



## 95TH GENERAL ASSEMBLY

### State of Illinois

### 2007 and 2008

### SB2875

Introduced 2/15/2008, by Sen. Michael Noland

#### SYNOPSIS AS INTRODUCED:

20 ILCS 2505/2505-200	was 20 ILCS 2505/39c-1a
35 ILCS 5/502	from Ch. 120, par. 5-502
35 ILCS 5/911.1	from Ch. 120, par. 9-911.1
35 ILCS 5/911.2	
35 ILCS 105/10	from Ch. 120, par. 439.10

Amends the Department of Revenue Law of the Civil Administration Code of Illinois to authorize the Department of Revenue to adopt rules requiring the electronic filing of certain tax returns. Amends the Illinois Income Tax Act. Authorizes spouses who file federal joint returns to file separate State returns. Amends various provisions concerning the joint and several liability of spouses who file joint returns. Amends the Use Tax Act. Requires purchasers to file a return and pay use tax on cigarettes within 30 days after acquiring the cigarettes (now, the tax must be paid by the last day of the month following the calendar month in which the cigarettes were purchased). Effective immediately.

LRB095 18332 BDD 44416 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Department of Revenue Law of the Civil  
5 Administrative Code of Illinois is amended by changing Section  
6 2505-200 as follows:

7 (20 ILCS 2505/2505-200) (was 20 ILCS 2505/39c-1a)

8 Sec. 2505-200. Electronic filing rules.

9 (a) The Department may adopt rules to authorize the  
10 electronic filing of any return or document required to be  
11 filed under any Act administered by the Department.

12 (b) The Department may adopt rules to require the  
13 electronic filing of the income and replacement tax return  
14 required to be filed under the Illinois Income Tax Act for a  
15 taxable year by any taxpayer (other than an individual) who is  
16 required to file its federal income tax return electronically  
17 for the taxable year.

18 (c) In the case of an electronically filed return or other  
19 document required to be filed with the Department or maintained  
20 by any taxpayer, these rules may set forth standards that  
21 provide for acceptance of a signature in a form other than in  
22 the proper handwriting of the person.

23 (Source: P.A. 91-239, eff. 1-1-00.)

1           Section 10. The Illinois Income Tax Act is amended by  
2 changing Sections 502, 911.1, and 911.2 as follows:

3           (35 ILCS 5/502) (from Ch. 120, par. 5-502)

4           Sec. 502. Returns and notices.

5           (a) In general. A return with respect to the taxes imposed  
6 by this Act shall be made by every person for any taxable year:

7           (1) for which such person is liable for a tax imposed  
8 by this Act, or

9           (2) in the case of a resident or in the case of a  
10 corporation which is qualified to do business in this  
11 State, for which such person is required to make a federal  
12 income tax return, regardless of whether such person is  
13 liable for a tax imposed by this Act. However, this  
14 paragraph shall not require a resident to make a return if  
15 such person has an Illinois base income of the basic amount  
16 in Section 204(b) or less and is either claimed as a  
17 dependent on another person's tax return under the Internal  
18 Revenue Code of 1986, or is claimed as a dependent on  
19 another person's tax return under this Act.

20           Notwithstanding the provisions of paragraph (1), a  
21 nonresident whose Illinois income tax liability under  
22 subsections (a), (b), (c), and (d) of Section 201 of this Act  
23 is paid in full after taking into account the credits allowed  
24 under subsection (f) of this Section or allowed under Section

1 709.5 of this Act shall not be required to file a return under  
2 this subsection (a).

3 (b) Fiduciaries and receivers.

4 (1) Decedents. If an individual is deceased, any return  
5 or notice required of such individual under this Act shall  
6 be made by his executor, administrator, or other person  
7 charged with the property of such decedent.

8 (2) Individuals under a disability. If an individual is  
9 unable to make a return or notice required under this Act,  
10 the return or notice required of such individual shall be  
11 made by his duly authorized agent, guardian, fiduciary or  
12 other person charged with the care of the person or  
13 property of such individual.

14 (3) Estates and trusts. Returns or notices required of  
15 an estate or a trust shall be made by the fiduciary  
16 thereof.

