



Rep. Michael J. Zalewski

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1 AMENDMENT TO HOUSE BILL 5192

2 AMENDMENT NO. _____. Amend House Bill 5192 by replacing
3 everything after the enacting clause with the following:

4 "Article 1. ILLINOIS TAX TRIBUNAL ACT OF 2012

5 Section 1-1. Short title. This Act may be cited as the
6 Illinois Independent Tax Tribunal Act of 2012.

7 Section 1-5. Statement of purpose.

8 (a) To increase public confidence in the fairness of the
9 State tax system, the State shall provide an independent
10 administrative tribunal with tax expertise to resolve tax
11 disputes between the Department of Revenue and taxpayers prior
12 to requiring the taxpayer to pay the amounts in issue. By
13 establishing an independent tax tribunal, this Act provides
14 taxpayers with a means of resolving controversies that ensures
15 both the appearance and the reality of due process and

1 fundamental fairness.

2 (b) The Illinois Independent Tax Tribunal shall provide
3 administrative hearings in all tax matters except those matters
4 reserved to the Department of Revenue or another entity by
5 statute, and shall render decisions and orders relating to
6 matters under its jurisdiction. A Tax Tribunal administrative
7 hearing shall be commenced by the filing of a petition with the
8 Tribunal protesting a tax determination made by the Department
9 of Revenue.

10 (c) It is the intent of the General Assembly that this Act
11 foster the settlement or other resolution of tax disputes to
12 the extent possible and, in cases in which litigation is
13 necessary, to provide the people of this State with a fair,
14 independent, and tax-expert forum to determine tax disputes
15 with the Department of Revenue. The Act shall be liberally
16 construed to further this intent.

17 Section 1-10. Definitions. For the purposes of this Act:

18 "Department" means the Department of Revenue.

19 "Taxpayer" means a person who has received a protestable
20 notice of assessment, a claim denial, or a protestable notice
21 of penalty liability within the Tax Tribunal's jurisdiction
22 pursuant to Section 1-45 of this Act.

23 "Tax Tribunal" means the Illinois Independent Tax Tribunal
24 established pursuant to Section 1-15 of this Act.

1 Section 1-15. Independent Tax Tribunal; establishment.

2 (a) For the purpose of effectuating the policy declared in
3 Section 1-5 of this Act, a State agency known as the Illinois
4 Independent Tax Tribunal is created. The Tax Tribunal shall
5 have the powers and duties enumerated in this Act, together
6 with such others conferred upon it by law. The Tax Tribunal
7 shall operate as an independent agency, and shall be separate
8 from the authority of the Director of Revenue and the
9 Department of Revenue.

10 (b) Except as otherwise limited by this Act, the Tax
11 Tribunal has all of the powers necessary or convenient to carry
12 out the purposes and provisions of this Act, including without
13 limitation, each of the following:

14 (1) To have a seal, and to alter that seal at pleasure,
15 and to use it by causing it or a facsimile to be affixed or
16 impressed or reproduced in any other manner.

17 (2) To accept and expend appropriations.

18 (3) To obtain and employ personnel as required in this
19 Act, including any additional personnel necessary to
20 fulfill the Tax Tribunal's purposes, and to make
21 expenditures for personnel within the appropriations for
22 that purpose.

23 (4) To maintain offices at such places as required
24 under this Act, and elsewhere as the Tax Tribunal may
25 determine.

26 (5) To engage in any activity or operation that is

1 incidental to and in furtherance of efficient operation to
2 accomplish the Tax Tribunal's purposes.

3 (c) Unless otherwise stated, the Tax Tribunal is subject to
4 the provisions of all applicable laws, including but not
5 limited to, each of the following:

6 (1) The State Records Act.

7 (2) The Illinois Procurement Code, except that the
8 Illinois Procurement Code does not apply to the hiring of
9 the chief administrative law judge or other administrative
10 law judges pursuant to Section 1-25 of this Act.

11 (3) The Freedom of Information Act, except as otherwise
12 provided in Section 7 of that Act.

13 (4) The State Property Control Act.

14 (5) The State Officials and Employees Ethics Act.

15 (6) The Administrative Procedure Act, to the extent not
16 inconsistent with the provisions of this Act.

17 (7) The Illinois State Auditing Act. For purposes of
18 the Illinois State Auditing Act, the Tax Tribunal is a
19 "State agency" within the meaning of the Act and is subject
20 to the jurisdiction of the Auditor General.

21 (d) The Tax Tribunal shall exercise its jurisdiction on and
22 after July 1, 2013, but the administrative law judges of the
23 Tribunal may be appointed prior to that date and may take any
24 action prior to that date that is necessary to enable the Tax
25 Tribunal to properly exercise its jurisdiction on or after that
26 date. Any administrative proceeding commenced prior to July 1,

1 2013, that would otherwise be subject to the jurisdiction of
2 the Illinois Independent Tax Tribunal may be conducted
3 according to the procedures set forth in this Act if the
4 taxpayer so elects. Such an election shall be irrevocable and
5 may be made on or after July 1, 2013, but no later than 30 days
6 after the date on which the taxpayer's protest was filed.

7 Section 1-20. Transfer of administrative record. If the
8 taxpayer makes an election pursuant to Section 1-15 of this Act
9 to remove a proceeding to the Tax Tribunal, any document,
10 including pleadings and orders, that would constitute part of
11 the administrative record within the meaning of Section 3-108
12 of the Administrative Review Law shall be transferred to the
13 Tax Tribunal.

14 Section 1-25. Judges; number; term of office; removal.

15 (a) The Governor shall, with the advice and consent of the
16 Senate, appoint a Chief Administrative Law Judge to be the
17 executive of the Tax Tribunal. The Chief Administrative Law
18 Judge shall serve a 5-year term. The Governor may appoint
19 additional administrative law judges, with the advice and
20 consent of the Senate, as necessary to carry out the provisions
21 of this Act, provided that no more than 4 administrative law
22 judges, including the Chief Administrative Law Judge, shall
23 serve at the same time. The administrative law judges, other
24 than the Chief Administrative Law Judge, shall initially be

1 appointed to staggered terms of no greater than 4 years. After
2 the initial terms of office, all administrative law judges,
3 other than the Chief Administrative Law Judge, shall be
4 appointed for terms of 4 years. Each administrative law judge
5 is eligible for reappointment.

6 (b) Once appointed and confirmed, each administrative law
7 judge shall continue in office until his or her term expires
8 and until a successor has been appointed and confirmed.

9 (c) The office of an administrative law judge under this
10 Section shall be vacant upon the administrative law judge's
11 death, resignation, retirement, or removal, or upon the
12 conclusion of his or her term without reappointment. Within 30
13 days after such a vacancy occurs, a successor administrative
14 law judge shall be appointed by the Governor, with the advice
15 and consent of the Senate, for the remainder of the current
16 unexpired term for that vacancy. In case of vacancies during
17 the recess of the Senate, the Governor shall make a temporary
18 appointment until the next meeting of the Senate, when the
19 Governor shall nominate some person to fill the office, and any
20 person so nominated who is confirmed by the Senate shall hold
21 office during the remainder of the term and until his or her
22 successor is appointed and qualified. No person rejected by the
23 Senate for the office of an administrative law judge under this
24 Section shall, except at the Senate's request, be nominated
25 again for that office at the same session or be appointed to
26 that office during a recess of that Senate.

