, par. 453.9b)

32 Sec. 9b. Failure to file return; penalty; protest. In
33 case any person who is required to file a return under this

1 Act fails to file such return, the Department shall determine
2 the amount of tax due from him according to its best judgment
3 and information, ~~which amount is fixed by the Department~~
4 ~~shall be prima facie correct and shall be prima facie~~
5 ~~evidence of the correctness of the amount of tax due, as~~
6 ~~shown in such determination.~~ Proof of such determination by
7 the Department may be made at any hearing before the
8 Department or in any legal proceeding by a reproduced copy of
9 the Department's record relating thereto in the name of the
10 Department under the certificate of the Director of Revenue.
11 Such reproduced copy shall, without further proof, be
12 admitted into evidence before the Department or in any legal
13 proceeding ~~and shall be prima facie proof of the correctness~~
14 ~~of the amount of tax due, as shown therein.~~ The Department
15 shall issue such person a notice of tax liability for the
16 amount of tax claimed by the Department to be due, together
17 with a penalty in an amount determined in accordance with
18 Sections 3-3, 3-5 and 3-6 of the Uniform Penalty and Interest
19 Act. If such person or the legal representative of such
20 person, within 60 days after such notice, files a protest to
21 such notice of tax liability and requests a hearing thereon,
22 the Department shall give notice to such person or the legal
23 representative of such person of the time and place fixed for
24 such hearing and shall hold a hearing in conformity with the
25 provisions of this Act, and pursuant thereto shall issue a
26 final assessment to such person or to the legal
27 representative of such person for the amount found to be due
28 as a result of such hearing. If a protest to the notice of
29 tax liability and a request for a hearing thereon is not
30 filed within 60 days after such notice of tax liability, such
31 notice of tax liability shall become final without the
32 necessity of a final assessment being issued and shall be
33 deemed to be a final assessment.

34 (Source: P.A. 92-322, eff. 1-1-02.)

1 Section 40. The Cigarette Use Tax Act is amended by
2 changing Sections 13 and 13a as follows:

3 (35 ILCS 135/13) (from Ch. 120, par. 453.43)

4 Sec. 13. Examination and correction of return. As soon
5 as practicable after any return is filed, the Department
6 shall examine such return and shall correct such return
7 according to its best judgment and information, ~~which return~~
8 ~~so corrected by the Department shall be prima facie correct~~
9 ~~and shall be prima facie evidence of the correctness of the~~
10 ~~amount of tax due, as shown therein.~~ Proof of such correction
11 by the Department may be made at any hearing before the
12 Department or in any legal proceeding by a reproduced copy of
13 the Department's record relating thereto in the name of the
14 Department under the certificate of the Director of Revenue.
15 Such reproduced copy shall, without further proof, be
16 admitted into evidence before the Department or in any legal
17 proceeding ~~and shall be prima facie proof of the correctness~~
18 ~~of the amount of tax due, as shown therein.~~ If the tax as
19 fixed by the Department is greater than the amount of the tax
20 due under the return as filed, the Department shall issue the
21 person filing such return a notice of tax liability for the
22 amount of tax claimed by the Department to be due, together
23 with a penalty in an amount determined in accordance with
24 Sections 3-3, 3-5 and 3-6 of the Uniform Penalty and Interest
25 Act. If, in administering the provisions of this Act,
26 comparison of a return or returns of a distributor with the
27 books, records and inventories of such distributor discloses
28 a deficiency which cannot be allocated by the Department to a
29 particular month or months, the Department shall issue the
30 distributor a notice of tax liability for the amount of tax
31 claimed by the Department to be due for a given period, but
32 without any obligation upon the Department to allocate such
33 deficiency to any particular month or months, together with a

1 penalty in an amount determined in accordance with Sections
2 3-3, 3-5 and 3-6 of the Uniform Penalty and Interest Act,
3 ~~under--which--circumstances--the--aforesaid--notice--of---tax~~
4 ~~liability--shall--be--prima--faeie--correet-and-shall-be-prima~~
5 ~~faeie-evidence-of-the-correetness-of-the-amount-of--tax--due,~~
6 ~~as--shown--therein;~~ and proof of such correctness may be made
7 in accordance with, and the admissibility of a reproduced
8 copy of such notice of tax liability shall be governed by,
9 all the provisions of this Act applicable to corrected
10 returns.

11 If any person filing any return dies or becomes a person
12 under legal disability at any time before the Department
13 issues its notice of tax liability, such notice shall be
14 issued to the administrator, executor or other legal
15 representative, as such, of such person.

16 If within 60 days after such notice of tax liability, the
17 person to whom such notice is issued or his legal
18 representative files a protest to such notice of tax
19 liability and requests a hearing thereon, the Department
20 shall give notice to such person or legal representative of
21 the time and place fixed for such hearing, and shall hold a
22 hearing in conformity with the provisions of this Act, and
23 pursuant thereto shall issue a final assessment to such
24 person or legal representative for the amount found to be due
25 as a result of such hearing. If a protest to the notice of
26 tax liability and a request for a hearing thereon is not
27 filed within 60 days after such notice of tax liability, such
28 notice of tax liability shall become final without the
29 necessity of a final assessment being issued and shall be
30 deemed to be a final assessment.

31 (Source: P.A. 92-322, eff. 1-1-02.)

32 (35 ILCS 135/13a) (from Ch. 120, par. 453.43a)

33 Sec. 13a. Failure to file return. In case any person who

1 is required to file a return under this Act fails to file
2 such return, the Department shall determine the amount of tax
3 due from him according to its best judgment and information,
4 ~~which--amount--so--fixed--by--the--Department--shall--be--prima--facie~~
5 ~~correct--and--shall--be--prima--facie--evidence--of--the--correctness~~
6 ~~of--the--amount--of--tax--due,--as--shown--in--such--determination.~~
7 Proof of such determination by the Department may be made at
8 any hearing before the Department or in any legal proceeding
9 by a reproduced copy of the Department's record relating
10 thereto in the name of the Department under the certificate
11 of the Director of Revenue. Such reproduced copy shall,
12 without further proof, be admitted into evidence before the
13 Department or in any legal proceeding ~~and--shall--be--prima~~
14 ~~facie--proof--of--the--correctness--of--the--amount--of--tax--due,--as~~
15 ~~shown--therein.~~ The Department shall issue such person a
16 notice of tax liability for the amount of tax claimed by the
17 Department to be due, together with a penalty in an amount
18 determined in accordance with Sections 3-3, 3-5 and 3-6 of
19 the Uniform Penalty and Interest Act. If such person or the
20 legal representative of such person, within 60 days after
21 such notice, files a protest to such notice of tax liability
22 and requests a hearing thereon, the Department shall give
23 notice to such person or the legal representative of such
24 person of the time and place fixed for such hearing, and
25 shall hold a hearing in conformity with the provisions of
26 this Act, and pursuant thereto shall issue a final assessment
27 to such person or to the legal representative of such person
28 for the amount found to be due as a result of such hearing.
29 If a protest to the notice of tax liability and a request for
30 a hearing thereon is not filed within 60 days after such
31 notice of tax liability, such notice of tax liability shall
32 become final without the necessity of a final assessment
33 being issued and shall be deemed to be a final assessment.

34 (Source: P.A. 92-322, eff. 1-1-02.)

1 Section 43. The Hotel Operators' Occupation Tax Act is
2 amended by changing Section 6 as follows:

3 (35 ILCS 145/6) (from Ch. 120, par. 481b.36)

4 Sec. 6. Except as provided hereinafter in this Section,
5 on or before the last day of each calendar month, every
6 person engaged in the business of renting, leasing or letting
7 rooms in a hotel in this State during the preceding calendar
8 month shall file a return with the Department, stating:

- 9 1. The name of the operator;
- 10 2. His residence address and the address of his
11 principal place of business and the address of the
12 principal place of business (if that is a different
13 address) from which he engages in the business of
14 renting, leasing or letting rooms in a hotel in this
15 State;
- 16 3. Total amount of rental receipts received by him
17 during the preceding calendar month from renting, leasing
18 or letting rooms during such preceding calendar month;
- 19 4. Total amount of rental receipts received by him
20 during the preceding calendar month from renting, leasing
21 or letting rooms to permanent residents during such
22 preceding calendar month;
- 23 5. Total amount of other exclusions from gross
24 rental receipts allowed by this Act;
- 25 6. Gross rental receipts which were received by him
26 during the preceding calendar month and upon the basis of
27 which the tax is imposed;
- 28 7. The amount of tax due;
- 29 8. Such other reasonable information as the
30 Department may require.

31 If the operator's average monthly tax liability to the
32 Department does not exceed \$200, the Department may authorize
33 his returns to be filed on a quarter annual basis, with the

1 return for January, February and March of a given year being
2 due by April 30 of such year; with the return for April, May
3 and June of a given year being due by July 31 of such year;
4 with the return for July, August and September of a given
5 year being due by October 31 of such year, and with the
6 return for October, November and December of a given year
7 being due by January 31 of the following year.