17 (4) Receivers, trustees and assignees for  
18 corporations. In a case where a receiver, trustee in  
19 bankruptcy, or assignee, by order of a court of competent  
20 jurisdiction, by operation of law, or otherwise, has  
21 possession of or holds title to all or substantially all  
22 the property or business of a corporation, whether or not  
23 such property or business is being operated, such receiver,  
24 trustee, or assignee shall make the returns and notices  
25 required of such corporation in the same manner and form as  
26 corporations are required to make such returns and notices.

1 (c) Joint returns by husband and wife.

2 (1) Except as provided in paragraph (3) ~~;~~

3 (A) if a husband and wife file a joint federal  
4 income tax return for a taxable year ending before  
5 December 31, 2008 they shall file a joint return under  
6 this Act for such taxable year and their liabilities  
7 shall be joint and several ~~;~~ ~~but~~

8 (B) if a husband and wife file a joint federal  
9 income tax return for a taxable year ending on or after  
10 December 31, 2008, they may elect to file separate  
11 returns under this Act for such taxable year. The  
12 election under this paragraph must be made on or before  
13 the due date (including extensions) of the return and,  
14 once made, shall be irrevocable. If no election is  
15 timely made under this paragraph for a taxable year:

16 (i) the couple must file a joint return under  
17 this Act for such taxable year,

18 (ii) their liabilities shall be joint and  
19 several, and

20 (iii) any overpayment for that taxable year  
21 may be withheld under Section 909 of this Act or  
22 under Section 2505-275 of the Civil Administrative  
23 Code of Illinois and applied against a debt of  
24 either spouse without regard to the amount of the  
25 overpayment attributable to the other spouse; and

26 (C) if the federal income tax liability of either

1 spouse is determined on a separate federal income tax  
2 return, they shall file separate returns under this  
3 Act.

4 (2) If neither spouse is required to file a federal  
5 income tax return and either or both are required to file a  
6 return under this Act, they may elect to file separate or  
7 joint returns and pursuant to such election their  
8 liabilities shall be separate or joint and several.

9 (3) If either husband or wife is a resident and the  
10 other is a nonresident, they shall file separate returns in  
11 this State on such forms as may be required by the  
12 Department in which event their tax liabilities shall be  
13 separate; but if they file a joint federal income tax  
14 return for a taxable year, they may elect to determine  
15 their joint net income and file a joint return for that  
16 taxable year under the provisions of paragraph (i) of this  
17 subsection as if both were residents and in such case,  
18 their liabilities shall be joint and several.

19 (4) Innocent spouses.

20 (A) However, for tax liabilities arising and paid  
21 prior to August 13, 1999, an innocent spouse shall be  
22 relieved of liability for tax (including interest and  
23 penalties) for any taxable year for which a joint  
24 return has been made, upon submission of proof that the  
25 Internal Revenue Service has made a determination  
26 under Section 6013(e) of the Internal Revenue Code, for

1 the same taxable year, which determination relieved  
2 the spouse from liability for federal income taxes. If  
3 there is no federal income tax liability at issue for  
4 the same taxable year, the Department shall rely on the  
5 provisions of Section 6013(e) to determine whether the  
6 person requesting innocent spouse abatement of tax,  
7 penalty, and interest is entitled to that relief.

8 (B) For tax liabilities arising on and after August  
9 13, 1999 or which arose prior to that date, but remain  
10 unpaid as of that date, if an individual who filed a  
11 joint return for any taxable year has made an election  
12 under this paragraph, the individual's liability for  
13 any tax shown on the joint return shall not exceed the  
14 individual's separate return amount and the  
15 individual's liability for any deficiency assessed for  
16 that taxable year shall not exceed the portion of the  
17 deficiency properly allocable to the individual. For  
18 purposes of this paragraph:

19 (i) An election properly made pursuant to  
20 Section 6015 of the Internal Revenue Code shall  
21 constitute an election under this paragraph,  
22 provided that the election shall not be effective  
23 until the individual has notified the Department  
24 of the election in the form and manner prescribed  
25 by the Department.

26 (ii) If no election has been made under Section

1           6015, the individual may make an election under  
2           this paragraph in the form and manner prescribed by  
3           the Department, provided that no election may be  
4           made if the Department finds that assets were  
5           transferred between individuals filing a joint  
6           return as part of a scheme by such individuals to  
7           avoid payment of Illinois income tax and the  
8           election shall not eliminate the individual's  
9           liability for any portion of a deficiency  
10          attributable to an error on the return of which the  
11          individual had actual knowledge as of the date of  
12          filing.