1 (d) The Governor may remove an administrative law judge of
2 the Tax Tribunal, after notice and an opportunity to be heard,
3 for incompetency, neglect of duty, inability to perform duties,
4 malfeasance in office, or other good cause.

5 (e) Each administrative law judge of the Tax Tribunal,
6 including the Chief Administrative Law Judge, shall receive an
7 annual salary equal to that of the Director of the Department
8 of Revenue. The Chief Administrative Law Judge shall receive an
9 additional \$15,000 annual stipend.

10 (f) The Chief Administrative Law Judge shall have sole
11 charge of the administration of the Tax Tribunal and shall
12 apportion among the judges all causes, matters, and proceedings
13 coming before the Tax Tribunal. Each administrative law judge
14 shall exercise the power of the Tax Tribunal.

15 (g) An administrative law judge may disqualify himself or
16 herself on his or her own motion in any matter, and may be
17 disqualified for any of the causes specified in the Illinois
18 Code of Judicial Conduct.

19 Section 1-30. Judges; qualifications; prohibition against
20 other gainful employment.

21 (a) Each administrative law judge of the Tax Tribunal shall
22 be a citizen of the United States and, during the period of his
23 or her service, a resident of this State. No person may be
24 appointed as an administrative law judge unless, at the time of
25 the appointment, the individual has been licensed to practice

1 law in Illinois for a minimum of 8 years and has substantial
2 knowledge of State tax laws and the making of a record in a tax
3 case suitable for judicial review.

4 (b) Before entering upon the duties of office, each
5 administrative law judge shall take and subscribe to an oath or
6 affirmation that he or she will faithfully discharge the duties
7 of the office, and such oath shall be filed in the office of
8 the Secretary of State.

9 (c) Each administrative law judge shall devote his or her
10 full time during business hours to the duties of his or her
11 office. An administrative law judge shall not engage in any
12 other gainful employment or business, nor hold another office
13 or position of profit in a government of this State, any other
14 State, or the United States. Notwithstanding the foregoing
15 provisions, an administrative law judge may own passive
16 interests in business entities and may earn income from
17 incidental teaching, publishing, or scholarly activities.

18 Section 1-35. Principal office; locations; facilities.

19 (a) The Tax Tribunal shall maintain its principal offices
20 in both Sangamon County and Cook County, Illinois.

21 (b) The Tax Tribunal shall conduct hearings at any of its
22 offices. If the taxpayer does not have his or her place of
23 business in this State, such hearing shall be held at the
24 office designated by the Tax Tribunal in either Cook or
25 Sangamon County. Taxpayers whose residence or place of business

1 is more than 100 miles from either the Sangamon County or Cook
2 County Tax Tribunal office may petition the Tax Tribunal for an
3 alternate hearing location, with a view toward securing to
4 taxpayers a reasonable opportunity to appear before the Tax
5 Tribunal with as little inconvenience and expense as possible.

6 (c) The State shall provide hearing rooms, chambers, and
7 offices for the Tax Tribunal in both Sangamon County and Cook
8 County and shall arrange for hearing rooms, chambers, and
9 offices or other appropriate facilities when hearings are held
10 elsewhere.

11 (d) The offices of the Tax Tribunal shall be separate and
12 distinct from the offices of the Department.

13 Section 1-40. Appointment of clerk and reporter;
14 expenditures of the Tax Tribunal.

15 (a) The Tax Tribunal shall appoint a clerk and a reporter,
16 and may appoint such other employees and make such other
17 expenditures, including expenditures for libraries,
18 publications, and equipment, as are necessary to permit it to
19 efficiently execute its functions.

20 (b) The reporter shall be subject to the provisions of the
21 Court Reporters Act as if appointed by a judge of the circuit
22 court, except where such provisions are in conflict with this
23 Act.

24 (c) No employee of the Tax Tribunal shall act as attorney,
25 representative, or accountant for others in a matter involving

1 any tax imposed or levied by this State or any other state or
2 local jurisdiction.

3 (d) An employee of the Tax Tribunal, other than an
4 Administrative Law Judge, may be removed by the Chief
5 Administrative Law Judge in accordance with the Personnel Code.

6 (e) In addition to the services of the official reporter,
7 the Tax Tribunal may contract the reporting of its proceedings
8 and, in the contract, fix the terms and conditions under which
9 transcripts will be supplied by the contractor to the Tax
10 Tribunal and to other persons and agencies.

11 Section 1-45. Jurisdiction of the Tax Tribunal.

12 (a) Except as provided by the Constitution of the United
13 States, the Constitution of the State of Illinois, or any
14 statutes of this State, including, but not limited to, the
15 State Officers and Employees Money Disposition Act, the Tax
16 Tribunal shall have original jurisdiction over all
17 determinations of the Department reflected on a Notice of
18 Deficiency, Notice of Tax Liability, Notice of Claim Denial, or
19 Notice of Penalty Liability issued under the Illinois Income
20 Tax Act, the Use Tax Act, the Service Use Tax Act, the Service
21 Occupation Tax Act, the Retailers' Occupation Tax Act, the
22 Cigarette Tax Act, the Cigarette Use Tax Act, the Tobacco
23 Products Tax Act of 1995, the Hotel Operators' Occupation Tax
24 Act, the Motor Fuel Tax Law, the Automobile Renting Occupation
25 and Use Tax Act, the Coin-Operated Amusement Device and

1 Redemption Machine Tax Act, the Gas Revenue Tax Act, the Water
2 Company Invested Capital Tax Act, the Telecommunications
3 Excise Tax Act, the Telecommunications Infrastructure
4 Maintenance Fee Act, the Public Utilities Revenue Act, the
5 Electricity Excise Tax Law, the Aircraft Use Tax Law, the
6 Watercraft Use Tax Law, the Gas Use Tax Law, or the Uniform
7 Penalty and Interest Act. Jurisdiction of the Tax Tribunal is
8 limited to Notices of Tax Liability, Notices of Deficiency,
9 Notices of Claim Denial, and Notices of Penalty Liability where
10 the amount at issue in a notice, or the aggregate amount at
11 issue in multiple notices issued for the same tax year or audit
12 period, exceeds \$15,000, exclusive of penalties and interest.
13 In notices solely asserting either an interest or penalty
14 assessment, or both, the Tax Tribunal shall have jurisdiction
15 over cases where the combined total of all penalties or
16 interest assessed exceeds \$15,000.