8 If the operator's average monthly tax liability to the
9 Department does not exceed \$50, the Department may authorize
10 his returns to be filed on an annual basis, with the return
11 for a given year being due by January 31 of the following
12 year.

13 Such quarter annual and annual returns, as to form and
14 substance, shall be subject to the same requirements as
15 monthly returns.

16 Notwithstanding any other provision in this Act
17 concerning the time within which an operator may file his
18 return, in the case of any operator who ceases to engage in a
19 kind of business which makes him responsible for filing
20 returns under this Act, such operator shall file a final
21 return under this Act with the Department not more than 1
22 month after discontinuing such business.

23 Where the same person has more than 1 business registered
24 with the Department under separate registrations under this
25 Act, such person shall not file each return that is due as a
26 single return covering all such registered businesses, but
27 shall file separate returns for each such registered
28 business.

29 In his return, the operator shall determine the value of
30 any consideration other than money received by him in
31 connection with the renting, leasing or letting of rooms in
32 the course of his business and he shall include such value in
33 his return. Such determination shall be subject to review
34 and revision by the Department in the manner hereinafter

1 provided for the correction of returns.

2 Where the operator is a corporation, the return filed on
3 behalf of such corporation shall be signed by the president,
4 vice-president, secretary or treasurer or by the properly
5 accredited agent of such corporation.

6 The person filing the return herein provided for shall,
7 at the time of filing such return, pay to the Department the
8 amount of tax herein imposed. The operator filing the return
9 under this Section shall, at the time of filing such return,
10 pay to the Department the amount of tax imposed by this Act
11 less a discount of 2.1% or \$25 per calendar year, whichever
12 is greater, which is allowed to reimburse the operator for
13 the expenses incurred in keeping records, preparing and
14 filing returns, remitting the tax and supplying data to the
15 Department on request.

16 There shall be deposited in the Build Illinois Fund in
17 the State Treasury for each State fiscal year 40% of the
18 amount of total net proceeds from the tax imposed by
19 subsection (a) of Section 3. Of the remaining 60%, \$5,000,000
20 shall be deposited in the Illinois Sports Facilities Fund and
21 credited to the Subsidy Account each fiscal year by making
22 monthly deposits in the amount of 1/8 of \$5,000,000 plus
23 cumulative deficiencies in such deposits for prior months,
24 and an additional \$8,000,000 shall be deposited in the
25 Illinois Sports Facilities Fund and credited to the Advance
26 Account each fiscal year by making monthly deposits in the
27 amount of 1/8 of \$8,000,000 plus any cumulative deficiencies
28 in such deposits for prior months; provided, that for fiscal
29 years ending after June 30, 2001, the amount to be so
30 deposited into the Illinois Sports Facilities Fund and
31 credited to the Advance Account each fiscal year shall be
32 increased from \$8,000,000 to the then applicable Advance
33 Amount and the required monthly deposits beginning with July
34 2001 shall be in the amount of 1/8 of the then applicable

1 Advance Amount plus any cumulative deficiencies in those
2 deposits for prior months. (The deposits of the additional
3 \$8,000,000 or the then applicable Advance Amount, as
4 applicable, during each fiscal year shall be treated as
5 advances of funds to the Illinois Sports Facilities Authority
6 for its corporate purposes to the extent paid to the
7 Authority or its trustee and shall be repaid into the General
8 Revenue Fund in the State Treasury by the State Treasurer on
9 behalf of the Authority pursuant to Section 19 of the
10 Illinois Sports Facilities Authority Act, as amended. If in
11 any fiscal year the full amount of the then applicable
12 Advance Amount is not repaid into the General Revenue Fund,
13 then the deficiency shall be paid from the amount in the
14 Local Government Distributive Fund that would otherwise be
15 allocated to the City of Chicago under the State Revenue
16 Sharing Act.)

17 For purposes of the foregoing paragraph, the term
18 "Advance Amount" means, for fiscal year 2002, \$22,179,000,
19 and for subsequent fiscal years through fiscal year 2032,
20 105.615% of the Advance Amount for the immediately preceding
21 fiscal year, rounded up to the nearest \$1,000.

22 Of the remaining 60% of the amount of total net proceeds
23 from the tax imposed by subsection (a) of Section 3 after all
24 required deposits in the Illinois Sports Facilities Fund, the
25 amount equal to 8% of the net revenue realized from the Hotel
26 Operators' Occupation Tax Act plus an amount equal to 8% of
27 the net revenue realized from any tax imposed under Section
28 4.05 of the Chicago World's Fair-1992 Authority Act during
29 the preceding month shall be deposited in the Local Tourism
30 Fund each month for purposes authorized by Section 605-705 of
31 the Department of Commerce and Community Affairs Law (20 ILCS
32 605/605-705) in the Local Tourism Fund, and beginning August
33 1, 1999, the amount equal to 4.5% of the net revenue realized
34 from the Hotel Operators' Occupation Tax Act during the

1 preceding month shall be deposited into the International
2 Tourism Fund for the purposes authorized in Section 605-707
3 605-725 of the Department of Commerce and Community Affairs
4 Law. "Net revenue realized for a month" means the revenue
5 collected by the State under that Act during the previous
6 month less the amount paid out during that same month as
7 refunds to taxpayers for overpayment of liability under that
8 Act.

9 After making all these deposits, all other proceeds of
10 the tax imposed under subsection (a) of Section 3 shall be
11 deposited in the General Revenue Fund in the State Treasury.
12 All moneys received by the Department from the additional tax
13 imposed under subsection (b) of Section 3 shall be deposited
14 into the Build Illinois Fund in the State Treasury.

15 The Department may, upon separate written notice to a
16 taxpayer, require the taxpayer to prepare and file with the
17 Department on a form prescribed by the Department within not
18 less than 60 days after receipt of the notice an annual
19 information return for the tax year specified in the notice.
20 Such annual return to the Department shall include a
21 statement of gross receipts as shown by the operator's last
22 State income tax return. If the total receipts of the
23 business as reported in the State income tax return do not
24 agree with the gross receipts reported to the Department for
25 the same period, the operator shall attach to his annual
26 information return a schedule showing a reconciliation of the
27 2 amounts and the reasons for the difference. The operator's
28 annual information return to the Department shall also
29 disclose pay roll information of the operator's business
30 during the year covered by such return and any additional
31 reasonable information which the Department deems would be
32 helpful in determining the accuracy of the monthly, quarterly
33 or annual tax returns by such operator as hereinbefore
34 provided for in this Section.

1 Notwithstanding any provision to the contrary, in the
2 case of a dispute between a taxpayer and the Department under
3 this Act, the taxpayer's position shall be presumed to be the
4 correct one and the burden of proof shall be on the
5 Department to prove otherwise.

6 If the annual information return required by this Section
7 is not filed when and as required the taxpayer shall be
8 liable for a penalty in an amount determined in accordance
9 with Section 3-4 of the Uniform Penalty and Interest Act
10 until such return is filed as required, the penalty to be
11 assessed and collected in the same manner as any other
12 penalty provided for in this Act.

13 The chief executive officer, proprietor, owner or highest
14 ranking manager shall sign the annual return to certify the
15 accuracy of the information contained therein. Any person
16 who willfully signs the annual return containing false or
17 inaccurate information shall be guilty of perjury and
18 punished accordingly. The annual return form prescribed by
19 the Department shall include a warning that the person
20 signing the return may be liable for perjury.

21 The foregoing portion of this Section concerning the
22 filing of an annual information return shall not apply to an
23 operator who is not required to file an income tax return
24 with the United States Government.

25 (Source: P.A. 91-239, eff. 1-1-00; 91-604, eff. 8-16-99;
26 91-935, eff. 6-1-01; 92-16, eff. 6-28-01; 92-600, eff.
27 6-28-02; revised 12-17-02.)

28 Section 45. The Motor Fuel Tax Law is amended by
29 changing Sections 5 and 5a as follows:

30 (35 ILCS 505/5) (from Ch. 120, par. 421)

31 Sec. 5. Except as hereinafter provided, a person holding
32 a valid unrevoked license to act as a distributor of motor

1 fuel shall, between the 1st and 20th days of each calendar
2 month, make return to the Department, showing an itemized
3 statement of the number of invoiced gallons of motor fuel of
4 the types specified in this Section which were purchased,
5 acquired or received during the preceding calendar month; the
6 amount of such motor fuel produced, refined, compounded,
7 manufactured, blended, sold, distributed, and used by the
8 licensed distributor during the preceding calendar month; the
9 amount of such motor fuel lost or destroyed during the
10 preceding calendar month; the amount of such motor fuel on
11 hand at the close of business for such month; and such other
12 reasonable information as the Department may require. If a
13 distributor's only activities with respect to motor fuel are
14 either: (1) production of alcohol in quantities of less than
15 10,000 proof gallons per year or (2) blending alcohol in
16 quantities of less than 10,000 proof gallons per year which
17 such distributor has produced, he shall file returns on an
18 annual basis with the return for a given year being due by
19 January 20 of the following year. Distributors whose total
20 production of alcohol (whether blended or not) exceeds 10,000
21 proof gallons per year, based on production during the
22 preceding (calendar) year or as reasonably projected by the
23 Department if one calendar year's record of production cannot
24 be established, shall file returns between the 1st and 20th
25 days of each calendar month as hereinabove provided.