13                 (iii) In determining the separate return  
14                 amount or portion of any deficiency attributable  
15                 to an individual, the Department shall follow the  
16                 provisions in subsections (c) and (d) of Section  
17                 6015 of the Internal Revenue Code.

18                 (iv) In determining the validity of an  
19                 individual's election under subparagraph (ii) and  
20                 in determining an electing individual's separate  
21                 return amount or portion of any deficiency under  
22                 subparagraph (iii), any determination made by the  
23                 Secretary of the Treasury, by the United States Tax  
24                 Court on petition for review of a determination by  
25                 the Secretary of the Treasury, or on appeal from  
26                 the United States Tax Court under Section 6015 of



1 the Internal Revenue Code regarding criteria for  
2 eligibility or under subsection (d) of Section  
3 6015 of the Internal Revenue Code regarding the  
4 allocation of any item of income, deduction,  
5 payment, or credit between an individual making  
6 the federal election and that individual's spouse  
7 shall be conclusively presumed to be correct. With  
8 respect to any item that is not the subject of a  
9 determination by the Secretary of the Treasury or  
10 the federal courts, in any proceeding involving  
11 this subsection, the individual making the  
12 election shall have the burden of proof with  
13 respect to any item except that the Department  
14 shall have the burden of proof with respect to  
15 items in subdivision (ii).

16 (v) Any election made by an individual under  
17 this subsection shall apply to all years for which  
18 that individual and the spouse named in the  
19 election have filed a joint return.

20 (vi) After receiving a notice that the federal  
21 election has been made or after receiving an  
22 election under subdivision (ii), the Department  
23 shall take no collection action against the  
24 electing individual for any liability arising from  
25 a joint return covered by the election until the  
26 Department has notified the electing individual in

1 writing that the election is invalid or of the  
2 portion of the liability the Department has  
3 allocated to the electing individual. Within 60  
4 days (150 days if the individual is outside the  
5 United States) after the issuance of such  
6 notification, the individual may file a written  
7 protest of the denial of the election or of the  
8 Department's determination of the liability  
9 allocated to him or her and shall be granted a  
10 hearing within the Department under the provisions  
11 of Section 908. If a protest is filed, the  
12 Department shall take no collection action against  
13 the electing individual until the decision  
14 regarding the protest has become final under  
15 subsection (d) of Section 908 or, if  
16 administrative review of the Department's decision  
17 is requested under Section 1201, until the  
18 decision of the court becomes final.

19 (d) Partnerships. Every partnership having any base income  
20 allocable to this State in accordance with section 305(c) shall  
21 retain information concerning all items of income, gain, loss  
22 and deduction; the names and addresses of all of the partners,  
23 or names and addresses of members of a limited liability  
24 company, or other persons who would be entitled to share in the  
25 base income of the partnership if distributed; the amount of  
26 the distributive share of each; and such other pertinent

1 information as the Department may by forms or regulations  
2 prescribe. The partnership shall make that information  
3 available to the Department when requested by the Department.

4 (e) For taxable years ending on or after December 31, 1985,  
5 and before December 31, 1993, taxpayers that are corporations  
6 (other than Subchapter S corporations) having the same taxable  
7 year and that are members of the same unitary business group  
8 may elect to be treated as one taxpayer for purposes of any  
9 original return, amended return which includes the same  
10 taxpayers of the unitary group which joined in the election to  
11 file the original return, extension, claim for refund,  
12 assessment, collection and payment and determination of the  
13 group's tax liability under this Act. This subsection (e) does  
14 not permit the election to be made for some, but not all, of  
15 the purposes enumerated above. For taxable years ending on or  
16 after December 31, 1987, corporate members (other than  
17 Subchapter S corporations) of the same unitary business group  
18 making this subsection (e) election are not required to have  
19 the same taxable year.

20 For taxable years ending on or after December 31, 1993,  
21 taxpayers that are corporations (other than Subchapter S  
22 corporations) and that are members of the same unitary business  
23 group shall be treated as one taxpayer for purposes of any  
24 original return, amended return which includes the same  
25 taxpayers of the unitary group which joined in filing the  
26 original return, extension, claim for refund, assessment,

1 collection and payment and determination of the group's tax  
2 liability under this Act.