17 (b) Except as otherwise permitted by this Act and by the
18 Constitution of the State of Illinois or otherwise by State
19 law, including, but not limited to, the State Officers and
20 Employees Money Disposition Act, no person shall contest any
21 matter within the jurisdiction of the Tax Tribunal in any
22 action, suit, or proceeding in the circuit court or any other
23 court of the State. If a person attempts to do so, then such
24 action, suit, or proceeding shall be dismissed without
25 prejudice. The improper commencement of any action, suit, or
26 proceeding does not extend the time period for commencing a

1 proceeding in the Tax Tribunal.

2 (c) The Tax Tribunal may require the taxpayer to post a
3 bond equal to 25% of the liability at issue (1) upon motion of
4 the Department and a showing that (A) the taxpayer's action is
5 frivolous or legally insufficient or (B) the taxpayer is acting
6 primarily for the purpose of delaying the collection of tax or
7 prejudicing the ability ultimately to collect the tax, or (2)
8 if, at any time during the proceedings, it is determined by the
9 Tax Tribunal that the taxpayer is not pursuing the resolution
10 of the case with due diligence. If the Tax Tribunal finds in a
11 particular case that the taxpayer cannot procure and furnish a
12 satisfactory surety or sureties for the kind of bond required
13 herein, the Tax Tribunal may relieve the taxpayer of the
14 obligation of filing such bond, if, upon the timely application
15 for a lien in lieu thereof and accompanying proof therein
16 submitted, the Tax Tribunal is satisfied that any such lien
17 imposed would operate to secure the assessment in the manner
18 and to the degree as would a bond. The Tax Tribunal shall adopt
19 rules for the procedures to be used in securing a bond or lien
20 under this Section.

21 (d) If, with or after the filing of a timely petition, the
22 taxpayer pays all or part of the tax or other amount in issue
23 before the Tax Tribunal has rendered a decision, the Tax
24 Tribunal shall treat the taxpayer's petition as a protest of a
25 denial of claim for refund of the amount so paid upon a written
26 motion filed by the taxpayer.

1 (e) The Tax Tribunal shall not have jurisdiction to review:

2 (1) any assessment made under the Property Tax Code;

3 (2) any decisions relating to the issuance or denial of
4 an exemption ruling for any entity claiming exemption from
5 any tax imposed under the Property Tax Code or any State
6 tax administered by the Department;

7 (3) a notice of proposed tax liability, notice of
8 proposed deficiency, or any other notice of proposed
9 assessment or notice of intent to take some action;

10 (4) any action or determination of the Department
11 regarding tax liabilities that have become finalized by
12 law, including but not limited to the issuance of liens,
13 levies, and revocations, suspensions, or denials of
14 licenses or certificates of registration or any other
15 collection activities;

16 (5) any proceedings of the Department's informal
17 administrative appeals function; and

18 (6) any challenge to an administrative subpoena issued
19 by the Department.

20 (f) The Tax Tribunal shall decide questions regarding the
21 constitutionality of statutes and rules adopted by the
22 Department as applied to the taxpayer, but shall not have the
23 power to declare a statute or rule unconstitutional or
24 otherwise invalid on its face. A taxpayer challenging the
25 constitutionality of a statute or rule on its face may present
26 such challenge to the Tribunal for the sole purpose of making a

1 record for review by the Illinois Appellate Court. Failure to
2 raise a constitutional issue regarding the application of a
3 statute or regulations to the taxpayer shall not preclude the
4 taxpayer or the Department from raising those issues at the
5 appellate court level.

6 Section 1-50. Pleadings.

7 (a) A taxpayer may commence a proceeding in the Tax
8 Tribunal by filing a petition protesting the Department's
9 determination imposing a liability for tax, penalty, or
10 interest, or denying a claim for refund or credit application.
11 The petition shall be filed within the time permitted by
12 statute for filing a protest.

13 (b) The Department shall file its answer in the Tax
14 Tribunal no later than 30 days after its receipt of the Tax
15 Tribunal's notification that the taxpayer has filed a petition
16 in the proper form or within such additional time as the Tax
17 Tribunal may specify. The Department shall serve a copy of its
18 answer on the taxpayer's representative or, if the taxpayer is
19 not represented, on the taxpayer, and shall file proof of such
20 service with the answer. Material facts alleged in the
21 petition, if not expressly admitted or denied in the answer,
22 shall be deemed admitted.

23 (c) Either party may amend a pleading once without leave at
24 any time before the period for responding to it expires. After
25 such time, a pleading may be amended only with the written

1 consent of the adverse party or with the permission of the Tax
2 Tribunal. The Tax Tribunal shall freely grant consent to amend
3 upon such terms as may be just. Except as otherwise ordered by
4 the Tax Tribunal, there shall be an answer to an amended
5 pleading if an answer is required to the pleading being
6 amended. Filing of the answer, or, if the answer has already
7 been filed, the amended answer shall be made no later than 30
8 days after the filing of the amended petition. The taxpayer may
9 not amend a petition after expiration of the time for filing a
10 petition, if such amendment would have the effect of conferring
11 jurisdiction on the Tax Tribunal over a matter that would
12 otherwise not come within its jurisdiction. An amendment of a
13 pleading shall relate back to the time of filing of the
14 original pleading only as prescribed by Section 2-616 of the
15 Code of Civil Procedure.

16 Section 1-55. Fees.

17 (a) The Tax Tribunal shall impose a fee of \$500 for the
18 filing of petitions.

19 (b) The Tax Tribunal may fix a fee, not in excess of the
20 fees charged and collected by the clerk of the circuit courts,
21 for comparing, or for preparing and comparing, a transcript of
22 the record, or for copying any record, entry, or other paper
23 and the comparison and certification thereof.

24 (c) Fees collected under this Section shall be deposited
25 into the Illinois Independent Tax Tribunal Fund, a special fund

1 created in the State treasury. Moneys deposited into the Fund
2 shall be appropriated to the Tribunal to reimburse the Tribunal
3 for costs associated with administering and enforcing the
4 provisions of this Act.

5 (d) The Tax Tribunal shall not assign any costs or
6 attorney's fees incurred by one party against another party.
7 Claims for expenses and attorney's fees under Section 10-55 of
8 the Administrative Procedure Act shall first be made to the
9 Department of Revenue. If the claimant is dissatisfied because
10 of the Department's failure to make any award or because of the
11 insufficiency of the award, the claimant may petition the Court
12 of Claims for the amount deemed owed.

13 Section 1-60. Discovery and stipulation.

14 (a) The parties to the proceeding shall comply with the
15 Supreme Court Rules for Civil Proceedings in the Trial Court
16 regarding Discovery, Requests for Admission, and Pre-Trial
17 Procedure.

18 (b) A administrative law judge or the clerk of the Tax
19 Tribunal, on the request of any party to the proceeding, shall
20 issue subpoenas requiring the attendance of witnesses and
21 giving of testimony and subpoenas duces tecum requiring the
22 production of evidence or things.

23 (c) Any employee of the Tax Tribunal designated in writing
24 for that purpose by the Chief Administrative Law Judge may
25 administer oaths.