26 The types of motor fuel referred to in the preceding
27 paragraph are: (A) All products commonly or commercially
28 known or sold as gasoline (including casing-head and
29 absorption or natural gasoline), gasohol, motor benzol or
30 motor benzene regardless of their classification or uses; and
31 (B) all combustible gases which exist in a gaseous state at
32 60 degrees Fahrenheit and at 14.7 pounds per square inch
33 absolute including, but not limited to, liquefied petroleum
34 gases used for highway purposes; and (C) special fuel. Only

1 those quantities of combustible gases (example (B) above)
2 which are used or sold by the distributor to be used to
3 propel motor vehicles on the public highways, or which are
4 delivered into a storage tank that is located at a facility
5 that has withdrawal facilities which are readily accessible
6 to and are capable of dispensing combustible gases into the
7 fuel supply tanks of motor vehicles, shall be subject to
8 return. For the purposes of this Act, liquefied petroleum
9 gases shall mean and include any material having a vapor
10 pressure not exceeding that allowed for commercial propane
11 composed predominantly of the following hydrocarbons, either
12 by themselves or as mixtures: Propane, Propylene, Butane
13 (normal butane or iso-butane) and Butylene (including
14 isomers).

15 In case of a sale of special fuel to someone other than a
16 licensed distributor, or a licensed supplier, for a use other
17 than in motor vehicles, the distributor shall show in his
18 return the amount of invoiced gallons sold and the name and
19 address of the purchaser in addition to any other information
20 the Department may require.

21 All special fuel sold or used for non-highway purposes
22 must have a dye added in accordance with Section 4d of this
23 Law.

24 In case of a tax-free sale, as provided in Section 6, of
25 motor fuel which the distributor is required by this Section
26 to include in his return to the Department, the distributor
27 in his return shall show: (1) If the sale is made to another
28 licensed distributor the amount sold and the name, address
29 and license number of the purchasing distributor; (2) if the
30 sale is made to a person where delivery is made outside of
31 this State the name and address of such purchaser and the
32 point of delivery together with the date and amount
33 delivered; (3) if the sale is made to the Federal Government
34 or its instrumentalities the amount sold; (4) if the sale is

1 made to a municipal corporation owning and operating a local
2 transportation system for public service in this State the
3 name and address of such purchaser, and the amount sold, as
4 evidenced by official forms of exemption certificates
5 properly executed and furnished by such purchaser; (5) if the
6 sale is made to a privately owned public utility owning and
7 operating 2-axle vehicles designed and used for transporting
8 more than 7 passengers, which vehicles are used as common
9 carriers in general transportation of passengers, are not
10 devoted to any specialized purpose and are operated entirely
11 within the territorial limits of a single municipality or of
12 any group of contiguous municipalities or in a close radius
13 thereof, and the operations of which are subject to the
14 regulations of the Illinois Commerce Commission, then the
15 name and address of such purchaser and the amount sold as
16 evidenced by official forms of exemption certificates
17 properly executed and furnished by the purchaser; (6) if the
18 product sold is special fuel and if the sale is made to a
19 licensed supplier under conditions which qualify the sale for
20 tax exemption under Section 6 of this Act, the amount sold
21 and the name, address and license number of the purchaser;
22 and (7) if a sale of special fuel is made to someone other
23 than a licensed distributor, or a licensed supplier, for a
24 use other than in motor vehicles, by making a specific
25 notation thereof on the invoice or sales slip covering such
26 sales and obtaining such supporting documentation as may be
27 required by the Department.

28 All special fuel sold or used for non-highway purposes
29 must have a dye added in accordance with Section 4d of this
30 Law.

31 A person whose license to act as a distributor of motor
32 fuel has been revoked shall make a return to the Department
33 covering the period from the date of the last return to the
34 date of the revocation of the license, which return shall be

1 delivered to the Department not later than 10 days from the
2 date of the revocation or termination of the license of such
3 distributor; the return shall in all other respects be
4 subject to the same provisions and conditions as returns by
5 distributors licensed under the provisions of this Act.

6 The records, waybills and supporting documents kept by
7 railroads and other common carriers in the regular course of
8 business shall be prima facie evidence of the contents and
9 receipt of cars or tanks covered by those records, waybills
10 or supporting documents.

11 If the Department has reason to believe and does believe
12 that the amount shown on the return as purchased, acquired,
13 received, sold, used, lost or destroyed is incorrect, or that
14 an amount of motor fuel of the types required by the second
15 paragraph of this Section to be reported to the Department
16 has not been correctly reported the Department shall fix an
17 amount for such receipt, sales, use, loss or destruction
18 according to its best judgment and information, ~~which amount~~
19 ~~so-fixed-by-the-Department-shall-be-prima-facie-correct.~~ All
20 returns shall be made on forms prepared and furnished by the
21 Department, and shall contain such other information as the
22 Department may reasonably require. The return must be
23 accompanied by appropriate computer-generated magnetic media
24 supporting schedule data in the format required by the
25 Department, unless, as provided by rule, the Department
26 grants an exception upon petition of a taxpayer. All licensed
27 distributors shall report all losses of motor fuel sustained
28 on account of fire, theft, spillage, spoilage, leakage, or
29 any other provable cause when filing the return for the
30 period during which the loss occurred. The mere making of the
31 report does not assure the allowance of the loss as a
32 reduction in tax liability. Losses of motor fuel as the
33 result of evaporation or shrinkage due to temperature
34 variations may not exceed 1% of the total gallons in storage

1 at the beginning of the month, plus the receipts of gallonage
2 during the month, minus the gallonage remaining in storage at
3 the end of the month. Any loss reported that is in excess of
4 1% shall be subject to the tax imposed by Section 2 of this
5 Law. On and after July 1, 2001, for each 6-month period
6 January through June, net losses of motor fuel (for each
7 category of motor fuel that is required to be reported on a
8 return) as the result of evaporation or shrinkage due to
9 temperature variations may not exceed 1% of the total gallons
10 in storage at the beginning of each January, plus the
11 receipts of gallonage each January through June, minus the
12 gallonage remaining in storage at the end of each June. On
13 and after July 1, 2001, for each 6-month period July through
14 December, net losses of motor fuel (for each category of
15 motor fuel that is required to be reported on a return) as
16 the result of evaporation or shrinkage due to temperature
17 variations may not exceed 1% of the total gallons in storage
18 at the beginning of each July, plus the receipts of gallonage
19 each July through December, minus the gallonage remaining in
20 storage at the end of each December. Any net loss reported
21 that is in excess of this amount shall be subject to the tax
22 imposed by Section 2 of this Law. For purposes of this
23 Section, "net loss" means the number of gallons gained
24 through temperature variations minus the number of gallons
25 lost through temperature variations or evaporation for each
26 of the respective 6-month periods.

27 (Source: P.A. 91-173, eff. 1-1-00; 92-30, eff. 7-1-01.)

28 (35 ILCS 505/5a) (from Ch. 120, par. 421a)

29 Sec. 5a. A person holding a valid unrevoked license to
30 act as a supplier of special fuel shall, between the 1st and
31 20th days of each calendar month, make return to the
32 Department showing an itemized statement of the number of
33 invoiced gallons of special fuel acquired, received,

1 purchased, sold, or used during the preceding calendar month;
2 the amount of special fuel sold, distributed, and used by the
3 licensed supplier during the preceding calendar month; the
4 amount of special fuel lost or destroyed during the preceding
5 calendar month; the amount of special fuel on hand at the
6 close of business for the preceding calendar month; and such
7 other reasonable information as the Department may require.

8 A person whose license to act as a supplier of special
9 fuel has been revoked shall make a return to the Department
10 covering the period from the date of the last return to the
11 date of the revocation of the license, which return shall be
12 delivered to the Department not later than 10 days from the
13 date of the revocation or termination of the license of such
14 supplier. The return shall in all other respects be subject
15 to the same provisions and conditions as returns by suppliers
16 licensed under this Act.

17 The records, waybills and supporting documents kept by
18 railroads and other common carriers in the regular course of
19 business shall be prima facie evidence of the contents and
20 receipt of cars or tanks covered by those records, waybills
21 or supporting documents.