3 (f) The Department may promulgate regulations to permit  
4 nonresident individual partners of the same partnership,  
5 nonresident Subchapter S corporation shareholders of the same  
6 Subchapter S corporation, and nonresident individuals  
7 transacting an insurance business in Illinois under a Lloyds  
8 plan of operation, and nonresident individual members of the  
9 same limited liability company that is treated as a partnership  
10 under Section 1501 (a)(16) of this Act, to file composite  
11 individual income tax returns reflecting the composite income  
12 of such individuals allocable to Illinois and to make composite  
13 individual income tax payments. The Department may by  
14 regulation also permit such composite returns to include the  
15 income tax owed by Illinois residents attributable to their  
16 income from partnerships, Subchapter S corporations, insurance  
17 businesses organized under a Lloyds plan of operation, or  
18 limited liability companies that are treated as partnership  
19 under Section 1501(a)(16) of this Act, in which case such  
20 Illinois residents will be permitted to claim credits on their  
21 individual returns for their shares of the composite tax  
22 payments. This paragraph of subsection (f) applies to taxable  
23 years ending on or after December 31, 1987.

24 For taxable years ending on or after December 31, 1999, the  
25 Department may, by regulation, also permit any persons  
26 transacting an insurance business organized under a Lloyds plan

1 of operation to file composite returns reflecting the income of  
2 such persons allocable to Illinois and the tax rates applicable  
3 to such persons under Section 201 and to make composite tax  
4 payments and shall, by regulation, also provide that the income  
5 and apportionment factors attributable to the transaction of an  
6 insurance business organized under a Lloyds plan of operation  
7 by any person joining in the filing of a composite return  
8 shall, for purposes of allocating and apportioning income under  
9 Article 3 of this Act and computing net income under Section  
10 202 of this Act, be excluded from any other income and  
11 apportionment factors of that person or of any unitary business  
12 group, as defined in subdivision (a)(27) of Section 1501, to  
13 which that person may belong.

14 For taxable years ending on or after December 31, 2008,  
15 every nonresident shall be allowed a credit against his or her  
16 liability under subsections (a) and (b) of Section 201 for any  
17 amount of tax reported on a composite return and paid on his or  
18 her behalf under this subsection (f). Residents (other than  
19 persons transacting an insurance business organized under a  
20 Lloyds plan of operation) may claim a credit for taxes reported  
21 on a composite return and paid on their behalf under this  
22 subsection (f) only as permitted by the Department by rule.

23 (f-5) For taxable years ending on or after December 31,  
24 2008, the Department may adopt rules to provide that, when a  
25 partnership or Subchapter S corporation has made an error in  
26 determining the amount of any item of income, deduction,

1 addition, subtraction, or credit required to be reported on its  
2 return that affects the liability imposed under this Act on a  
3 partner or shareholder, the partnership or Subchapter S  
4 corporation may report the changes in liabilities of its  
5 partners or shareholders and claim a refund of the resulting  
6 overpayments, or pay the resulting underpayments, on behalf of  
7 its partners and shareholders.

8 (g) The Department may adopt rules to authorize the  
9 electronic filing of any return required to be filed under this  
10 Section.

11 (Source: P.A. 94-1074, eff. 12-26-06; 95-233, eff. 8-16-07.)

12 (35 ILCS 5/911.1) (from Ch. 120, par. 9-911.1)

13 Sec. 911.1. If the Department withholds any refund due  
14 under this Act because of any other liability to the State and  
15 if the return for which such refund is due is a joint return  
16 for a taxable year ending before December 31, 2008, the  
17 taxpayer who jointly filed such return and who is not liable to  
18 the State shall be entitled to that portion of the refund  
19 attributable to himself or herself.

20 (Source: P.A. 85-473.)

21 (35 ILCS 5/911.2)

22 Sec. 911.2. Refunds withheld; tax claims of other states.

23 (a) Definitions. In this Section the following terms have  
24 the meanings indicated.

1 "Claimant state" means any state or the District of  
2 Columbia that requests the withholding of a refund pursuant to  
3 this Section and that extends a like comity for the collection  
4 of taxes owed to this State.

5 "Income tax" means any amount of income tax imposed on  
6 taxpayers under the laws of the State of Illinois or the  
7 claimant state, including additions to tax for penalties and  
8 interest.

9 "Refund" means a refund of overpaid income taxes imposed by  
10 the State of Illinois or the claimant state.