1 (d) The Tax Tribunal may enforce its order on discovery and
2 other procedural issues, among other means, by deciding issues
3 wholly or partly against the offending party.

4 Section 1-63. Mediation. At any point in the proceedings
5 before the Tax Tribunal, but prior to the hearing under Section
6 1-65 of this Act, the parties may jointly petition the Tax
7 Tribunal for mediation. The purpose of the mediation shall be
8 to attempt to settle any contested issues or the case in its
9 entirety. An administrative law judge other than the one
10 initially assigned to hear the case shall serve as the
11 mediator.

12 Section 1-65. Hearings.

13 (a) Proceedings before the Tax Tribunal shall be tried de
14 novo.

15 (b) Except as set forth in this Act or otherwise precluded
16 by law, the Tax Tribunal shall take evidence, conduct hearings,
17 rule on motions, and issue final and interlocutory decisions.

18 (c) Hearings shall be open to the public. Taxpayers may
19 petition the Tax Tribunal to close portions of the hearing for
20 good cause shown. Taxpayers may also petition the Tax Tribunal
21 to require that certain pleadings or portions thereof be filed,
22 or that certain evidence or portions thereof be admitted, under
23 seal in order to prevent economic or other harm to the
24 taxpayer. Original tax return documents, schedules, or other

1 attachments and any copies thereof shall not be made available
2 to the public for inspection or copying. Nothing in this
3 Section shall operate to restrict the transmission of records
4 to the appellate court.

5 (d) Hearings shall be conducted in accordance with such
6 rules of practice and procedure as the Tax Tribunal shall
7 promulgate.

8 (e) The rules of evidence and privilege as applied in civil
9 cases in the circuit courts of this State shall be followed.

10 (f) Subject to the evidentiary requirements of subsection
11 (e) of this Section, a party may conduct cross examination
12 required for a full and fair disclosure of the facts.

13 (g) Notice may be taken by the Tax Tribunal of matters of
14 which the circuit courts of this State may take judicial
15 notice. Parties shall be notified either before or during the
16 hearing, or by reference in preliminary reports or otherwise,
17 of the material noticed, including any staff memoranda or data,
18 and they shall be afforded an opportunity to contest the
19 material so noticed.

20 (h) Testimony may be given only on oath or affirmation.

21 (i) The petition and other pleadings in the proceeding
22 shall be deemed to conform to the proof presented at the
23 hearing, unless a party satisfies the Tax Tribunal that
24 presentation of the evidence would unfairly prejudice the party
25 in maintaining its position on the merits or unless deeming the
26 taxpayer's petition to conform to the proof would confer

1 jurisdiction on the Tax Tribunal over a matter that would not
2 otherwise come within its jurisdiction.

3 (j) In the case of an issue of fact, the taxpayer shall
4 have the burden of persuasion by a preponderance of the
5 evidence.

6 Section 1-67. Temporary suspension of proceedings.

7 (a) If any party to a proceeding pending in the Tax
8 Tribunal is also a defendant in a criminal case pending in any
9 court in this State involving the same conduct as the case
10 before the Tax Tribunal, then, upon motion of any party or the
11 Attorney General, or upon its own motion, the Tax Tribunal
12 shall enter an order staying the proceeding.

13 (b) If the Attorney General or the Department determines
14 that the interests of justice so require, either may file an ex
15 parte motion with the Chief Administrative Law Judge requesting
16 that any proceeding pending before the Tax Tribunal be stayed.
17 If the Chief Administrative Law Judge finds that the motion
18 reasonably shows that the proceeding may interfere with an
19 ongoing criminal investigation, the Chief Administrative Law
20 Judge shall enter an order staying the proceeding. The denial
21 of a motion to enter an order staying the proceeding is a final
22 administrative decision within the meaning of Section 3-101 of
23 the Administrative Review Law and may be reviewed by the
24 Circuit Court pursuant to the Administrative Review Law.

1 Section 1-70. Decisions.

2 (a) The Tax Tribunal shall render its decision in writing,
3 including in that writing a concise statement of the facts
4 found and the conclusions of law reached. The Tax Tribunal's
5 decision shall, subject to law, grant such relief, invoke such
6 remedies, and issue such orders as it deems appropriate to
7 carry out its decisions. The Tax Tribunal shall promptly mail a
8 notice of its decision to the taxpayer and to the Department.

9 (b) The Tax Tribunal shall render its decision no later
10 than 90 days after submission of the last brief filed
11 subsequent to completion of the hearing or, if briefs are not
12 submitted, then no later than 90 days after completion of the
13 hearing. The Tax Tribunal may extend the 90 day period, for
14 good cause, up to 30 additional days.

15 (c) If the Tax Tribunal fails to render a decision within
16 the prescribed period, either party may institute a proceeding
17 in the circuit court to compel issuance of a decision.

18 (d) The Tax Tribunal's decision shall finally decide the
19 matters in controversy, unless any party to the matter timely
20 appeals the decision as provided in Section 1-75 of this Act.

21 (e) A decision of the Tax Tribunal shall become final 35
22 days after the issuance of a notice of decision.

23 Section 1-75. Appeals.

24 (a) The taxpayer and the Department are entitled to
25 judicial review of a final decision of the Tribunal in the

1 Illinois Appellate Court, in accordance with Section 3-113 of
2 the Administrative Review Law.

3 (b) The record on judicial review shall include the
4 decision of the Tax Tribunal, the stenographic transcript of
5 the hearing before the Tax Tribunal, the pleadings and all
6 exhibits and documents admitted into evidence.

7 Section 1-80. Representation.

8 (a) Appearances in proceedings conducted by the Tax
9 Tribunal may be by the taxpayer or by an attorney admitted to
10 practice in this State. The Tax Tribunal may allow an attorney
11 authorized to practice or licensed in any other jurisdiction of
12 the United States to appear and represent a taxpayer in
13 proceedings before the Tax Tribunal for a particular matter.

14 (b) The Department of Revenue shall be represented by the
15 Attorney General in all proceedings before the Tax Tribunal.

16 Section 1-85. Publication of decisions and electronic
17 submission of documents.

18 (a) The Tax Tribunal shall, within 180 days of the issuance
19 of a decision, index and publish its final decision in such
20 print or electronic form as it deems best adapted for public
21 convenience. Such publications shall be made permanently
22 available and constitute the official reports of the Tax
23 Tribunal.

24 (b) All published decisions shall be edited by the Tax

1 Tribunal so that the identification number of the taxpayer and
2 any related entities or employees, and any trade secrets or
3 other intellectual property, are not disclosed or identified.

4 (c) Within 30 days following the issuance of any hearing
5 decision, the taxpayer affected by the decision may also
6 request that the Tax Tribunal omit specifically identified
7 trade secrets or other confidential or proprietary information
8 prior to publication of the decision. The Tax Tribunal shall
9 approve those requests if it determines that the requests are
10 reasonable and that the disclosure of such information would
11 potentially cause economic or other injury to the taxpayer.

