



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB0024

Introduced 1/12/2011, by Rep. Jim Sacia

SYNOPSIS AS INTRODUCED:

35 ILCS 5/803
35 ILCS 5/804

from Ch. 120, par. 8-803
from Ch. 120, par. 8-804

Amends the Illinois Income Tax Act. In a Section concerning estimated taxes, provides that, if (i) the taxpayer is owed a refund from the State based upon an income tax overpayment by the taxpayer, (ii) the taxpayer previously filed with the Department a valid amended Illinois income tax return claiming a refund for the overpayment, (iii) at least 30 days have elapsed between the date the taxpayer filed the amended return and the date the estimated tax installment is due, and (iv) the tax refund due to the taxpayer is larger than the estimated tax installment due, then the taxpayer may elect to reduce the amount of any unpaid refund owed to the taxpayer by the amount of the estimated tax due. Provides that the election must be approved by the Department and must be made in the form and manner prescribed by the Department. Exempts the offset amounts from certain penalty provisions. Effective immediately.

LRB097 00150 HLH 40162 b

FISCAL NOTE ACT
MAY APPLY

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 Illinois Income Tax Act is amended by
5 changing Sections 803 and 804 as follows:

6 (35 ILCS 5/803) (from Ch. 120, par. 8-803)

7 Sec. 803. Payment of Estimated Tax.

8 (a) Every taxpayer other than an estate, trust,
9 partnership, Subchapter S corporation or farmer is required to
10 pay estimated tax for the taxable year, in such amount and with
11 such forms as the Department shall prescribe, if the amount
12 payable as estimated tax can reasonably be expected to be more
13 than (i) \$250 for taxable years ending before December 31, 2001
14 and \$500 for taxable years ending on or after December 31, 2001
15 or (ii) \$400 for corporations.

16 (b) Estimated tax defined. The term "estimated tax" means
17 the excess of:

18 (1) The amount which the taxpayer estimates to be his
19 tax under this Act for the taxable year, over

20 (2) The amount which he estimates to be the sum of any
21 amounts to be withheld on account of or credited against
22 such tax.

23 (c) Joint payment. If they are eligible to do so for

1 federal tax purposes, a husband and wife may pay estimated tax
2 as if they were one taxpayer, in which case the liability with
3 respect to the estimated tax shall be joint and several. If a
4 joint payment is made but the husband and wife elect to
5 determine their taxes under this Act separately, the estimated
6 tax for such year may be treated as the estimated tax of either
7 husband or wife, or may be divided between them, as they may
8 elect.

9 (d) There shall be paid 4 equal installments of estimated
10 tax for each taxable year, payable as follows:

11 Required Installment:	Due Date:
12 1st	April 15
13 2nd	June 15
14 3rd	September 15
15 4th	Individuals: January 15 of the
16	following taxable year
17	Corporations: December 15

18 (e) Farmers. An individual, having gross income from
19 farming for the taxable year which is at least 2/3 of his total
20 estimated gross income for such year.

21 (f) Application to short taxable years. The application of
22 this section to taxable years of less than 12 months shall be
23 in accordance with regulations prescribed by the Department.

24 (g) Fiscal years. In the application of this section to the
25 case of a taxable year beginning on any date other than January
26 1, there shall be substituted, for the months specified in

1 subsections (d) and (e), the months which correspond thereto.

2 (h) Installments paid in advance. Any installment of
3 estimated tax may be paid before the date prescribed for its
4 payment.

5 The changes in this Section made by this amendatory Act of
6 1985 shall apply to taxable years ending on or after January 1,
7 1986.

8 (i) Beginning with the first installment due on or after
9 the effective date of this amendatory Act of the 97th General
10 Assembly, if (i) the taxpayer is owed a refund from the State
11 based upon an income tax overpayment by the taxpayer, (ii) the
12 taxpayer previously filed with the Department a valid amended
13 Illinois income tax return claiming a refund for the
14 overpayment, (iii) at least 30 days have elapsed between the
15 date the taxpayer filed the amended return and the date the
16 estimated tax installment is due, and (iv) the tax refund due
17 to the taxpayer is larger than the estimated tax installment
18 due, then the taxpayer may elect to reduce the amount of any
19 unpaid refund owed to the taxpayer by the amount of the
20 estimated tax due. Such an election must be approved by the
21 Department and must be made in the form and manner prescribed
22 by the Department.