11 "Tax officer" means a unit or official of the claimant  
12 state, or the duly authorized agent of that unit or official,  
13 charged with the imposition, assessment, or collection of state  
14 income taxes.

15 "Taxpayer" means any individual person identified by a  
16 claimant state under this Section as owing taxes to that  
17 claimant state, and in the case of a refund arising from the  
18 filing of a joint return, the taxpayer's spouse.

19 (b) In general. Except as provided in subsection (c) of  
20 this Section, a tax officer may:

21 (1) certify to the Director the existence of a  
22 taxpayer's delinquent income tax liability; and

23 (2) request the Director to withhold any refund to  
24 which the taxpayer is entitled.

25 (c) Comity. A tax officer may not certify or request the  
26 Director to withhold a refund unless the laws of the claimant

1 state:

2 (1) allow the Director to certify an income tax  
3 liability;

4 (2) allow the Director to request the tax officer to  
5 withhold the taxpayer's tax refund; and

6 (3) provide for the payment of the refund to the State  
7 of Illinois.

8 (d) Certification. A certification by a tax officer to the  
9 Director shall include:

10 (1) the full name and address of the taxpayer and any  
11 other names known to be used by the taxpayer;

12 (2) the social security number or federal tax  
13 identification number of the taxpayer;

14 (3) the amount of the income tax liability; and

15 (4) a statement that all administrative and judicial  
16 remedies and appeals have been exhausted or have lapsed and  
17 that the assessment of tax, interest, and penalty has  
18 become final.

19 (e) Notification. As to any taxpayer due a refund, the  
20 Director shall:

21 (1) notify the taxpayer that a claimant state has  
22 provided certification of the existence of an income tax  
23 liability;

24 (2) inform the taxpayer of the tax liability certified,  
25 including a detailed statement for each taxable year  
26 showing tax, interest, and penalty;



1           (3) inform the taxpayer that failure to file a protest  
2           in accordance with subsection (f) of this Section shall  
3           constitute a waiver of any demand against this State for  
4           the amount certified;

5           (3.5) inform the taxpayer that the refund has been  
6           withheld and that the tax liability has been paid to the  
7           claimant state as provided in subsection (i) of this  
8           Section;

9           (4) provide the taxpayer with notice of an opportunity  
10          to request a hearing to challenge the certification; and

11          (5) inform the taxpayer that the hearing may be  
12          requested (i) pursuant to Section 910 of this Act, or (ii)  
13          with the tax officer, in accordance with the laws of the  
14          claimant state.

15          (f) Protest of withholding. A taxpayer may protest the  
16          withholding of a refund pursuant to Section 910 of this Act  
17          (except that the protest shall be filed within 30 days after  
18          the date of the Director's notice of certification pursuant to  
19          subsection (e) of this Section).

20          (g) Certification as prima facie evidence. If the taxpayer  
21          requests a hearing pursuant to Section 910 of this Act, the  
22          certification of the tax officer shall be prima facie evidence  
23          of the correctness of the taxpayer's delinquent income tax  
24          liability to the certifying state.

25          (h) Rights of spouses to refunds from joint returns. If a  
26          certification is based upon the tax debt of only one taxpayer

1 and if the refund is based upon a joint personal income tax  
2 return for a taxable year ending before December 31, 2008, the  
3 nondebtor spouse shall have the right to:

4 (1) notification, as provided in subsection (e) of this  
5 Section;

6 (2) protest, as to the withholding of such spouse's  
7 share of the refund, as provided in subsection (f) of this  
8 Section; and

9 (3) payment of his or her share of the refund, provided  
10 the amount of the overpayment refunded to the spouse shall  
11 not exceed the amount of the joint overpayment.

12 (i) Withholding and payment of refund. Upon receipt of a  
13 request for withholding in accordance with subsection (b) of  
14 this Section, the Director shall:

15 (1) withhold any refund that is certified by the tax  
16 officer;

17 (2) pay to the claimant state the entire refund or the  
18 amount certified, whichever is less;

19 (3) pay any refund in excess of the amount certified to  
20 the taxpayer; and

21 (4) if a refund is less than the amount certified,  
22 withhold amounts from subsequent refunds due the taxpayer,  
23 if the laws of the claimant state provide that the claimant  
24 state shall withhold subsequent refunds of taxpayers  
25 certified to that state by the Director.