12 (d) The Tax Tribunal shall provide, by rule, reasonable
13 requirements for the electronic submission of documents and
14 records and the method and type of symbol or security procedure
15 it will accept to authenticate electronic submissions or as a
16 legal signature.

17 (e) Each year, no later than October 1, the Tax Tribunal
18 shall report to the General Assembly regarding the Tribunal's
19 operations during the prior fiscal year. Such report shall
20 include the number of cases opened and closed, the size of its
21 docket, the average age of cases, the dollar amount of cases by
22 tax type, the number of cases decided in favor of the
23 Department, the number of cases decided in favor of the
24 taxpayer, the number of cases resolved through mediation or
25 settlement, and such other statistics so as to apprise the
26 General Assembly of whether the Tax Tribunal has successfully

1 accomplished its mission to fairly and efficiently adjudicate
2 tax disputes.

3 Section 1-90. Service of process and mailings.

4 (a) Mailings by first class or certified or registered
5 mail, postage prepaid, to the address of the taxpayer given on
6 the taxpayer's petition, or to the address of the taxpayer's
7 representative of record, if any, or to the usual place of
8 business of the Department, shall constitute personal service
9 on the other party. The Tax Tribunal may by rule prescribe that
10 notice by other means shall constitute personal service and may
11 in a particular case order that notice be given to additional
12 persons or by other means.

13 (b) Mailing by registered or certified mail and delivery by
14 a private delivery service approved by the Internal Revenue
15 Service in accordance with Section 7502(f) of the Internal
16 Revenue Code of 1986, as amended, shall be deemed to have
17 occurred, respectively, on the date of mailing and the date of
18 submission to the private delivery service.

19 Section 1-95. Rules and forms. The Tax Tribunal is
20 authorized to promulgate and adopt all reasonable rules and
21 forms as may be necessary or appropriate to carry out the
22 intent and purposes of this Act. Rules shall be adopted in
23 accordance with the rulemaking procedures of Article 5 of the
24 Illinois Administrative Procedure Act.

1 Section 1-100. Confidentiality. All information received
2 by the Tax Tribunal as a result of a hearing or investigation
3 conducted under the provisions of this Act shall be public,
4 except for tax returns and information received under seal
5 pursuant to Section 1-65, and information received in relation
6 to any mediation proceedings conducted under Section 1-63.

7 Article 5. AMENDATORY PROVISIONS

8 Section 5-5. The Open Meetings Act is amended by changing
9 Section 1.02 as follows:

10 (5 ILCS 120/1.02) (from Ch. 102, par. 41.02)

11 Sec. 1.02. For the purposes of this Act:

12 "Meeting" means any gathering, whether in person or by
13 video or audio conference, telephone call, electronic means
14 (such as, without limitation, electronic mail, electronic
15 chat, and instant messaging), or other means of contemporaneous
16 interactive communication, of a majority of a quorum of the
17 members of a public body held for the purpose of discussing
18 public business or, for a 5-member public body, a quorum of the
19 members of a public body held for the purpose of discussing
20 public business.

21 Accordingly, for a 5-member public body, 3 members of the
22 body constitute a quorum and the affirmative vote of 3 members

1 is necessary to adopt any motion, resolution, or ordinance,
2 unless a greater number is otherwise required.

3 "Public body" includes all legislative, executive,
4 administrative or advisory bodies of the State, counties,
5 townships, cities, villages, incorporated towns, school
6 districts and all other municipal corporations, boards,
7 bureaus, committees or commissions of this State, and any
8 subsidiary bodies of any of the foregoing including but not
9 limited to committees and subcommittees which are supported in
10 whole or in part by tax revenue, or which expend tax revenue,
11 except the General Assembly and committees or commissions
12 thereof. "Public body" includes tourism boards and convention
13 or civic center boards located in counties that are contiguous
14 to the Mississippi River with populations of more than 250,000
15 but less than 300,000. "Public body" includes the Health
16 Facilities and Services Review Board. "Public body" does not
17 include a child death review team or the Illinois Child Death
18 Review Teams Executive Council established under the Child
19 Death Review Team Act, ~~or~~ an ethics commission acting under the
20 State Officials and Employees Ethics Act, or the Illinois
21 Independent Tax Tribunal.

22 (Source: P.A. 95-245, eff. 8-17-07; 96-31, eff. 6-30-09.)

23 Section 5-10. The Freedom of Information Act is amended by
24 changing Section 7 as follows:

1 (5 ILCS 140/7) (from Ch. 116, par. 207)

2 Sec. 7. Exemptions.

3 (1) When a request is made to inspect or copy a public
4 record that contains information that is exempt from disclosure
5 under this Section, but also contains information that is not
6 exempt from disclosure, the public body may elect to redact the
7 information that is exempt. The public body shall make the
8 remaining information available for inspection and copying.
9 Subject to this requirement, the following shall be exempt from
10 inspection and copying:

11 (a) Information specifically prohibited from
12 disclosure by federal or State law or rules and regulations
13 implementing federal or State law.

14 (b) Private information, unless disclosure is required
15 by another provision of this Act, a State or federal law or
16 a court order.

17 (b-5) Files, documents, and other data or databases
18 maintained by one or more law enforcement agencies and
19 specifically designed to provide information to one or more
20 law enforcement agencies regarding the physical or mental
21 status of one or more individual subjects.

22 (c) Personal information contained within public
23 records, the disclosure of which would constitute a clearly
24 unwarranted invasion of personal privacy, unless the
25 disclosure is consented to in writing by the individual
26 subjects of the information. "Unwarranted invasion of

1 personal privacy" means the disclosure of information that
2 is highly personal or objectionable to a reasonable person
3 and in which the subject's right to privacy outweighs any
4 legitimate public interest in obtaining the information.
5 The disclosure of information that bears on the public
6 duties of public employees and officials shall not be
7 considered an invasion of personal privacy.

8 (d) Records in the possession of any public body
9 created in the course of administrative enforcement
10 proceedings, and any law enforcement or correctional
11 agency for law enforcement purposes, but only to the extent
12 that disclosure would:

13 (i) interfere with pending or actually and
14 reasonably contemplated law enforcement proceedings
15 conducted by any law enforcement or correctional
16 agency that is the recipient of the request;

17 (ii) interfere with active administrative
18 enforcement proceedings conducted by the public body
19 that is the recipient of the request;

20 (iii) create a substantial likelihood that a
21 person will be deprived of a fair trial or an impartial
22 hearing;

23 (iv) unavoidably disclose the identity of a
24 confidential source, confidential information
25 furnished only by the confidential source, or persons
26 who file complaints with or provide information to

1 administrative, investigative, law enforcement, or
2 penal agencies; except that the identities of
3 witnesses to traffic accidents, traffic accident
4 reports, and rescue reports shall be provided by
5 agencies of local government, except when disclosure
6 would interfere with an active criminal investigation
7 conducted by the agency that is the recipient of the
8 request;

9 (v) disclose unique or specialized investigative
10 techniques other than those generally used and known or
11 disclose internal documents of correctional agencies
12 related to detection, observation or investigation of
13 incidents of crime or misconduct, and disclosure would
14 result in demonstrable harm to the agency or public
15 body that is the recipient of the request;

16 (vi) endanger the life or physical safety of law
17 enforcement personnel or any other person; or

18 (vii) obstruct an ongoing criminal investigation
19 by the agency that is the recipient of the request.