22 If the Department has reason to believe and does believe
23 that the amount shown on the return as purchased, acquired,
24 received, sold, used, or lost is incorrect, or that an amount
25 of special fuel of the type required by the 1st paragraph of
26 this Section to be reported to the Department by suppliers
27 has not been correctly reported as a purchase, receipt, sale,
28 use, or loss the Department shall fix an amount for such
29 purchase, receipt, sale, use, or loss according to its best
30 judgment and information, ~~which amount so fixed by the~~
31 ~~Department shall be prima facie correct.~~ All licensed
32 suppliers shall report all losses of special fuel sustained
33 on account of fire, theft, spillage, spoilage, leakage, or
34 any other provable cause when filing the return for the

1 period during which the loss occurred. The mere making of the
2 report does not assure the allowance of the loss as a
3 reduction in tax liability. Losses of special fuel as the
4 result of evaporation or shrinkage due to temperature
5 variations may not exceed 1% of the total gallons in storage
6 at the beginning of the month, plus the receipts of gallonage
7 during the month, minus the gallonage remaining in storage at
8 the end of the month.

9 Any loss reported that is in excess of 1% shall be
10 subject to the tax imposed by Section 2 of this Law. On and
11 after July 1, 2001, for each 6-month period January through
12 June, net losses of special fuel (for each category of
13 special fuel that is required to be reported on a return) as
14 the result of evaporation or shrinkage due to temperature
15 variations may not exceed 1% of the total gallons in storage
16 at the beginning of each January, plus the receipts of
17 gallonage each January through June, minus the gallonage
18 remaining in storage at the end of each June. On and after
19 July 1, 2001, for each 6-month period July through December,
20 net losses of special fuel (for each category of special fuel
21 that is required to be reported on a return) as the result of
22 evaporation or shrinkage due to temperature variations may
23 not exceed 1% of the total gallons in storage at the
24 beginning of each July, plus the receipts of gallonage each
25 July through December, minus the gallonage remaining in
26 storage at the end of each December. Any net loss reported
27 that is in excess of this amount shall be subject to the tax
28 imposed by Section 2 of this Law. For purposes of this
29 Section, "net loss" means the number of gallons gained
30 through temperature variations minus the number of gallons
31 lost through temperature variations or evaporation for each
32 of the respective 6-month periods.

33 In case of a sale of special fuel to someone other than a
34 licensed distributor or licensed supplier for a use other

1 than in motor vehicles, the supplier shall show in his return
2 the amount of invoiced gallons sold and the name and address
3 of the purchaser in addition to any other information the
4 Department may require.

5 All special fuel sold or used for non-highway purposes
6 must have a dye added in accordance with Section 4d of this
7 Law.

8 All returns shall be made on forms prepared and furnished
9 by the Department and shall contain such other information as
10 the Department may reasonably require. The return must be
11 accompanied by appropriate computer-generated magnetic media
12 supporting schedule data in the format required by the
13 Department, unless, as provided by rule, the Department
14 grants an exception upon petition of a taxpayer.

15 In case of a tax-free sale, as provided in Section 6a, of
16 special fuel which the supplier is required by this Section
17 to include in his return to the Department, the supplier in
18 his return shall show: (1) If the sale of special fuel is
19 made to the Federal Government or its instrumentalities; (2)
20 if the sale of special fuel is made to a municipal
21 corporation owning and operating a local transportation
22 system for public service in this State, the name and address
23 of such purchaser and the amount sold, as evidenced by
24 official forms of exemption certificates properly executed
25 and furnished by such purchaser; (3) if the sale of special
26 fuel is made to a privately owned public utility owning and
27 operating 2-axle vehicles designed and used for transporting
28 more than 7 passengers, which vehicles are used as common
29 carriers in general transportation of passengers, are not
30 devoted to any specialized purpose and are operated entirely
31 within the territorial limits of a single municipality or of
32 any group of contiguous municipalities or in a close radius
33 thereof, and the operations of which are subject to the
34 regulations of the Illinois Commerce Commission, then the

1 name and address of such purchaser and the amount sold, as
2 evidenced by official forms of exemption certificates
3 properly executed and furnished by such purchaser; (4) if the
4 product sold is special fuel and if the sale is made to a
5 licensed supplier or to a licensed distributor under
6 conditions which qualify the sale for tax exemption under
7 Section 6a of this Act, the amount sold and the name, address
8 and license number of such purchaser; (5) if a sale of
9 special fuel is made to a person where delivery is made
10 outside of this State, the name and address of such purchaser
11 and the point of delivery together with the date and amount
12 of invoiced gallons delivered; and (6) if a sale of special
13 fuel is made to someone other than a licensed distributor or
14 a licensed supplier, for a use other than in motor vehicles,
15 by making a specific notation thereof on the invoice or sales
16 slip covering that sale and obtaining such supporting
17 documentation as may be required by the Department.

18 All special fuel sold or used for non-highway purposes
19 must have a dye added in accordance with Section 4d of this
20 Law.

21 (Source: P.A. 91-173, eff. 1-1-00; 92-30, eff. 7-1-01.)

22 Section 50. The Coin-Operated Amusement Device and
23 Redemption Machine Tax Act is amended by changing Section 2
24 as follows:

25 (35 ILCS 510/2) (from Ch. 120, par. 481b.2)

26 Sec. 2. (a) Any person, firm, limited liability company,
27 or corporation which displays any device described in Section
28 1, to be played or operated by the public at any place owned
29 or leased by any such person, firm, limited liability
30 company, or corporation, shall before he displays such
31 device, file in the Office of the Department of Revenue an
32 application for a license for such device properly sworn to,

1 setting forth his name and address, with a brief description
2 of the device to be displayed and the premises where such
3 device will be located, together with such other relevant
4 data as the Department of Revenue may require. Such
5 application for a license shall be accompanied by the
6 required license tax. Such license tax shall be paid to the
7 Department of Revenue of the State of Illinois and all monies
8 received by the Department of Revenue under this Act shall be
9 paid into the General Revenue Fund in the State Treasury. The
10 Department of Revenue shall supply and deliver to the person,
11 firm, limited liability company, or corporation which
12 displays any device described in Section 1, charges prepaid
13 and without additional cost, one license tag for each such
14 device on which an application is made, stating the year for
15 which issued. Such license tag shall thereupon be securely
16 affixed to such device.

17 (b) If an amount of tax, penalty, or interest has been
18 paid in error to the Department, the taxpayer may file a
19 claim for credit or refund with the Department. If it is
20 determined that the Department must issue a credit or refund
21 under this Act, the Department may first apply the amount of
22 the credit or refund due against any amount of tax, penalty,
23 or interest due under this Act from the taxpayer entitled to
24 the credit or refund. If proceedings are pending to
25 determine if any tax, penalty, or interest is due under this
26 Act from the taxpayer, the Department may withhold issuance
27 of the credit or refund pending the final disposition of
28 those proceedings and may apply that credit or refund against
29 any amount determined to be due to the Department as a result
30 of those proceedings. The balance, if any, of the credit or
31 refund shall be paid to the taxpayer.

32 If no tax, penalty, or interest is due and no proceedings
33 are pending to determine whether the taxpayer is indebted to
34 the Department for tax, penalty, or interest, the credit

1 memorandum or refund shall be issued to the taxpayer; or, the
2 credit memorandum may be assigned by the taxpayer, subject to
3 reasonable rules of the Department, to any other person who
4 is subject to this Act, and the amount of the credit
5 memorandum by the Department against any tax, penalty, or
6 interest due or to become due under this Act from the
7 assignee.

8 For any claim for credit or refund filed with the
9 Department on or after each July 1, no amount erroneously
10 paid more than 3 years before that July 1, shall be credited
11 or refunded.

12 A claim for credit or refund shall be filed on a form
13 provided by the Department. As soon as practicable after any
14 claim for credit or refund is filed, the Department shall
15 determine the amount of credit or refund to which the
16 claimant is entitled and shall notify the claimant of that
17 determination.

18 A claim for credit or refund shall be filed with the
19 Department on the date it is received by the Department.
20 Upon receipt of any claim for credit or refund filed under
21 this Section, an officer or employee of the Department,
22 authorized by the Director of Revenue to acknowledge receipt
23 of such claims on behalf of the Department, shall deliver or
24 mail to the claimant or his duly authorized agent, a written
25 receipt, acknowledging that the claim has been filed with the
26 Department, describing the claim in sufficient detail to
27 identify it, and stating the date on which the claim was
28 received by the Department. The written receipt shall be
29 prima facie evidence that the Department received the claim
30 described in the receipt and shall be prima facie evidence of
31 the date when such claim was received by the Department. In
32 the--absence--of--a--written--receipt,--the--records--of--the
33 Department--as--to--whether--a--claim--was--received,--or--when--the
34 claim--was--received--by--the--Department,--shall--be--deemed--to--be

1 ~~prima-facie-correct-in-the-event-of-any-dispute-between-the~~
2 ~~claimant,--or-his-legal-representative,--and-the-Department-on~~
3 ~~these-issues.~~

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

7 If the Department determines that the claimant is
8 entitled to a refund, the refund shall be made only from an
9 appropriation to the Department for that purpose. If the
10 amount appropriated is insufficient to pay claimants electing
11 to receive a cash refund, the Department by rule or
12 regulation shall first provide for the payment of refunds in
13 hardship cases as defined by the Department.