23 (Source: P.A. 91-913, eff. 1-1-01.)

24 (35 ILCS 5/804) (from Ch. 120, par. 8-804)

25 Sec. 804. Failure to Pay Estimated Tax.

1 (a) In general. In case of any underpayment of estimated
2 tax by a taxpayer, except as provided in subsection (d) or (e),
3 the taxpayer shall be liable to a penalty in an amount
4 determined at the rate prescribed by Section 3-3 of the Uniform
5 Penalty and Interest Act upon the amount of the underpayment
6 (determined under subsection (b)) for each required
7 installment.

8 (b) Amount of underpayment. For purposes of subsection (a),
9 the amount of the underpayment shall be the excess of:

10 (1) the amount of the installment which would be
11 required to be paid under subsection (c), over

12 (2) the amount, if any, of the installment paid on or
13 before the last date prescribed for payment.

14 (c) Amount of Required Installments.

15 (1) Amount.

16 (A) In General. Except as provided in paragraph
17 (2), the amount of any required installment shall be
18 25% of the required annual payment.

19 (B) Required Annual Payment. For purposes of
20 subparagraph (A), the term "required annual payment"
21 means the lesser of

22 (i) 90% of the tax shown on the return for the
23 taxable year, or if no return is filed, 90% of the
24 tax for such year, or

25 (ii) 100% of the tax shown on the return of the
26 taxpayer for the preceding taxable year if a return

1 showing a liability for tax was filed by the
2 taxpayer for the preceding taxable year and such
3 preceding year was a taxable year of 12 months.

4 (2) Lower Required Installment where Annualized Income
5 Installment is Less Than Amount Determined Under Paragraph
6 (1).

7 (A) In General. In the case of any required
8 installment if a taxpayer establishes that the
9 annualized income installment is less than the amount
10 determined under paragraph (1),

11 (i) the amount of such required installment
12 shall be the annualized income installment, and

13 (ii) any reduction in a required installment
14 resulting from the application of this
15 subparagraph shall be recaptured by increasing the
16 amount of the next required installment determined
17 under paragraph (1) by the amount of such
18 reduction, and by increasing subsequent required
19 installments to the extent that the reduction has
20 not previously been recaptured under this clause.

21 (B) Determination of Annualized Income
22 Installment. In the case of any required installment,
23 the annualized income installment is the excess, if
24 any, of

25 (i) an amount equal to the applicable
26 percentage of the tax for the taxable year computed

1 by placing on an annualized basis the net income
 2 for months in the taxable year ending before the
 3 due date for the installment, over

4 (ii) the aggregate amount of any prior
 5 required installments for the taxable year.

6 (C) Applicable Percentage.

7	In the case of the following	The applicable
8	required installments:	percentage is:
9	1st.....	22.5%
10	2nd.....	45%
11	3rd.....	67.5%
12	4th.....	90%

13 (D) Annualized Net Income; Individuals. For
 14 individuals, net income shall be placed on an
 15 annualized basis by:

16 (i) multiplying by 12, or in the case of a
 17 taxable year of less than 12 months, by the number
 18 of months in the taxable year, the net income
 19 computed without regard to the standard exemption
 20 for the months in the taxable year ending before
 21 the month in which the installment is required to
 22 be paid;

23 (ii) dividing the resulting amount by the
 24 number of months in the taxable year ending before
 25 the month in which such installment date falls; and

26 (iii) deducting from such amount the standard

1 exemption allowable for the taxable year, such
2 standard exemption being determined as of the last
3 date prescribed for payment of the installment.