20 (e) Records that relate to or affect the security of
21 correctional institutions and detention facilities.

22 (f) Preliminary drafts, notes, recommendations,
23 memoranda and other records in which opinions are
24 expressed, or policies or actions are formulated, except
25 that a specific record or relevant portion of a record
26 shall not be exempt when the record is publicly cited and

1 identified by the head of the public body. The exemption
2 provided in this paragraph (f) extends to all those records
3 of officers and agencies of the General Assembly that
4 pertain to the preparation of legislative documents.

5 (g) Trade secrets and commercial or financial
6 information obtained from a person or business where the
7 trade secrets or commercial or financial information are
8 furnished under a claim that they are proprietary,
9 privileged or confidential, and that disclosure of the
10 trade secrets or commercial or financial information would
11 cause competitive harm to the person or business, and only
12 insofar as the claim directly applies to the records
13 requested.

14 The information included under this exemption includes
15 all trade secrets and commercial or financial information
16 obtained by a public body, including a public pension fund,
17 from a private equity fund or a privately held company
18 within the investment portfolio of a private equity fund as
19 a result of either investing or evaluating a potential
20 investment of public funds in a private equity fund. The
21 exemption contained in this item does not apply to the
22 aggregate financial performance information of a private
23 equity fund, nor to the identity of the fund's managers or
24 general partners. The exemption contained in this item does
25 not apply to the identity of a privately held company
26 within the investment portfolio of a private equity fund,

1 unless the disclosure of the identity of a privately held
2 company may cause competitive harm.

3 Nothing contained in this paragraph (g) shall be
4 construed to prevent a person or business from consenting
5 to disclosure.

6 (h) Proposals and bids for any contract, grant, or
7 agreement, including information which if it were
8 disclosed would frustrate procurement or give an advantage
9 to any person proposing to enter into a contractor
10 agreement with the body, until an award or final selection
11 is made. Information prepared by or for the body in
12 preparation of a bid solicitation shall be exempt until an
13 award or final selection is made.

14 (i) Valuable formulae, computer geographic systems,
15 designs, drawings and research data obtained or produced by
16 any public body when disclosure could reasonably be
17 expected to produce private gain or public loss. The
18 exemption for "computer geographic systems" provided in
19 this paragraph (i) does not extend to requests made by news
20 media as defined in Section 2 of this Act when the
21 requested information is not otherwise exempt and the only
22 purpose of the request is to access and disseminate
23 information regarding the health, safety, welfare, or
24 legal rights of the general public.

25 (j) The following information pertaining to
26 educational matters:

1 (i) test questions, scoring keys and other
2 examination data used to administer an academic
3 examination;

4 (ii) information received by a primary or
5 secondary school, college, or university under its
6 procedures for the evaluation of faculty members by
7 their academic peers;

8 (iii) information concerning a school or
9 university's adjudication of student disciplinary
10 cases, but only to the extent that disclosure would
11 unavoidably reveal the identity of the student; and

12 (iv) course materials or research materials used
13 by faculty members.

14 (k) Architects' plans, engineers' technical
15 submissions, and other construction related technical
16 documents for projects not constructed or developed in
17 whole or in part with public funds and the same for
18 projects constructed or developed with public funds,
19 including but not limited to power generating and
20 distribution stations and other transmission and
21 distribution facilities, water treatment facilities,
22 airport facilities, sport stadiums, convention centers,
23 and all government owned, operated, or occupied buildings,
24 but only to the extent that disclosure would compromise
25 security.

26 (l) Minutes of meetings of public bodies closed to the

1 public as provided in the Open Meetings Act until the
2 public body makes the minutes available to the public under
3 Section 2.06 of the Open Meetings Act.

4 (m) Communications between a public body and an
5 attorney or auditor representing the public body that would
6 not be subject to discovery in litigation, and materials
7 prepared or compiled by or for a public body in
8 anticipation of a criminal, civil or administrative
9 proceeding upon the request of an attorney advising the
10 public body, and materials prepared or compiled with
11 respect to internal audits of public bodies.

12 (n) Records relating to a public body's adjudication of
13 employee grievances or disciplinary cases; however, this
14 exemption shall not extend to the final outcome of cases in
15 which discipline is imposed.

16 (o) Administrative or technical information associated
17 with automated data processing operations, including but
18 not limited to software, operating protocols, computer
19 program abstracts, file layouts, source listings, object
20 modules, load modules, user guides, documentation
21 pertaining to all logical and physical design of
22 computerized systems, employee manuals, and any other
23 information that, if disclosed, would jeopardize the
24 security of the system or its data or the security of
25 materials exempt under this Section.

26 (p) Records relating to collective negotiating matters

1 between public bodies and their employees or
2 representatives, except that any final contract or
3 agreement shall be subject to inspection and copying.

4 (q) Test questions, scoring keys, and other
5 examination data used to determine the qualifications of an
6 applicant for a license or employment.

7 (r) The records, documents, and information relating
8 to real estate purchase negotiations until those
9 negotiations have been completed or otherwise terminated.
10 With regard to a parcel involved in a pending or actually
11 and reasonably contemplated eminent domain proceeding
12 under the Eminent Domain Act, records, documents and
13 information relating to that parcel shall be exempt except
14 as may be allowed under discovery rules adopted by the
15 Illinois Supreme Court. The records, documents and
16 information relating to a real estate sale shall be exempt
17 until a sale is consummated.

18 (s) Any and all proprietary information and records
19 related to the operation of an intergovernmental risk
20 management association or self-insurance pool or jointly
21 self-administered health and accident cooperative or pool.
22 Insurance or self insurance (including any
23 intergovernmental risk management association or self
24 insurance pool) claims, loss or risk management
25 information, records, data, advice or communications.

26 (t) Information contained in or related to

1 examination, operating, or condition reports prepared by,
2 on behalf of, or for the use of a public body responsible
3 for the regulation or supervision of financial
4 institutions or insurance companies, unless disclosure is
5 otherwise required by State law.

6 (u) Information that would disclose or might lead to
7 the disclosure of secret or confidential information,
8 codes, algorithms, programs, or private keys intended to be
9 used to create electronic or digital signatures under the
10 Electronic Commerce Security Act.

11 (v) Vulnerability assessments, security measures, and
12 response policies or plans that are designed to identify,
13 prevent, or respond to potential attacks upon a community's
14 population or systems, facilities, or installations, the
15 destruction or contamination of which would constitute a
16 clear and present danger to the health or safety of the
17 community, but only to the extent that disclosure could
18 reasonably be expected to jeopardize the effectiveness of
19 the measures or the safety of the personnel who implement
20 them or the public. Information exempt under this item may
21 include such things as details pertaining to the
22 mobilization or deployment of personnel or equipment, to
23 the operation of communication systems or protocols, or to
24 tactical operations.