14 (Source: P.A. 88-194; 88-480; 88-670, eff. 12-2-94.)

15 Section 55. The Cannabis and Controlled Substances Tax
16 Act is amended by changing Section 16 as follows:

17 (35 ILCS 520/16) (from Ch. 120, par. 2166)

18 Sec. 16. All assessments are Jeopardy Assessments -
19 lien.

20 (a) Assessment. An assessment for a dealer not
21 possessing valid stamps or other official indicia showing
22 that the tax has been paid shall be considered a jeopardy
23 assessment or collection, as provided by Section 1102 of the
24 Illinois Income Tax Act. The Department shall determine and
25 assess a tax and applicable penalties and interest according
26 to the best judgment and information available to the
27 Department,--which-amount-se-fixed-by-the-Department-shall-be
28 ~~prima-facie-correct-and-shall-be-prima-facie-evidence-of--the~~
29 ~~correctness--of--the--amount--of--tax--due,--as-shown-in-such~~
30 ~~determination.~~ When, according to the best judgment and
31 information available to the Department with regard to all
32 real and personal property and rights to property of the

1 dealer, there is no reasonable expectation of collection of
2 the amount of tax and penalty to be assessed, the Department
3 may issue an assessment under this Section for the amount of
4 tax without penalty.

5 (b) Filing of Lien. Upon issuance of a jeopardy
6 assessment as provided by subsection (a) of this Section, the
7 Department may file a notice of jeopardy assessment lien in
8 the office of the recorder of the county in which any
9 property of the taxpayer may be located and shall notify the
10 taxpayer of such filing.

11 (c) Protest. If the taxpayer believes that he does not
12 owe some or all of the amount for which the jeopardy
13 assessment lien against him has been filed, he may protest
14 within 20 days after being notified by the Department of the
15 filing of such jeopardy assessment lien and request a
16 hearing, whereupon the Department shall hold a hearing in
17 conformity with the provisions of Section 908 of the Illinois
18 Income Tax Act and, pursuant thereto, shall notify the
19 taxpayer of its decision as to whether or not such jeopardy
20 assessment lien will be released.

21 After the expiration of the period within which the
22 person assessed may file an action for judicial review under
23 the Administrative Review Law without such action being
24 filed, a certified copy of the final assessment or revised
25 final assessment of the Department may be filed with the
26 Circuit Court of the county in which the dealer resides, or
27 of Cook County in the case of a dealer who does not reside in
28 this State, or in the county where the violation of this Act
29 took place. The certified copy of the final assessment or
30 revised final assessment shall be accompanied by a
31 certification which recites facts that are sufficient to show
32 that the Department complied with the jurisdictional
33 requirements of the Act in arriving at its final assessment
34 or its revised final assessment and that the dealer had this

1 opportunity for an administrative hearing and for judicial
2 review, whether he availed himself or herself of either or
3 both of these opportunities or not. If the court is
4 satisfied that the Department complied with the
5 jurisdictional requirements of the Act in arriving at its
6 final assessment or its revised final assessment and that the
7 taxpayer had his opportunity for an administrative hearing
8 and for judicial review, whether he availed himself of either
9 or both of these opportunities or not, the court shall render
10 judgment in favor of the Department and against the taxpayer
11 for the amount shown to be due by the final assessment or the
12 revised final assessment, plus any interest which may be due,
13 and such judgment shall be entered in the judgment docket of
14 the court. Such judgment shall bear the same rate of
15 interest and shall have the same effect as other judgments.
16 The judgment may be enforced, and all laws applicable to
17 sales for the enforcement of a judgment shall be applicable
18 to sales made under such judgments. The Department shall
19 file the certified copy of its assessment, as herein
20 provided, with the Circuit Court within 2 years after such
21 assessment becomes final except when the taxpayer consents in
22 writing to an extension of such filing period, and except
23 that the time limitation period on the Department's right to
24 file the certified copy of its assessment with the Circuit
25 Court shall not run during any period of time in which the
26 order of any court has the effect of enjoining or restraining
27 the Department from filing such certified copy of its
28 assessment with the Circuit Court.

29 If, when the cause of action for a proceeding in court
30 accrues against a person, he or she is out of the State, the
31 action may be commenced within the times herein limited,
32 after his or her coming into or returning to the State; and
33 if, after the cause of action accrues, he or she departs from
34 and remains out of the State, the time of his or her absence

1 from the State, the time of his or her absence is no part of
2 the time limited for the commencement of the action; but the
3 foregoing provisions concerning absence from the State shall
4 not apply to any case in which, at the time the cause of
5 action accrues, the party against whom the cause of action
6 accrues is not a resident of this State. The time within
7 which a court action is to be commenced by the Department
8 hereunder shall not run from the date the taxpayer files a
9 petition in bankruptcy under the Federal Bankruptcy Act until
10 30 days after notice of termination or expiration of the
11 automatic stay imposed by the Federal Bankruptcy Act.

12 No claim shall be filed against the estate of any
13 deceased person or any person under legal disability for any
14 tax or penalty or part of either, or interest, except in the
15 manner prescribed and within the time limited by the Probate
16 Act of 1975, as amended.

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

20 In addition to any penalty provided for in this Act, any
21 amount of tax which is not paid when due shall bear interest
22 at the rate determined in accordance with the Uniform Penalty
23 and Interest Act, per month or fraction thereof from the date
24 when such tax becomes past due until such tax is paid or a
25 judgment therefor is obtained by the Department. If the time
26 for making or completing an audit of a taxpayer's books and
27 records is extended with the taxpayer's consent, at the
28 request of and for the convenience of the Department, beyond
29 the date on which the statute of limitations upon the
30 issuance of a notice of tax liability by the Department
31 otherwise run, no interest shall accrue during the period of
32 such extension. Interest shall be collected in the same
33 manner and as part of the tax.

34 If the Department determines that an amount of tax or

1 penalty or interest was incorrectly assessed, whether as the
2 result of a mistake of fact or an error of law, the
3 Department shall waive the amount of tax or penalty or
4 interest that accrued due to the incorrect assessment.

5 (Source: P.A. 90-655, eff. 7-30-98.)

6 Section 60. The Messages Tax Act is amended by changing
7 Section 6 as follows:

8 (35 ILCS 610/6) (from Ch. 120, par. 467.6)

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

18 If it is determined that the Department should issue a
19 credit or refund under this Act, 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
23 pending to determine whether or not any tax or penalty or
24 interest is due under this Act from such person, the
25 Department may withhold issuance of the credit or refund
26 pending the final disposition of such proceedings and may
27 apply such credit or refund against any amount found to be
28 due to the Department as a result of such proceedings. The
29 balance, if any, of the credit or refund shall be issued to
30 the person entitled thereto.

31 If no tax or penalty or interest is due and no proceeding
32 is pending to determine whether such person is indebted to

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

10 As to any claim for credit or refund filed with the
11 Department on or after each January 1 and July 1, no amounts
12 erroneously paid more than 3 years prior to such January 1
13 and July 1, respectively, shall be credited or refunded,
14 except that if both the Department and the taxpayer have
15 agreed to an extension of time to issue a notice of tax
16 liability under this Act, the claim may be filed at any time
17 prior to the expiration of the period agreed upon.

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

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

28 In case the Department determines that the claimant is
29 entitled to a refund, such refund shall be made only from
30 such appropriation as may be available for that purpose. If
31 it appears unlikely that the amount appropriated would permit
32 everyone having a claim allowed during the period covered by
33 such appropriation to elect to receive a cash refund, the
34 Department, by rule or regulation, shall provide for the

1 payment of refunds in hardship cases and shall define what
2 types of cases qualify as hardship cases.
3 (Source: P.A. 90-491, eff. 1-1-98.)

4 Section 65. The Gas Revenue Tax Act is amended by
5 changing Section 6 as follows:

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

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

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

29 If no tax or penalty or interest is due and no proceeding
30 is pending to determine whether such person is indebted to
31 the Department for tax or penalty or interest, the credit
32 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
3 to reasonable rules of the Department, to any other person
4 who is subject to this Act, and the amount thereof shall be
5 applied by the Department against any tax or penalty or
6 interest due or to become due under this Act from such
7 assignee.