4 (E) Annualized Net Income; Corporations. For
5 corporations, net income shall be placed on an
6 annualized basis by multiplying by 12 the taxable
7 income

8 (i) for the first 3 months of the taxable year,
9 in the case of the installment required to be paid
10 in the 4th month,

11 (ii) for the first 3 months or for the first 5
12 months of the taxable year, in the case of the
13 installment required to be paid in the 6th month,

14 (iii) for the first 6 months or for the first 8
15 months of the taxable year, in the case of the
16 installment required to be paid in the 9th month,
17 and

18 (iv) for the first 9 months or for the first 11
19 months of the taxable year, in the case of the
20 installment required to be paid in the 12th month
21 of the taxable year,

22 then dividing the resulting amount by the number of
23 months in the taxable year (3, 5, 6, 8, 9, or 11 as the
24 case may be).

25 (d) Exceptions. Notwithstanding the provisions of the
26 preceding subsections, the penalty imposed by subsection (a)

1 shall not be imposed if the taxpayer was not required to file
2 an Illinois income tax return for the preceding taxable year,
3 or, for individuals, if the taxpayer had no tax liability for
4 the preceding taxable year and such year was a taxable year of
5 12 months. The penalty imposed by subsection (a) shall also not
6 be imposed on any underpayments of estimated tax due before the
7 effective date of this amendatory Act of 1998 which
8 underpayments are solely attributable to the change in
9 apportionment from subsection (a) to subsection (h) of Section
10 304. The penalty imposed by subsection (a) shall also not be
11 imposed with respect to any amounts the taxpayer is eligible to
12 deduct from his or her tax refund pursuant to subsection (i) of
13 Section 803 of this Act. The provisions of this amendatory Act
14 of 1998 apply to tax years ending on or after December 31,
15 1998.

16 (e) The penalty imposed for underpayment of estimated tax
17 by subsection (a) of this Section shall not be imposed to the
18 extent that the Director or his or her designate determines,
19 pursuant to Section 3-8 of the Uniform Penalty and Interest Act
20 that the penalty should not be imposed.

21 (f) Definition of tax. For purposes of subsections (b) and
22 (c), the term "tax" means the excess of the tax imposed under
23 Article 2 of this Act, over the amounts credited against such
24 tax under Sections 601(b) (3) and (4).

25 (g) Application of Section in case of tax withheld under
26 Article 7. For purposes of applying this Section:

1 (1) in the case of an individual, tax withheld from
2 compensation for the taxable year shall be deemed a payment
3 of estimated tax, and an equal part of such amount shall be
4 deemed paid on each installment date for such taxable year,
5 unless the taxpayer establishes the dates on which all
6 amounts were actually withheld, in which case the amounts
7 so withheld shall be deemed payments of estimated tax on
8 the dates on which such amounts were actually withheld;

9 (2) amounts timely paid by a partnership, Subchapter S
10 corporation, or trust on behalf of a partner, shareholder,
11 or beneficiary pursuant to subsection (f) of Section 502 or
12 Section 709.5 and claimed as a payment of estimated tax
13 shall be deemed a payment of estimated tax made on the last
14 day of the taxable year of the partnership, Subchapter S
15 corporation, or trust for which the income from the
16 withholding is made was computed; and

17 (3) all other amounts pursuant to Article 7 shall be
18 deemed a payment of estimated tax on the date the payment
19 is made to the taxpayer of the amount from which the tax is
20 withheld.

21 (g-5) Amounts withheld under the State Salary and Annuity
22 Withholding Act. An individual who has amounts withheld under
23 paragraph (10) of Section 4 of the State Salary and Annuity
24 Withholding Act may elect to have those amounts treated as
25 payments of estimated tax made on the dates on which those
26 amounts are actually withheld.

1 (i) Short taxable year. The application of this Section to
2 taxable years of less than 12 months shall be in accordance
3 with regulations prescribed by the Department.

4 The changes in this Section made by Public Act 84-127 shall
5 apply to taxable years ending on or after January 1, 1986.

6 (Source: P.A. 95-233, eff. 8-16-07.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.