26 (j) Determination that withholding cannot be made. After

1 receiving a certification from a tax officer, the Director  
2 shall notify the claimant state if the Director determines that  
3 a withholding cannot be made.

4 (k) Director's authority. The Director shall have the  
5 authority to enter into agreements with the tax officers of  
6 claimant state relating to:

7 (1) procedures and methods to be employed by a claimant  
8 state with respect to the operation of this Section;

9 (2) safeguards against the disclosure or inappropriate  
10 use of any information obtained or maintained pursuant to  
11 this Section that identifies, directly or indirectly, a  
12 particular taxpayer;

13 (3) a minimum tax debt, amounts below which, in light  
14 of administrative expenses and efficiency, shall, in the  
15 Director's discretion, not be subject to the withholding  
16 procedures set forth in this Section.

17 (l) Remedy not exclusive. The collection procedures  
18 prescribed by this Section are in addition to, and not in  
19 substitution for, any other remedy available by law.

20 (Source: P.A. 92-492, eff. 1-1-02; 92-826, eff. 8-21-02.)

21 Section 15. The Use Tax Act is amended by changing Section  
22 10 as follows:

23 (35 ILCS 105/10) (from Ch. 120, par. 439.10)

24 Sec. 10. Except as to motor vehicles, aircraft, watercraft,

1 and trailers, and except as to cigarettes as defined in the  
2 Cigarette Use Tax, when tangible personal property is purchased  
3 from a retailer for use in this State by a purchaser who did  
4 not pay the tax imposed by this Act to the retailer, and who  
5 does not file returns with the Department as a retailer under  
6 Section 9 of this Act, such purchaser (by the last day of the  
7 month following the calendar month in which such purchaser  
8 makes any payment upon the selling price of such property)  
9 shall, except as provided in this Section, file a return with  
10 the Department and pay the tax upon that portion of the selling  
11 price so paid by the purchaser during the preceding calendar  
12 month. When tangible personal property, including but not  
13 limited to motor vehicles and aircraft, is purchased by a  
14 lessor, under a lease for one year or longer, executed or in  
15 effect at the time of purchase to an interstate carrier for  
16 hire, who did not pay the tax imposed by this Act to the  
17 retailer, such lessor (by the last day of the month following  
18 the calendar month in which such property reverts to the use of  
19 such lessor) shall file a return with the Department and pay  
20 the tax upon the fair market value of such property on the date  
21 of such reversion. However, in determining the fair market  
22 value at the time of reversion, the fair market value of such  
23 property shall not exceed the original purchase price of the  
24 property that was paid by the lessor at the time of purchase.  
25 Such return shall be filed on a form prescribed by the  
26 Department and shall contain such information as the Department

1 may reasonably require. Such return and payment from the  
2 purchaser shall be submitted to the Department sooner than the  
3 last day of the month after the month in which the purchase is  
4 made to the extent that that may be necessary in order to  
5 secure the title to a motor vehicle or the certificate of  
6 registration for an aircraft. However, except as to motor  
7 vehicles and aircraft, and except as to cigarettes as defined  
8 in the Cigarette Use Tax Act, if the purchaser's annual use tax  
9 liability does not exceed \$600, the purchaser may file the  
10 return on an annual basis on or before April 15th of the year  
11 following the year use tax liability was incurred.

12 If cigarettes, as defined in the Cigarette Use Tax Act, are  
13 purchased from a retailer for use in this State by a purchaser  
14 who did not pay the tax imposed by this Act to the retailer,  
15 and who does not file returns with the Department as a retailer  
16 under Section 9 of this Act, such purchaser must, within 30  
17 days after acquiring the cigarettes, file a return with the  
18 Department and pay the tax upon that portion of the selling  
19 price so paid by the purchaser for the cigarettes.

