

1 AN ACT in relation to taxes.

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

4 Section 1. Short title. This Act may be cited as the Tax
5 Delinquency Amnesty Act.

6 Section 5. Definitions. As used in this Act:

7 "Department" means the Illinois Department of Revenue.

8 "Rules" means any rules adopted or forms prescribed by
9 the Department.

10 "Taxable period" means any period of time for which any
11 tax is imposed by and owed to the State of Illinois.

12 "Taxpayer" means any person, corporation, or other entity
13 subject to any tax imposed by any law of the State of
14 Illinois and payable to the State of Illinois.

15 Section 10. Amnesty program. The Department shall
16 establish an amnesty program for all taxpayers owing any tax
17 imposed by reason of or pursuant to authorization by any law
18 of the State of Illinois and collected by the Department.
19 Amnesty tax return forms shall be prepared by the Department
20 and shall provide for specification by the taxpayer of the
21 tax and the taxable period for which amnesty is being sought
22 by the taxpayer.

23 The amnesty program shall be for a period from October 1,
24 2003 through November 30, 2003.

25 The amnesty program shall provide that, upon written
26 application by any taxpayer and payment by that taxpayer of
27 all taxes due from that taxpayer to the State of Illinois for
28 any taxable period ending prior to July 1, 2002, the
29 Department shall not seek to collect any interest or
30 penalties that may be applicable and the Department shall not

1 seek civil or criminal prosecution for any taxpayer for the
2 period of time for which amnesty has been granted to the
3 taxpayer. Failure to pay all taxes due to the State shall
4 invalidate any amnesty granted under this Act. Amnesty shall
5 be granted for only the taxable periods specified in the
6 application and only if all amnesty conditions are satisfied
7 by the taxpayer.

8 Amnesty shall not be granted to taxpayers who are a party
9 to any criminal investigation or to any civil or criminal
10 litigation that is pending in any circuit court or appellate
11 court or the Supreme Court of this State for nonpayment,
12 delinquency, or fraud in relation to any State tax imposed by
13 any law of the State of Illinois.

14 The Department shall adopt rules as necessary to
15 implement the provisions of this Act.

16 All money collected under this Act pursuant to a State
17 imposed tax, other than the tax imposed pursuant to
18 subsections (c) and (d) of Section 201 of the Illinois Income
19 Tax Act, shall be deposited as follows: (i) one-half into the
20 Common School Fund; (ii) one-half into the General Revenue
21 Fund.

22 Section 97. Repealer. This Act is repealed on January 1,
23 2005.

24 Section 905. The Uniform Penalty and Interest Act is
25 amended by changing Sections 3-2, 3-3, 3-4, 3-5, 3-6, and
26 3-7.5 as follows:

27 (35 ILCS 735/3-2) (from Ch. 120, par. 2603-2)

28 Sec. 3-2. Interest.

29 (a) Interest paid by the Department to taxpayers and
30 interest charged to taxpayers by the Department shall be paid
31 at the annual rate determined by the Department. That rate

1 shall be the underpayment rate established under Section 6621
2 of the Internal Revenue Code.

3 (b) The interest rate shall be adjusted on a semiannual
4 basis, on January 1 and July 1, based upon the underpayment
5 rate going into effect on that January 1 or July 1 under
6 Section 6621 of the Internal Revenue Code.

7 (c) This subsection (c) is applicable to returns due on
8 and before December 31, 2000. Interest shall be simple
9 interest calculated on a daily basis. Interest shall accrue
10 upon tax and penalty due. If notice and demand is made for
11 the payment of any amount of tax due and if the amount due is
12 paid within 30 days after the date of such notice and demand,
13 interest under this Section on the amount so paid shall not
14 be imposed for the period after the date of the notice and
15 demand.

16 (c-5) This subsection (c-5) is applicable to returns due
17 on and after January 1, 2001. Interest shall be simple
18 interest calculated on a daily basis. Interest shall accrue
19 upon tax due. If notice and demand is made for the payment
20 of any amount of tax due and if the amount due is paid within
21 30 days after the date of the notice and demand, interest
22 under this Section on the amount so paid shall not be imposed
23 for the period after the date of the notice and demand.