8 As to any claim for credit or refund filed with the
9 Department on or after each January 1 and July 1, no amounts
10 erroneously paid more than 3 years prior to such January 1
11 and July 1, respectively, shall be credited or refunded,
12 except that if both the Department and the taxpayer have
13 agreed to an extension of time to issue a notice of tax
14 liability under this Act, the claim may be filed at any time
15 prior to the expiration of the period agreed upon.

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

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

26 In case the Department determines that the claimant is
27 entitled to a refund, such refund shall be made only from
28 such appropriation as may be available for that purpose. If
29 it appears unlikely that the amount appropriated would permit
30 everyone having a claim allowed during the period covered by
31 such appropriation to elect to receive a cash refund, the
32 Department, by rule or regulation, shall provide for the
33 payment of refunds in hardship cases and shall define what
34 types of cases qualify as hardship cases.

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

2 Section 70. The Public Utilities Revenue Act is amended
3 by 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
6 the Department, that an amount of tax or penalty or interest
7 has been paid which was not due under this Act, whether as
8 the result of a mistake of fact or an error of law, except as
9 hereinafter provided, then the Department shall issue a
10 credit memorandum or refund to the person who made the
11 erroneous payment or, if that person has died or become a
12 person under legal disability, to his or her legal
13 representative, as such.

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

30 If no tax or penalty or interest is due and no proceeding
31 is pending to determine whether such person is indebted to
32 the Department for tax or penalty or interest, the credit

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

9 As to any claim for credit or refund filed with the
10 Department on or after each January 1 and July 1, no amounts
11 erroneously paid more than 3 years prior to such January 1
12 and July 1, respectively, shall be credited or refunded,
13 except that if both the Department and the taxpayer have
14 agreed to an extension of time to issue a notice of tax
15 liability under this Act, the claim may be filed at any time
16 prior to the expiration of the period agreed upon.

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

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

27 In case the Department determines that the claimant is
28 entitled to a refund, such refund shall be made only from
29 such appropriation as may be available for that purpose. If
30 it appears unlikely that the amount appropriated would permit
31 everyone having a claim allowed during the period covered by
32 such appropriation to elect to receive a cash refund, the
33 Department, by rule or regulation, shall provide for the
34 payment of refunds in hardship cases and shall define what

1 types of cases qualify as hardship cases.

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

3 Section 75. The Water Company Invested Capital Tax Act
4 is amended by changing Section 6 as follows:

5 (35 ILCS 625/6) (from Ch. 120, par. 1416)

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

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

27 If no tax or penalty or interest is due and no proceeding
28 is pending to determine whether such person is indebted to
29 the Department for tax or penalty or interest, the credit
30 memorandum or refund shall be issued to the claimant; or (in
31 the case of a credit memorandum) the credit memorandum may be
32 assigned and set over by the lawful holder thereof, subject

1 to reasonable rules of the Department, to any other person
2 who is subject to this Act, and the amount thereof shall be
3 applied by the Department against any tax or penalty or
4 interest due or to become due under this Act from such
5 assignee.

6 As to any claim for credit or refund filed with the
7 Department on or after each January 1 and July 1, no amounts
8 erroneously paid more than 3 years prior to such January 1
9 and July 1, respectively, shall be credited or refunded,
10 except that if both the Department and the taxpayer have
11 agreed to an extension of time to issue a notice of tax
12 liability under this Act, the claim may be filed at any time
13 prior to the expiration of the period agreed upon.

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

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

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

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

1 Section 80. The Telecommunications Excise Tax Act is
2 amended by changing Section 10 as follows:

3 (35 ILCS 630/10) (from Ch. 120, par. 2010)

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

29 If it is determined that the Department should issue a
30 credit or refund under this Article, the Department may first
31 apply the amount thereof against any amount of tax or penalty
32 or interest due hereunder from the person entitled to such
33 credit or refund. For this purpose, if proceedings are

1 pending to determine whether or not any tax or penalty or
2 interest is due under this Article from such person, the
3 Department may withhold issuance of the credit or refund
4 pending the final disposition of such proceedings and may
5 apply such credit or refund against any amount found to be
6 due to the Department as a result of such proceedings. The
7 balance, if any, of the credit or refund shall be issued to
8 the person entitled 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
11 the 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
15 to reasonable rules of the Department, to any other person
16 who is subject to this Article, and the amount thereof shall
17 be applied by the Department against any tax or penalty or
18 interest due or to become due under this Article from such
19 assignee.

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

28 Claims for credit or refund shall be filed upon forms
29 provided by the Department. As soon as practicable after any
30 claim for credit or refund is filed, the Department shall
31 examine the same and determine the amount of credit or refund
32 to which the claimant is entitled and shall notify the
33 claimant of such determination, ~~which amount shall be prima~~
34 ~~faeie-correct.~~

1 A claim for credit or refund shall be considered to have
2 been filed with the Department on the date upon which it is
3 received by the Department. Upon receipt of any claim for
4 credit or refund filed under this Article, any officer or
5 employee of the Department, authorized in writing by the
6 Director of Revenue to acknowledge receipt of such claims on
7 behalf of the Department, shall execute on behalf of the
8 Department, and shall deliver or mail to the claimant or his
9 duly authorized agent, a written receipt, acknowledging that
10 the claim has been filed with the Department, describing the
11 claim in sufficient detail to identify it and stating the
12 date upon which the claim was received by the Department.
13 Such written receipt shall be prima facie evidence that the
14 Department received the claim described in such receipt and
15 shall be prima facie evidence of the date when such claim was
16 received by the Department. In the absence of such a written
17 receipt, the records of the Department as to when the claim
18 was received by the Department, or as to whether or not the
19 claim was received at all by the Department, shall be deemed
20 to be prima facie correct upon these questions in the event
21 of any dispute between the claimant (or his or her legal
22 representative) and the Department concerning these
23 questions.

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

27 In case the Department determines that the claimant is
28 entitled to a refund, such refund shall be made only from
29 such appropriation as may be available for that purpose. If
30 it appears unlikely that the amount appropriated would permit
31 everyone having a claim allowed during the period covered by
32 such appropriation to elect to receive a cash refund, the
33 Department by rule or regulation shall provide for the
34 payment of refunds in hardship cases and shall define what

1 types of cases qualify as hardship cases.

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

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

18 Section 85. The Uniform Penalty and Interest Act is
19 amended by changing Sections 3-3 and 3-7 as follows:

20 (35 ILCS 735/3-3) (from Ch. 120, par. 2603-3)

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

22 (a) This subsection (a) is applicable before January 1,
23 1996. A penalty of 5% of the tax required to be shown due on
24 a return shall be imposed for failure to file the tax return
25 on or before the due date prescribed for filing determined
26 with regard for any extension of time for filing (penalty for
27 late filing or nonfiling). If any unprocessable return is
28 corrected and filed within 21 days after notice by the
29 Department, the late filing or nonfiling penalty shall not
30 apply. If a penalty for late filing or nonfiling is imposed
31 in addition to a penalty for late payment, the total penalty
32 due shall be the sum of the late filing penalty and the

1 applicable late payment penalty. Beginning on the effective
2 date of this amendatory Act of 1995, in the case of any type
3 of tax return required to be filed more frequently than
4 annually, when the failure to file the tax return on or
5 before the date prescribed for filing (including any
6 extensions) is shown to be nonfraudulent and has not occurred
7 in the 2 years immediately preceding the failure to file on
8 the prescribed due date, the penalty imposed by Section
9 3-3(a) shall be abated.

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

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

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

1 extensions) is shown to be nonfraudulent and has not occurred
2 in the 2 years immediately preceding the failure to file on
3 the prescribed due date, the penalty imposed by Section
4 3-3(a-10) shall be abated.

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

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

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

31 (b-5) This subsection is applicable to returns due on
32 and after January 1, 1998 and on or before December 31, 2000.
33 A penalty of 20% of the tax shown on the return or the tax
34 required to be shown due on the return shall be imposed for

1 failure to pay:

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

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

24 (b-10) This subsection (b-10) is applicable to returns
25 due on and after January 1, 2001. A penalty shall be imposed
26 for failure to pay:

27 (1) the tax shown due on a return on or before the
28 due date prescribed for payment of that tax, an amount of
29 underpayment of estimated tax, or an amount that is
30 reported in an amended return other than an amended
31 return timely filed as required by subsection (b) of
32 Section 506 of the Illinois Income Tax Act (penalty for
33 late payment or nonpayment of admitted liability). The
34 amount of penalty imposed under this subsection (b-10)(1)

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

15 (2) the full amount of any tax required to be shown
16 due on a return and that 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
20 Department. In the case of a final assessment arising
21 following a protest and hearing, the 30-day period shall
22 not begin until all proceedings in court for review of
23 the final assessment have terminated or the period for
24 obtaining a review has expired without proceedings for a
25 review having been instituted. The amount of penalty
26 imposed under this subsection (b-10)(2) shall be 20% of
27 any amount that is not paid within the 30-day period. In
28 the case of a notice of tax liability that becomes a
29 final assessment without a protest and hearing, the
30 penalty provided in this subsection (b-10)(2) shall be
31 imposed at the expiration of the period provided for the
32 filing of a protest.