25 (w) (Blank).

26 (x) Maps and other records regarding the location or

1 security of generation, transmission, distribution,
2 storage, gathering, treatment, or switching facilities
3 owned by a utility, by a power generator, or by the
4 Illinois Power Agency.

5 (y) Information contained in or related to proposals,
6 bids, or negotiations related to electric power
7 procurement under Section 1-75 of the Illinois Power Agency
8 Act and Section 16-111.5 of the Public Utilities Act that
9 is determined to be confidential and proprietary by the
10 Illinois Power Agency or by the Illinois Commerce
11 Commission.

12 (z) Information about students exempted from
13 disclosure under Sections 10-20.38 or 34-18.29 of the
14 School Code, and information about undergraduate students
15 enrolled at an institution of higher education exempted
16 from disclosure under Section 25 of the Illinois Credit
17 Card Marketing Act of 2009.

18 (aa) Information the disclosure of which is exempted
19 under the Viatical Settlements Act of 2009.

20 (bb) Records and information provided to a mortality
21 review team and records maintained by a mortality review
22 team appointed under the Department of Juvenile Justice
23 Mortality Review Team Act.

24 (cc) Information regarding interments, entombments, or
25 inurnments of human remains that are submitted to the
26 Cemetery Oversight Database under the Cemetery Care Act or

1 the Cemetery Oversight Act, whichever is applicable.

2 (dd) Correspondence and records (i) that may not be
3 disclosed under Section 11-9 of the Public Aid Code or (ii)
4 that pertain to appeals under Section 11-8 of the Public
5 Aid Code.

6 (ee) ~~(dd)~~ The names, addresses, or other personal
7 information of persons who are minors and are also
8 participants and registrants in programs of park
9 districts, forest preserve districts, conservation
10 districts, recreation agencies, and special recreation
11 associations.

12 (ff) ~~(ee)~~ The names, addresses, or other personal
13 information of participants and registrants in programs of
14 park districts, forest preserve districts, conservation
15 districts, recreation agencies, and special recreation
16 associations where such programs are targeted primarily to
17 minors.

18 (gg) Confidential information described in Section
19 1-100 of the Illinois Independent Tax Tribunal Act of 2012.

20 (2) A public record that is not in the possession of a
21 public body but is in the possession of a party with whom the
22 agency has contracted to perform a governmental function on
23 behalf of the public body, and that directly relates to the
24 governmental function and is not otherwise exempt under this
25 Act, shall be considered a public record of the public body,
26 for purposes of this Act.

1 (3) This Section does not authorize withholding of
2 information or limit the availability of records to the public,
3 except as stated in this Section or otherwise provided in this
4 Act.

5 (Source: P.A. 96-261, eff. 1-1-10; 96-328, eff. 8-11-09;
6 96-542, eff. 1-1-10; 96-558, eff. 1-1-10; 96-736, eff. 7-1-10;
7 96-863, eff. 3-1-10; 96-1378, eff. 7-29-10; 97-333, eff.
8 8-12-11; 97-385, eff. 8-15-11; 97-452, eff. 8-19-11; revised
9 9-2-11.)

10 Section 5-15. The Department of Revenue Law of the Civil
11 Administrative Code of Illinois is amended by changing Section
12 2505-510 as follows:

13 (20 ILCS 2505/2505-510) (was 20 ILCS 2505/39b20.1)

14 Sec. 2505-510. Informal assessment review.

15 (a) The Department has the power to establish an informal
16 assessment review process at which an impartial Department
17 designee, who has the authority and knowledge to recommend an
18 appropriate conclusion to the matter, shall review adjustments
19 recommended by examiners and auditors. The Director shall
20 provide by rule for the availability of an informal assessment
21 review before the issuance of a notice of tax liability or
22 notice of deficiency upon completion of an audit of the
23 taxpayer or before a formal hearing. A taxpayer may be
24 represented by a party of his or her choice during the informal

1 assessment review procedure and need not be represented by an
2 attorney.

3 (b) The exercise of this power to establish an informal
4 assessment review procedure is mandatory, and the Director
5 shall promulgate rules implementing this process within 180
6 days after the effective date of this amendatory Act of 1988.

7 (c) Offers of disposition of a proposed audit adjustment
8 may be proposed during the informal assessment review process.
9 The panel shall consider disposing of the matter in controversy
10 in all instances where, having made a reasonable evaluation of
11 such matters, the panel determines that there is uncertainty as
12 to the correctness of the proposed audit adjustments, and it is
13 not in the best interest of the Department to issue an
14 assessment or claim denial with respect to the issue due to,
15 among other factors, potential hazards of litigation.

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

17 Section 5-20. The Illinois Income Tax Act is amended by
18 changing Sections 908, 909, 910, 914, 916, 918, 1201, 1202, and
19 1408 as follows:

20 (35 ILCS 5/908) (from Ch. 120, par. 9-908)

21 Sec. 908. Procedure on protest.

22 (a) Time for protest. Within 60 days (150 days if the
23 taxpayer is outside the United States) after the issuance of a
24 notice of deficiency, the taxpayer may file (i) a protest

1 against the proposed assessment with with the Department or
2 (ii) a petition with the Illinois Independent Tax Tribunal, as
3 provided in this subsection (a). Prior to July 1, 2013, a
4 written protest against the proposed assessment shall be filed
5 with the Department in such form as the Department may by
6 regulations prescribe, setting forth the grounds on which such
7 protest is based. If such a protest is filed, the Department
8 shall reconsider the proposed assessment and, if the taxpayer
9 has so requested, shall grant the taxpayer or his authorized
10 representative a hearing.

11 On and after July 1, 2013, all protests of a notice of
12 deficiency that are subject to the jurisdiction of the Illinois
13 Independent Tax Tribunal shall be filed by petition pursuant to
14 the Illinois Independent Tax Tribunal Act of 2012.

15 With respect to protests filed with the Department prior to
16 July 1, 2013 that are otherwise subject to the jurisdiction of
17 the Illinois Independent Tax Tribunal, the taxpayer may elect
18 to be subject to the provisions of the Illinois Independent Tax
19 Tribunal Act of 2012 at any time on or after July 1, 2013, but
20 not later than 30 days after the date on which the protest was
21 filed. If made, the election shall be irrevocable.

22 (b) Notice of decision. With respect to protests filed with
23 the Department before July 1, 2013 that are not subject to the
24 provisions of the Illinois Independent Tax Tribunal Act of
25 2012, as ~~As~~ soon as practicable after such reconsideration and
26 hearing, if any, the Department shall issue a notice of

1 decision by mailing such notice by certified or registered
2 mail. Such notice shall set forth briefly the Department's
3 findings of fact and the basis of decision in each case decided
4 in whole or in part adversely to the taxpayer.