24 (d) No interest shall be paid upon any overpayment of
25 tax if the overpayment is refunded or a credit approved
26 within 90 days after the last date prescribed for filing the
27 original return, or within 90 days of the receipt of the
28 processable return, or within 90 days after the date of
29 overpayment, whichever date is latest, as determined without
30 regard to processing time by the Comptroller or without
31 regard to the date on which the credit is applied to the
32 taxpayer's account. In order for an original return to be
33 processable for purposes of this Section, it must be in the
34 form prescribed or approved by the Department, signed by the

1 person authorized by law, and contain all information,
2 schedules, and support documents necessary to determine the
3 tax due and to make allocations of tax as prescribed by law.
4 For the purposes of computing interest, a return shall be
5 deemed to be processable unless the Department notifies the
6 taxpayer that the return is not processable within 90 days
7 after the receipt of the return; however, interest shall not
8 accumulate for the period following this date of notice.
9 Interest on amounts refunded or credited pursuant to the
10 filing of an amended return or claim for refund shall be
11 determined from the due date of the original return or the
12 date of overpayment, whichever is later, to the date of
13 payment by the Department without regard to processing time
14 by the Comptroller or the date of credit by the Department or
15 without regard to the date on which the credit is applied to
16 the taxpayer's account. If a claim for refund relates to an
17 overpayment attributable to a net loss carryback as provided
18 by Section 207 of the Illinois Income Tax Act, the date of
19 overpayment shall be the last day of the taxable year in
20 which the loss was incurred.

21 (e) Interest on erroneous refunds. Any portion of the
22 tax imposed by an Act to which this Act is applicable or any
23 interest or penalty which has been erroneously refunded and
24 which is recoverable by the Department shall bear interest
25 from the date of payment of the refund. However, no interest
26 will be charged if the erroneous refund is for an amount less
27 than \$500 and is due to a mistake of the Department.

28 (f) If a taxpayer has a tax liability that is eligible
29 for amnesty under the Tax Delinquency Amnesty Act and the
30 taxpayer fails to satisfy the tax liability during the
31 amnesty period provided for in that Act, then the interest
32 charged by the Department under this Section shall be imposed
33 at a rate that is 200% of the rate that would otherwise be
34 imposed under this Section.

1 (Source: P.A. 91-803, eff. 1-1-01.)

2 (35 ILCS 735/3-3) (from Ch. 120, par. 2603-3)

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

4 (a) This subsection (a) is applicable before January 1,
5 1996. A penalty of 5% of the tax required to be shown due on
6 a return shall be imposed for failure to file the tax return
7 on or before the due date prescribed for filing determined
8 with regard for any extension of time for filing (penalty for
9 late filing or nonfiling). If any unprocessable return is
10 corrected and filed within 21 days after notice by the
11 Department, the late filing or nonfiling penalty shall not
12 apply. If a penalty for late filing or nonfiling is imposed
13 in addition to a penalty for late payment, the total penalty
14 due shall be the sum of the late filing penalty and the
15 applicable late payment penalty. Beginning on the effective
16 date of this amendatory Act of 1995, in the case of any type
17 of tax return required to be filed more frequently than
18 annually, when the failure to file the tax return on or
19 before the date prescribed for filing (including any
20 extensions) is shown to be nonfraudulent and has not occurred
21 in the 2 years immediately preceding the failure to file on
22 the prescribed due date, the penalty imposed by Section
23 3-3(a) shall be abated.

