

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, except for the motor fuel use tax,
14 imposed by any law of the State of Illinois and payable to
15 the State of Illinois.

16 Section 10. Amnesty program. The Department shall
17 establish an amnesty program for all taxpayers owing any tax
18 imposed by reason of or pursuant to authorization by any law
19 of the State of Illinois and collected by the Department.

20 The amnesty program shall be for a period from October 1,
21 2003 through November 15, 2003.

22 The amnesty program shall provide that, upon payment by a
23 taxpayer of all taxes due from that taxpayer to the State of
24 Illinois for any taxable period ending after June 30, 1983
25 and prior to July 1, 2002, the Department shall abate and not
26 seek to collect any interest or penalties that may be
27 applicable and the Department shall not seek civil or
28 criminal prosecution for any taxpayer for the period of time
29 for which amnesty has been granted to the taxpayer. Failure
30 to pay all taxes due to the State for a taxable period shall

1 invalidate any amnesty granted under this Act. Amnesty shall
2 be granted only if all amnesty conditions are satisfied by
3 the taxpayer.

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

10 Voluntary payments made under this Act shall be made by
11 cash, check, guaranteed remittance, or ACH debit.

12 The Department shall adopt rules as necessary to
13 implement the provisions of this Act.

14 Except as otherwise provided in this Section, all money
15 collected under this Act that would otherwise be deposited
16 into the General Revenue Fund shall be deposited as follows:
17 (i) one-half into the Common School Fund; (ii) one-half into
18 the General Revenue Fund. Two percent of all money collected
19 under this Act shall be deposited by the State Treasurer into
20 the Tax Compliance and Administration Fund and, subject to
21 appropriation, shall be used by the Department to cover costs
22 associated with the administration of this Act.

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

26 (35 ILCS 735/3-2) (from Ch. 120, par. 2603-2)

27 Sec. 3-2. Interest.

28 (a) Interest paid by the Department to taxpayers and
29 interest charged to taxpayers by the Department shall be paid
30 at the annual rate determined by the Department. That rate
31 shall be the underpayment rate established under Section 6621
32 of the Internal Revenue Code.

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

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

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

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

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

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

26 (f) 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 interest
30 charged by the Department under this Section shall be imposed
31 at a rate that is 200% of the rate that would otherwise be
32 imposed under this Section.

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

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

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

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

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

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

21 (a-10) This subsection (a-10) is applicable to returns
22 due on and after January 1, 2001. A penalty equal to 2% of
23 the tax required to be shown due on a return, up to a maximum
24 amount of \$250, reduced by any tax that is paid on time or by
25 any credit that was properly allowable on the date the return
26 was required to be filed, shall be imposed for failure to
27 file the tax return on or before the due date prescribed for
28 filing determined with regard for any extension of time for
29 filing. However, if any return is not filed within 30 days
30 after notice of nonfiling mailed by the Department to the
31 last known address of the taxpayer contained in Department
32 records, an additional penalty amount shall be imposed equal
33 to the greater of \$250 or 2% of the tax shown on the return.
34 However, the additional penalty amount may not exceed \$5,000

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

18 (b) This subsection is applicable before January 1,
19 1998. A penalty of 15% of the tax shown on the return or the
20 tax required to be shown due on the return shall be imposed
21 for failure to pay:

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

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

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

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

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

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

1 paragraph (2) shall be imposed at the expiration of the
2 period provided for the filing of a protest.

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

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

28 (2) the full amount of any tax required to be shown
29 due on a return and that is not shown (penalty for late
30 payment or nonpayment of additional liability), within 30
31 days after a notice of arithmetic error, notice and
32 demand, or a final assessment is issued by the
33 Department. In the case of a final assessment arising
34 following a protest and hearing, the 30-day period shall

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

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

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

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

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

33 (f) If the taxpayer has failed to file the return, the
34 Department shall determine the correct tax according to its

1 best judgment and information, which amount shall be prima
2 facie evidence of the correctness of the tax due.

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

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

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

18 (Source: P.A. 91-239, eff. 1-1-00; 91-803, eff. 1-1-01;
19 92-742, eff. 7-25-02.)

20 (35 ILCS 735/3-4) (from Ch. 120, par. 2603-4)
21 Sec. 3-4. Penalty for failure to file correct
22 information returns.

23 (a) Failure to file correct information returns -
24 imposition of penalty.

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

33 (2) Failures subject to penalty. The following

1 failures are subject to the penalty imposed in paragraph
2 (1) of this subsection (a):

3 (A) any failure to file an information return
4 with the Department on or before the required filing
5 date, or

6 (B) any failure to include all of the
7 information required to be shown on the return or
8 the inclusion of incorrect information.

9 (b) Reduction where correction in specified period.

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

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

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

19 (c) Information return defined. An information return is
20 any tax return required by a tax Act to be filed with the
21 Department that does not, by law, require the payment of a
22 tax liability.

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

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

31 (35 ILCS 735/3-5) (from Ch. 120, par. 2603-5)
32 Sec. 3-5. Penalty for negligence.

33 (a) If any return or amended return is prepared

1 negligently, but without intent to defraud, and filed, in
2 addition to any penalty imposed under Section 3-3 of this
3 Act, a penalty shall be imposed in an amount equal to 20% of
4 any resulting deficiency.

5 (b) Negligence includes any failure to make a reasonable
6 attempt to comply with the provisions of any tax Act and
7 includes careless, reckless, or intentional disregard of the
8 law or regulations.

9 (c) No penalty shall be imposed under this Section if it
10 is shown that failure to comply with the tax Act is due to
11 reasonable cause. A taxpayer is not negligent if the
12 taxpayer shows substantial authority to support the return as
13 filed.

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

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

22 (35 ILCS 735/3-6) (from Ch. 120, par. 2603-6)
23 Sec. 3-6. Penalty for fraud.

24 (a) If any return or amended return is filed with intent
25 to defraud, in addition to any penalty imposed under Section
26 3-3 of this Act, a penalty shall be imposed in an amount
27 equal to 50% of any resulting deficiency.

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

31 (c) If a taxpayer has a tax liability that is eligible
32 for amnesty under the Tax Delinquency Amnesty Act and the
33 taxpayer fails to satisfy the tax liability during the

1 amnesty period provided for in that Act, then the penalty
 2 imposed by the Department under this Section shall be imposed
 3 in an amount that is 200% of the amount that would otherwise
 4 be imposed under this Section.

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

6 (35 ILCS 735/3-7.5)

7 Sec. 3-7.5. Bad check penalty.

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

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

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

25 Section 999. Effective date. This Act takes effect upon
 26 becoming law.