33 (c) For purposes of the late payment penalties, the
34 basis of the penalty shall be the tax shown or required to be

1 shown on a return, whichever is applicable, reduced by any
2 part of the tax which is paid on time and by any credit which
3 was properly allowable on the date the return was required to
4 be filed.

5 (d) A penalty shall be applied to the tax required to be
6 shown even if that amount is less than the tax shown on the
7 return.

8 (e) This subsection (e) is applicable to returns due
9 before January 1, 2001. If both a subsection (b)(1) or
10 (b-5)(1) penalty and a subsection (b)(2) or (b-5)(2) penalty
11 are assessed against the same return, the subsection (b)(2)
12 or (b-5)(2) penalty shall be assessed against only the
13 additional tax found to be due.

14 (e-5) This subsection (e-5) is applicable to returns due
15 on and after January 1, 2001. If both a subsection (b-10)(1)
16 penalty and a subsection (b-10)(2) penalty are assessed
17 against the same return, the subsection (b-10)(2) penalty
18 shall be assessed against only the additional tax found to be
19 due.

20 (f) If the taxpayer has failed to file the return, the
21 Department shall determine the correct tax according to its
22 best judgment and information, ~~which amount shall be prima~~
23 ~~faeie-evidenece-of-the-correctness-of-the-tax-due.~~

24 (g) The time within which to file a return or pay an
25 amount of tax due without imposition of a penalty does not
26 extend the time within which to file a protest to a notice of
27 tax liability or a notice of deficiency.

28 (h) No return shall be determined to be unprocessable
29 because of the omission of any information requested on the
30 return pursuant to Section 2505-575 of the Department of
31 Revenue Law (20 ILCS 2505/2505-575).

32 (Source: P.A. 91-239, eff. 1-1-00; 91-803, eff. 1-1-01;
33 92-742, eff. 7-25-02.)

1 (35 ILCS 735/3-7) (from Ch. 120, par. 2603-7)

2 Sec. 3-7. Personal Liability Penalty.

3 (a) Any officer or employee of any taxpayer subject to
4 the provisions of a tax Act administered by the Department
5 who has the control, supervision or responsibility of filing
6 returns and making payment of the amount of any trust tax
7 imposed in accordance with that Act and who wilfully fails to
8 file the return or make the payment to the Department or
9 wilfully attempts in any other manner to evade or defeat the
10 tax shall be personally liable for a penalty equal to the
11 total amount of tax unpaid by the taxpayer including interest
12 and penalties thereon. The Department shall determine a
13 penalty due under this Section according to its best judgment
14 and information,~~and that determination shall be prima facie~~
15 ~~correct and shall be prima facie evidence of a penalty due~~
16 ~~under this Section.~~ Proof of that determination by the
17 Department shall be made at any hearing before it or in any
18 legal proceeding by reproduced copy or computer printout of
19 the Department's record relating thereto in the name of the
20 Department under the certificate of the Director of Revenue.
21 If reproduced copies of the Department's records are offered
22 as proof of that determination, the Director must certify
23 that those copies are true and exact copies of records on
24 file with the Department. If computer print-outs of the
25 Department's records are offered as proof of such
26 determination, the Director must certify that those computer
27 print-outs are true and exact representations of records
28 properly entered into standard electronic computing
29 equipment, in the regular course of the Department's
30 business, at or reasonably near the time of the occurrence of
31 the facts recorded, from trustworthy and reliable
32 information. That certified reproduced copy or certified
33 computer print-out shall without further proof, be admitted
34 into evidence before the Department or in any legal

1 proceeding and shall be prima facie proof of the correctness
2 of the amount of tax or penalty due.

3 (b) The Department shall issue a notice of penalty
4 liability for the amount claimed by the Department pursuant
5 to this Section. Procedures for protest and review of a
6 notice of penalty liability issued pursuant to this Section
7 and assessment of the penalty due hereunder shall be the same
8 as those prescribed for protest and review of a notice of tax
9 liability or a notice of deficiency, as the case may be, and
10 the assessment of tax liability under the Act imposing that
11 liability.

12 (b-5) Any person filing an action under the
13 Administrative Review Law to review a final assessment or
14 revised final assessment (except a final assessment or
15 revised final assessment relating to any trust tax imposed in
16 accordance with the Illinois Income Tax Act) issued by the
17 Department under this Section shall, within 20 days after
18 filing the complaint, file a bond with good and sufficient
19 surety or sureties residing in this State or licensed to do
20 business in this State, or instead of bond, obtain an order
21 from the court imposing a lien upon the plaintiff's property
22 as hereinafter provided. If the person filing the complaint
23 fails to comply with this bonding requirement within 20 days
24 after filing the complaint, the Department shall file a
25 motion to dismiss and the court shall dismiss the action
26 unless the person filing the action complies with the bonding
27 requirements set out with this provision within 30 days after
28 the filing of the Department's motion to dismiss.

29 Upon dismissal of a complaint for failure to comply with
30 this subsection, the court shall enter judgment against the
31 taxpayer and in favor of the Department in the amount of the
32 final assessment or revised final assessment, together with
33 any interest that has accrued since the Department issued the
34 final assessment or revised final assessment, and for costs.

1 The judgment is enforceable as other judgments for the
2 payment of money.

3 The amount of the bond shall be fixed and approved by the
4 court, but shall not be less than the amount of the tax and
5 penalty claimed to be due by the Department in its final
6 assessment or revised final assessment to the person filing
7 the bond, plus the amount of interest due from that person to
8 the Department at the time when the Department issued its
9 final assessment or revised final assessment to that person.
10 The bond must be executed in favor of the Department and
11 conditioned on the taxpayer's payment within 30 days after
12 termination of the proceedings for judicial review of the
13 amount of tax, penalty, and interest found by the court to be
14 due in those proceedings. The bond, when filed and approved,
15 is, from that time until 2 years after termination of the
16 proceedings for judicial review in which the bond is filed, a
17 lien against the real estate situated in the county in which
18 the bond is filed of the person filing the bond and of the
19 surety or sureties on the bond, until the condition of the
20 bond is complied with or until the bond is canceled as
21 provided in this subsection. The lien does not apply,
22 however, to the real property of a corporate surety duly
23 licensed to do business in this State. If the person filing
24 the bond fails to keep its condition, the bond is forfeited,
25 and the Department may institute an action upon the bond in
26 its own name for the entire amount of the bond and costs. An
27 action upon the bond is in addition to any other remedy
28 provided by law. If the person filing the bond complies with
29 its condition or if, in the proceedings for judicial review
30 in which the bond is filed, the court determines that no tax,
31 penalty, or interest is due, the bond shall be canceled by
32 the issuer of the bond.

33 If the court finds in a particular case that the
34 plaintiff cannot furnish a satisfactory surety or sureties

1 for the kind of bond required in this subsection, the court
2 may relieve the plaintiff of the obligation of filing a bond
3 if, upon the timely application of the plaintiff for a lien
4 in place of a bond and accompanying proof, the court is
5 satisfied that a lien would secure the assessment as well as
6 would a bond. Upon that finding, the court shall enter an
7 order subjecting the plaintiff's real and personal property
8 (including subsequently acquired property) situated in the
9 county in which the order is entered to a lien in favor of
10 the Department. The lien shall be for the amount of the tax
11 and penalty claimed to be due by the Department in its final
12 assessment or revised final assessment, plus the amount of
13 interest due from that person to the Department at the time
14 when the Department issued its final assessment or revised
15 final assessment to that person. The lien shall continue
16 until the court determines in the proceedings for judicial
17 review that no tax, penalty, or interest is due, or until the
18 plaintiff pays to the Department the tax, penalty, and
19 interest secured by the lien. In its discretion, the court
20 may impose a lien regardless of the ratio of the taxpayer's
21 assets to the final assessment or revised final assessment
22 plus the amount of the interest and penalty. This subsection
23 does not give the Department a preference over the rights of
24 a bona fide purchaser, mortgagee, judgment creditor, or other
25 lien holder arising before the entry of the order creating
26 the lien in favor of the Department. "Bona fide", as used in
27 this subsection, does not include a mortgage of real or
28 personal property or other credit transaction that results in
29 the mortgagee or the holder of the security acting as trustee
30 for unsecured creditors of the taxpayer who executed the
31 chattel or real property mortgage or the document evidencing
32 the credit transaction. The lien is inferior to the lien of
33 general taxes, special assessments, and special taxes levied
34 by a political subdivision of this State. The lien is not

1 effective against a purchaser with respect to an item in a
2 retailer's stock in trade purchased from the retailer in the
3 usual course of the retailer's business. The lien may not be
4 enforced against the household effects, wearing apparel,
5 books, or tools or implements of a trade or profession kept
6 for use by any person. The lien is not effective against real
7 property unless and until a certified copy or memorandum of
8 such order is recorded in the Office of the Recorder of Deeds
9 for the county or counties in which the property is located.
10 The lien is not effective against real property whose title
11 is registered under the provisions of the Registered Titles
12 (Torrens) Act until the provisions of Section 85 of that Act
13 are complied with.