24 (a-5) This subsection (a-5) is applicable to returns due
25 on and after January 1, 1996 and on or before December 31,
26 2000. A penalty equal to 2% of the tax required to be shown
27 due on a return, up to a maximum amount of \$250, determined
28 without regard to any part of the tax that is paid on time or
29 by any credit that was properly allowable on the date the
30 return was required to be filed, shall be imposed for failure
31 to file the tax return on or before the due date prescribed
32 for filing determined with regard for any extension of time
33 for filing. However, if any return is not filed within 30

1 days after notice of nonfiling mailed by the Department to
2 the last known address of the taxpayer contained in
3 Department records, an additional penalty amount shall be
4 imposed equal to the greater of \$250 or 2% of the tax shown
5 on the return. However, the additional penalty amount may
6 not exceed \$5,000 and is determined without regard to any
7 part of the tax that is paid on time or by any credit that
8 was properly allowable on the date the return was required to
9 be filed (penalty for late filing or nonfiling). If any
10 unprocessable return is corrected and filed within 30 days
11 after notice by the Department, the late filing or nonfiling
12 penalty shall not apply. If a penalty for late filing or
13 nonfiling is imposed in addition to a penalty for late
14 payment, the total penalty due shall be the sum of the late
15 filing penalty and the applicable late payment penalty. In
16 the case of any type of tax return required to be filed more
17 frequently than annually, when the failure to file the tax
18 return on or before the date prescribed for filing (including
19 any extensions) is shown to be nonfraudulent and has not
20 occurred in the 2 years immediately preceding the failure to
21 file on the prescribed due date, the penalty imposed by
22 Section 3-3(a-5) shall be abated.

23 (a-10) This subsection (a-10) is applicable to returns
24 due on and after January 1, 2001. A penalty equal to 2% of
25 the tax required to be shown due on a return, up to a maximum
26 amount of \$250, reduced by any tax that is paid on time or by
27 any credit that was properly allowable on the date the return
28 was required to be filed, shall be imposed for failure to
29 file the tax return on or before the due date prescribed for
30 filing determined with regard for any extension of time for
31 filing. However, if any return is not filed within 30 days
32 after notice of nonfiling mailed by the Department to the
33 last known address of the taxpayer contained in Department
34 records, an additional penalty amount shall be imposed equal

1 to the greater of \$250 or 2% of the tax shown on the return.
2 However, the additional penalty amount may not exceed \$5,000
3 and is determined without regard to any part of the tax that
4 is paid on time or by any credit that was properly allowable
5 on the date the return was required to be filed (penalty for
6 late filing or nonfiling). If any unprocessable return is
7 corrected and filed within 30 days after notice by the
8 Department, the late filing or nonfiling penalty shall not
9 apply. If a penalty for late filing or nonfiling is imposed
10 in addition to a penalty for late payment, the total penalty
11 due shall be the sum of the late filing penalty and the
12 applicable late payment penalty. In the case of any type of
13 tax return required to be filed more frequently than
14 annually, when the failure to file the tax return on or
15 before the date prescribed for filing (including any
16 extensions) is shown to be nonfraudulent and has not occurred
17 in the 2 years immediately preceding the failure to file on
18 the prescribed due date, the penalty imposed by Section
19 3-3(a-10) shall be abated.

20 (b) This subsection is applicable before January 1,
21 1998. A penalty of 15% of the tax shown on the return or the
22 tax required to be shown due on the return shall be imposed
23 for failure to pay:

24 (1) the tax shown due on the return on or before
25 the due date prescribed for payment of that tax, an
26 amount of underpayment of estimated tax, or an amount
27 that is reported in an amended return other than an
28 amended return timely filed as required by subsection (b)
29 of Section 506 of the Illinois Income Tax Act (penalty
30 for late payment or nonpayment of admitted liability); or

31 (2) the full amount of any tax required to be shown
32 due on a return and which is not shown (penalty for late
33 payment or nonpayment of additional liability), within 30
34 days after a notice of arithmetic error, notice and

1 demand, or a final assessment is issued by the
2 Department. In the case of a final assessment arising
3 following a protest and hearing, the 30-day period shall
4 not begin until all proceedings in court for review of
5 the final assessment have terminated or the period for
6 obtaining a review has expired without proceedings for a
7 review having been instituted. In the case of a notice
8 of tax liability that becomes a final assessment without
9 a protest and hearing, the penalty provided in this
10 paragraph (2) shall be imposed at the expiration of the
11 period provided for the filing of a protest.