20 In addition with respect to motor vehicles, aircraft,  
21 watercraft, and trailers, a purchaser of such tangible personal  
22 property for use in this State, who purchases such tangible  
23 personal property from an out-of-state retailer, shall file  
24 with the Department, upon a form to be prescribed and supplied  
25 by the Department, a return for each such item of tangible  
26 personal property purchased, except that if, in the same

1 transaction, (i) a purchaser of motor vehicles, aircraft,  
2 watercraft, or trailers who is a retailer of motor vehicles,  
3 aircraft, watercraft, or trailers purchases more than one motor  
4 vehicle, aircraft, watercraft, or trailer for the purpose of  
5 resale or (ii) a purchaser of motor vehicles, aircraft,  
6 watercraft, or trailers purchases more than one motor vehicle,  
7 aircraft, watercraft, or trailer for use as qualifying rolling  
8 stock as provided in Section 3-55 of this Act, then the  
9 purchaser may report the purchase of all motor vehicles,  
10 aircraft, watercraft, or trailers involved in that transaction  
11 to the Department on a single return prescribed by the  
12 Department. Such return in the case of motor vehicles and  
13 aircraft must show the name and address of the seller, the  
14 name, address of purchaser, the amount of the selling price  
15 including the amount allowed by the retailer for traded in  
16 property, if any; the amount allowed by the retailer for the  
17 traded-in tangible personal property, if any, to the extent to  
18 which Section 2 of this Act allows an exemption for the value  
19 of traded-in property; the balance payable after deducting such  
20 trade-in allowance from the total selling price; the amount of  
21 tax due from the purchaser with respect to such transaction;  
22 the amount of tax collected from the purchaser by the retailer  
23 on such transaction (or satisfactory evidence that such tax is  
24 not due in that particular instance if that is claimed to be  
25 the fact); the place and date of the sale, a sufficient  
26 identification of the property sold, and such other information

1 as the Department may reasonably require.

2 Such return shall be filed not later than 30 days after  
3 such motor vehicle or aircraft is brought into this State for  
4 use.

5 For purposes of this Section, "watercraft" means a Class 2,  
6 Class 3, or Class 4 watercraft as defined in Section 3-2 of the  
7 Boat Registration and Safety Act, a personal watercraft, or any  
8 boat equipped with an inboard motor.

9 The return and tax remittance or proof of exemption from  
10 the tax that is imposed by this Act may be transmitted to the  
11 Department by way of the State agency with which, or State  
12 officer with whom, the tangible personal property must be  
13 titled or registered (if titling or registration is required)  
14 if the Department and such agency or State officer determine  
15 that this procedure will expedite the processing of  
16 applications for title or registration.

17 With each such return, the purchaser shall remit the proper  
18 amount of tax due (or shall submit satisfactory evidence that  
19 the sale is not taxable if that is the case), to the Department  
20 or its agents, whereupon the Department shall issue, in the  
21 purchaser's name, a tax receipt (or a certificate of exemption  
22 if the Department is satisfied that the particular sale is tax  
23 exempt) which such purchaser may submit to the agency with  
24 which, or State officer with whom, he must title or register  
25 the tangible personal property that is involved (if titling or  
26 registration is required) in support of such purchaser's

1 application for an Illinois certificate or other evidence of  
2 title or registration to such tangible personal property.

3 When a purchaser pays a tax imposed by this Act directly to  
4 the Department, the Department (upon request therefor from such  
5 purchaser) shall issue an appropriate receipt to such purchaser  
6 showing that he has paid such tax to the Department. Such  
7 receipt shall be sufficient to relieve the purchaser from  
8 further liability for the tax to which such receipt may refer.

9 A user who is liable to pay use tax directly to the  
10 Department only occasionally and not on a frequently recurring  
11 basis, and who is not required to file returns with the  
12 Department as a retailer under Section 9 of this Act, or under  
13 the "Retailers' Occupation Tax Act", or as a registrant with  
14 the Department under the "Service Occupation Tax Act" or the  
15 "Service Use Tax Act", need not register with the Department.  
16 However, if such a user has a frequently recurring direct use  
17 tax liability to pay to the Department, such user shall be  
18 required to register with the Department on forms prescribed by  
19 the Department and to obtain and display a certificate of  
20 registration from the Department. In that event, all of the  
21 provisions of Section 9 of this Act concerning the filing of  
22 regular monthly, quarterly or annual tax returns and all of the  
23 provisions of Section 2a of the "Retailers' Occupation Tax Act"  
24 concerning the requirements for registrants to post bond or  
25 other security with the Department, as the provisions of such  
26 sections now exist or may hereafter be amended, shall apply to



1 such users to the same extent as if such provisions were  
2 included herein.

3 (Source: P.A. 91-541, eff. 8-13-99; 91-901, eff. 1-1-01.)

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.