14 Service upon the Director of Revenue or the Assistant
15 Director of Revenue of summons issued in an action to review
16 a final administrative decision of the Department is service
17 upon the Department. The Department shall certify the record
18 of its proceedings if the taxpayer pays to it 75¢ per page of
19 testimony taken before the Department and 25¢ per page of all
20 other matters contained in the record, except that these
21 charges may be waived when the Department is satisfied that
22 the aggrieved party is a poor person who cannot afford to pay
23 the charges. If payment for the record is not made by the
24 taxpayer within 30 days after notice from the Department or
25 the Attorney General of the cost, the court in which the
26 proceeding is pending, on motion of the Department, shall
27 dismiss the complaint and (when the administrative decision
28 as to which the action for judicial review was filed is a
29 final assessment or revised final assessment) shall enter
30 judgment against the taxpayer and in favor of the Department
31 for the amount of tax and penalty shown by the Department's
32 final assessment or revised final assessment to be due, plus
33 interest as provided for in this Act from the date when the
34 liability upon which the interest accrued became delinquent

1 until the entry of the judgment in the action for judicial
2 review under the Administrative Review Law, and also for
3 costs.

4 (c) The personal liability imposed by this Section shall
5 survive the dissolution of a partnership, limited liability
6 company, or corporation. No notice of penalty liability
7 shall be issued after the expiration of 3 years after the
8 date all proceedings in court for the review of any final or
9 revised final assessments issued against a taxpayer which
10 constitute the basis of such penalty liability have
11 terminated or the time for the taking thereof has expired
12 without such proceedings being instituted or after the
13 expiration of 3 years after the date a return is filed with
14 the Department by a taxpayer in cases where the return
15 constitutes the basis of such liability. Interest shall
16 continue to accrue on that portion of the penalty imposed by
17 this Section which represents the tax unpaid by the taxpayer
18 at the same rate and in the same amount as interest accrues
19 on the tax unpaid by the taxpayer.

20 (d) In addition to any other remedy provided for by the
21 laws of this State, and provided that no hearing or
22 proceeding for review is pending, any Section of a tax Act
23 which provides a means for collection of taxes shall in the
24 same manner and to the same extent provide a means for the
25 collection of the penalty imposed by this Section. The
26 procedures for the filing of an action for collection of the
27 penalty imposed by this Section shall be the same as those
28 prescribed by a tax Act for the filing of an action for
29 collection of the tax assessed under that Act. The time
30 limitation period on the Department's right to bring suit to
31 recover the amount of such tax, or portion thereof, or
32 penalty or interest from such person, or if deceased or
33 incompetent to file a claim thereof against his estate, shall
34 not run during: (1) any period of time in which the order of

1 any Court has the effect of enjoining or restraining the
2 Department from bringing such suit or claim against such
3 person, or (2) any period of time in which the order of the
4 Court has the effect of enjoining or restraining the
5 Department from bringing suit or initiating other proper
6 proceedings for the collection of such amounts from the
7 taxpayer, or (3) any period of time the person departs from
8 and remains out of the State; but the foregoing provisions
9 concerning absence from the State shall not apply to any case
10 in which, at the time when a tax or penalty becomes due under
11 this Act, the person allegedly liable therefor is not a
12 resident of this State.

13 (e) For the purposes of this Section, "officer or
14 employee of any taxpayer" includes a partner of a
15 partnership, a manager or member of a limited liability
16 corporation, and a member of a registered limited liability
17 partnership.

18 (f) A trust tax is any tax for which an amount is
19 collected or withheld by a taxpayer from another person, and
20 any tax for which an amount is required to be collected or
21 withheld by a taxpayer from another person, regardless of
22 whether it is in fact collected or withheld.

23 (g) The personal liability imposed by this Section is in
24 addition to liability incurred by a partner of a partnership
25 or limited liability partnership resulting from the issuance
26 of a notice of tax liability issued to the partnership or
27 limited liability partnership.

28 (h) In addition to any other basis for imposition of
29 liability under this Act including under subsection (a) of
30 this Section, any person who collects, withholds, or receives
31 a tax, or any amount represented to be a tax, from another
32 person holds the amount so collected or withheld in special
33 trust for the benefit of the Department and is liable to the
34 Department for the amount so withheld or collected plus

1 accrued interest and penalty on that amount. For purposes of
 2 this subsection, "person" shall have the same definition as
 3 provided in Section 1 of the Retailers' Occupation Tax Act.
 4 (Source: P.A. 90-458, eff. 8-17-97; 91-203, eff. 7-20-99.)

5 Section 90. The Illinois Public Accounting Act is
 6 amended by changing Section 27 as follows:

7 (225 ILCS 450/27) (from Ch. 111, par. 5533)
 8 (Section scheduled to be repealed on January 1, 2014)
 9 (Text of Section before amendment by P.A. 92-457)

10 Sec. 27. A public accountant shall not be required by any
 11 court or by the Department of Revenue in a non-criminal
 12 proceeding before it to divulge information or evidence which
 13 has been obtained by him in his confidential capacity as a
 14 public accountant. This Section shall not apply to any
 15 investigation or hearing undertaken pursuant to this Act.

16 Nothing in this Section shall be construed to limit,
 17 wave, or abrogate the scope or nature of any common law
 18 privilege concerning the confidential capacity of a public
 19 accountant.

20 (Source: P.A. 83-291.)

21 (Text of Section after amendment by P.A. 92-457)

22 Sec. 27. A licensed certified public accountant shall not
 23 be required by any court or by the Department of Revenue in a
 24 non-criminal proceeding before it to divulge information or
 25 evidence which has been obtained by him in his confidential
 26 capacity as a public accountant. This Section shall not
 27 apply to any investigation or hearing undertaken pursuant to
 28 this Act.

29 Nothing in this Section shall be construed to limit,
 30 wave, or abrogate the scope or nature of any common law
 31 privilege concerning the confidential capacity of a public
 32 accountant.

1 (Source: P.A. 92-457, eff. 7-1-04.)

2 Section 95. No acceleration or delay. Where this Act
3 makes changes in a statute that is represented in this Act by
4 text that is not yet or no longer in effect (for example, a
5 Section represented by multiple versions), the use of that
6 text does not accelerate or delay the taking effect of (i)
7 the changes made by this Act or (ii) provisions derived from
8 any other Public Act.

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

INDEX

Statutes amended in order of appearance

20 ILCS 2520/5 from Ch. 120, par. 2305
20 ILCS 2520/5.5 new
20 ILCS 2520/5.6 new
35 ILCS 5/902 from Ch. 120, par. 9-902
35 ILCS 5/904 from Ch. 120, par. 9-904
35 ILCS 5/917 from Ch. 120, par. 9-917
35 ILCS 5/917.5 new
35 ILCS 105/19 from Ch. 120, par. 439.19
35 ILCS 105/20 from Ch. 120, par. 439.20
35 ILCS 110/17 from Ch. 120, par. 439.47
35 ILCS 110/18 from Ch. 120, par. 439.48
35 ILCS 115/17 from Ch. 120, par. 439.117
35 ILCS 115/18 from Ch. 120, par. 439.118
35 ILCS 120/4 from Ch. 120, par. 443
35 ILCS 120/5 from Ch. 120, par. 444
35 ILCS 120/6a from Ch. 120, par. 445a
35 ILCS 120/6b from Ch. 120, par. 445b
35 ILCS 130/9a from Ch. 120, par. 453.9a
35 ILCS 130/9b from Ch. 120, par. 453.9b
35 ILCS 135/13 from Ch. 120, par. 453.43
35 ILCS 135/13a from Ch. 120, par. 453.43a
35 ILCS 145/6 from Ch. 120, par. 481b.36
35 ILCS 505/5 from Ch. 120, par. 421
35 ILCS 505/5a from Ch. 120, par. 421a
35 ILCS 510/2 from Ch. 120, par. 481b.2
35 ILCS 520/16 from Ch. 120, par. 2166
35 ILCS 610/6 from Ch. 120, par. 467.6
35 ILCS 615/6 from Ch. 120, par. 467.21
35 ILCS 620/6 from Ch. 120, par. 473
35 ILCS 625/6 from Ch. 120, par. 1416
35 ILCS 630/10 from Ch. 120, par. 2010
35 ILCS 735/3-3 from Ch. 120, par. 2603-3

- 1 35 ILCS 735/3-7 from Ch. 120, par. 2603-7
- 2 225 ILCS 450/27 from Ch. 111, par. 5533