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

17 (1) the tax shown due on the return on or before
18 the due date prescribed for payment of that tax, an
19 amount of underpayment of estimated tax, or an amount
20 that is reported in an amended return other than an
21 amended return timely filed as required by subsection (b)
22 of Section 506 of the Illinois Income Tax Act (penalty
23 for late payment or nonpayment of admitted liability); or

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

1 of tax liability that becomes a final assessment without
2 a protest and hearing, the penalty provided in this
3 paragraph (2) shall be imposed at the expiration of the
4 period provided for the filing of a protest.

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

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

30 (2) the full amount of any tax required to be shown
31 due on a return and that is not shown (penalty for late
32 payment or nonpayment of additional liability), within 30
33 days after a notice of arithmetic error, notice and
34 demand, or a final assessment is issued by the

1 Department. In the case of a final assessment arising
2 following a protest and hearing, the 30-day period shall
3 not begin until all proceedings in court for review of
4 the final assessment have terminated or the period for
5 obtaining a review has expired without proceedings for a
6 review having been instituted. The amount of penalty
7 imposed under this subsection (b-10)(2) shall be 20% of
8 any amount that is not paid within the 30-day period. In
9 the case of a notice of tax liability that becomes a
10 final assessment without a protest and hearing, the
11 penalty provided in this subsection (b-10)(2) shall be
12 imposed at the expiration of the period provided for the
13 filing of a protest.

14 (c) For purposes of the late payment penalties, the
15 basis of the penalty shall be the tax shown or required to be
16 shown on a return, whichever is applicable, reduced by any
17 part of the tax which is paid on time and by any credit which
18 was properly allowable on the date the return was required to
19 be filed.

20 (d) A penalty shall be applied to the tax required to be
21 shown even if that amount is less than the tax shown on the
22 return.

23 (e) This subsection (e) is applicable to returns due
24 before January 1, 2001. If both a subsection (b)(1) or
25 (b-5)(1) penalty and a subsection (b)(2) or (b-5)(2) penalty
26 are assessed against the same return, the subsection (b)(2)
27 or (b-5)(2) penalty shall be assessed against only the
28 additional tax found to be due.

29 (e-5) This subsection (e-5) is applicable to returns due
30 on and after January 1, 2001. If both a subsection (b-10)(1)
31 penalty and a subsection (b-10)(2) penalty are assessed
32 against the same return, the subsection (b-10)(2) penalty
33 shall be assessed against only the additional tax found to be
34 due.

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

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

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

13 (Source: P.A. 91-239, eff. 1-1-00; 91-803, eff. 1-1-01;
14 92-742, eff. 7-25-02.)

15 (35 ILCS 735/3-4) (from Ch. 120, par. 2603-4)

16 Sec. 3-4. Penalty for failure to file correct
17 information returns.

18 (a) Failure to file correct information returns -
19 imposition of penalty.

20 (1) In general. Unless otherwise provided in a tax
21 Act, in the case of a failure described in paragraph (2)
22 of this subsection (a) by any person with respect to an
23 information return, that person shall pay a penalty of \$5
24 for each return or statement with respect to which the
25 failure occurs, but the total amount imposed on that
26 person for all such failures during any calendar year
27 shall not exceed \$25,000.

28 (2) Failures subject to penalty. The following
29 failures are subject to the penalty imposed in paragraph
30 (1) of this subsection (a):

31 (A) any failure to file an information return
32 with the Department on or before the required filing
33 date, or

1 (B) any failure to include all of the
2 information required to be shown on the return or
3 the inclusion of incorrect information.

4 (b) Reduction where correction in specified period.

5 (1) Correction within 60 days. If any failure
6 described in subsection (a) (2) is corrected within 60
7 days after the required filing date:

8 (A) the penalty imposed by subsection (a)
9 shall be reduced by 50%; and

10 (B) the total amount imposed on the person for
11 all such failures during any calendar year which are
12 so corrected shall not exceed 50% of the maximum
13 prescribed in subsection (a) (1).

14 (c) Information return defined. An information return is
15 any tax return required by a tax Act to be filed with the
16 Department that does not, by law, require the payment of a
17 tax liability.

18 (d) If a taxpayer has a tax liability that is eligible
19 for amnesty under the Tax Delinquency Amnesty Act and the
20 taxpayer fails to satisfy the tax liability during the
21 amnesty period provided for in that Act, then the penalty
22 imposed by the Department under this Section shall be imposed
23 in an amount that is 200% of the amount that would otherwise
24 be imposed under this Section.

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

26 (35 ILCS 735/3-5) (from Ch. 120, par. 2603-5)

27 Sec. 3-5. Penalty for negligence.

28 (a) If any return or amended return is prepared
29 negligently, but without intent to defraud, and filed, in
30 addition to any penalty imposed under Section 3-3 of this
31 Act, a penalty shall be imposed in an amount equal to 20% of
32 any resulting deficiency.

33 (b) Negligence includes any failure to make a reasonable

1 attempt to comply with the provisions of any tax Act and
2 includes careless, reckless, or intentional disregard of the
3 law or regulations.

4 (c) No penalty shall be imposed under this Section if it
5 is shown that failure to comply with the tax Act is due to
6 reasonable cause. A taxpayer is not negligent if the
7 taxpayer shows substantial authority to support the return as
8 filed.

9 (d) If a taxpayer has a tax liability that is eligible
10 for amnesty under the Tax Delinquency Amnesty Act and the
11 taxpayer fails to satisfy the tax liability during the
12 amnesty period provided for in that Act, then the penalty
13 imposed by the Department shall be imposed in an amount that
14 is 200% of the amount that would otherwise be imposed in
15 accordance with this Section.

16 (Source: P.A. 87-205; 87-1189.)

17 (35 ILCS 735/3-6) (from Ch. 120, par. 2603-6)

18 Sec. 3-6. Penalty for fraud.

19 (a) If any return or amended return is filed with intent
20 to defraud, in addition to any penalty imposed under Section
21 3-3 of this Act, a penalty shall be imposed in an amount
22 equal to 50% of any resulting deficiency.

23 (b) If any claim is filed with intent to defraud, a
24 penalty shall be imposed in an amount equal to 50% of the
25 amount fraudulently claimed for credit or refund.

26 (c) If a taxpayer has a tax liability that is eligible
27 for amnesty under the Tax Delinquency Amnesty Act and the
28 taxpayer fails to satisfy the tax liability during the
29 amnesty period provided for in that Act, then the penalty
30 imposed by the Department under this Section shall be imposed
31 in an amount that is 200% of the amount that would otherwise
32 be imposed under this Section.

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

1 (35 ILCS 735/3-7.5)

2 Sec. 3-7.5. Bad check penalty.

3 (a) In addition to any other penalty provided in this
4 Act, a penalty of \$25 shall be imposed on any person who
5 issues a check or other draft to the Department that is not
6 honored upon presentment. The penalty imposed under this
7 Section shall be deemed assessed at the time of presentment
8 of the check or other draft and shall be treated for all
9 purposes, including collection and allocation, as part of the
10 tax or other liability for which the check or other draft
11 represented payment.

12 (b) If a taxpayer has a tax liability that is eligible
13 for amnesty under the Tax Delinquency Amnesty Act and the
14 taxpayer fails to satisfy the tax liability during the
15 amnesty period provided for in that Act, then the penalty
16 imposed by the Department under this Section shall be imposed
17 in an amount that is 200% of the amount that would otherwise
18 be imposed under this Section.

19 (Source: P.A. 91-803, eff. 1-1-01.)

20 Section 999. Effective date. This Act takes effect upon
21 becoming law.