5 (c) Request for rehearing. With respect to protests filed
6 with the Department that are not subject to the provisions of
7 the Illinois Independent Tax Tribunal Act of 2012, within
8 ~~within~~ 30 days after the mailing of a notice of decision, the
9 taxpayer may file with a Department a written request for
10 rehearing in such form as the Department may by regulations
11 prescribe, setting forth the grounds on which rehearing is
12 requested. In any such case, the Department shall, in its
13 discretion, grant either a rehearing or Departmental review
14 unless, within 10 days of receipt of such request, it shall
15 issue a denial of such request by mailing such denial to the
16 taxpayer by certified or registered mail. If rehearing or
17 Departmental review is granted, as soon as practicable after
18 such rehearing or Departmental review, the Department shall
19 issue a notice of final decision as provided in subsection (b).

20 (d) Finality of decision. If the taxpayer fails to file a
21 timely petition under subsection (a) of this Section, then the
22 Department's notice of deficiency shall become a final
23 assessment at the end of the 60th day after the date of
24 issuance of the notice of deficiency (or the 150th day if the
25 taxpayer is outside the United States). If the taxpayer files a
26 protest with the Department prior to July 1, 2013, and the

1 taxpayer does not elect to be subject to the provisions of the
2 Illinois Independent Tax Tribunal Act of 2012, then the ~~The~~
3 action of the Department on the taxpayer's protest shall become
4 final:

5 (1) 30 Days after issuance of a notice of decision as
6 provided in subsection (b); or

7 (2) if a timely request for rehearing was made, upon
8 the issuance of a denial of such request or the issuance of
9 a notice of final decision as provided in subsection (c).

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

22 If the taxpayer files a petition with the Illinois
23 Independent Tax Tribunal, or otherwise elects to be subject to
24 the provisions of the Illinois Independent Tax Tribunal Act of
25 2012, then the Department's decision will become final as
26 provided in that Act.

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

2 (35 ILCS 5/909) (from Ch. 120, par. 9-909)

3 Sec. 909. Credits and Refunds.

4 (a) In general. In the case of any overpayment, the
5 Department, within the applicable period of limitations for a
6 claim for refund, may credit the amount of such overpayment,
7 including any interest allowed thereon, against any liability
8 in respect of the tax imposed by this Act, regardless of
9 whether other collection remedies are closed to the Department
10 on the part of the person who made the overpayment and shall
11 refund any balance to such person.

12 (b) Credits against estimated tax. The Department may
13 prescribe regulations providing for the crediting against the
14 estimated tax for any taxable year of the amount determined by
15 the taxpayer or the Department to be an overpayment of the tax
16 imposed by this Act for a preceding taxable year.

17 (c) Interest on overpayment. Interest shall be allowed and
18 paid at the rate and in the manner prescribed in Section 3-2 of
19 the Uniform Penalty and Interest Act upon any overpayment in
20 respect of the tax imposed by this Act. For purposes of this
21 subsection, no amount of tax, for any taxable year, shall be
22 treated as having been paid before the date on which the tax
23 return for such year was due under Section 505, without regard
24 to any extension of the time for filing such return.

25 (d) Refund claim. Every claim for refund shall be filed

1 with the Department in writing in such form as the Department
2 may by regulations prescribe, and shall state the specific
3 grounds upon which it is founded.

4 (e) Notice of denial. As soon as practicable after a claim
5 for refund is filed, the Department shall examine it and either
6 issue a notice of refund, abatement or credit to the claimant
7 or issue a notice of denial. If the Department has failed to
8 approve or deny the claim before the expiration of 6 months
9 from the date the claim was filed, the claimant may
10 nevertheless thereafter file with the Department a written
11 protest in such form as the Department may by regulation
12 prescribe, provided that, on or after July 1, 2013, protests
13 concerning matters that are subject to the jurisdiction of the
14 Illinois Independent Tax Tribunal shall be filed with the
15 Illinois Independent Tax Tribunal and not with the Department.
16 If the protest is subject to the jurisdiction of the Department
17 ~~a protest is filed~~, the Department shall consider the claim
18 and, if the taxpayer has so requested, shall grant the taxpayer
19 or the taxpayer's authorized representative a hearing within 6
20 months after the date such request is filed.

21 On and after July 1, 2013, if the protest would otherwise
22 be subject to the jurisdiction of the Illinois Independent Tax
23 Tribunal, the claimant may elect to treat the Department's
24 non-action as a denial of the claim by filing a petition to
25 review the Department's administrative decision with the
26 Illinois Tax Tribunal, as provided by Section 910.

1 (f) Effect of denial. A denial of a claim for refund
2 becomes final 60 days after the date of issuance of the notice
3 of such denial except for such amounts denied as to which the
4 claimant has filed a protest with the Department or a petition
5 with the Illinois Tax Tribunal, as provided by Section 910.

6 (g) An overpayment of tax shown on the face of an unsigned
7 return shall be considered forfeited to the State if after
8 notice and demand for signature by the Department the taxpayer
9 fails to provide a signature and 3 years have passed from the
10 date the return was filed. An overpayment of tax refunded to a
11 taxpayer whose return was filed electronically shall be
12 considered an erroneous refund under Section 912 of this Act
13 if, after proper notice and demand by the Department, the
14 taxpayer fails to provide a required signature document. A
15 notice and demand for signature in the case of a return
16 reflecting an overpayment may be made by first class mail. This
17 subsection (g) shall apply to all returns filed pursuant to
18 this Act since 1969.

19 (h) This amendatory Act of 1983 applies to returns and
20 claims for refunds filed with the Department on and after July
21 1, 1983.

22 (Source: P.A. 97-507, eff. 8-23-11.)

23 (35 ILCS 5/910) (from Ch. 120, par. 9-910)

24 Sec. 910. Procedure on Denial of Claim for Refund.

25 (a) Time for protest. Within 60 days after the denial of

1 the claim, the claimant may file (i) a protest with the
2 Department or (ii) a petition with the Illinois Independent Tax
3 Tribunal, as provided in this subsection (a). Prior to July 1,
4 2013, a written protest against such denial shall be filed with
5 the Department in such form as the Department may by
6 regulations prescribe, setting forth the grounds on which such
7 protest is based. If such a protest is filed, the Department
8 shall reconsider the denial and, if the taxpayer has so
9 requested, shall grant the taxpayer or his authorized
10 representative a hearing. With respect to protests filed with
11 the Department prior to July 1, 2013 that would otherwise be
12 subject to the jurisdiction of the Illinois Independent Tax
13 Tribunal, the taxpayer may elect to be subject to the
14 provisions of the Illinois Independent Tax Tribunal Act of 2012
15 on or after July 1, 2013, but not later than 30 days after the
16 date on which the protest was filed. If made, the election
17 shall be irrevocable.

18 A claimant who, on or after July 1, 2013, wishes to protest
19 a denial that is subject to the jurisdiction of the Illinois
20 Independent Tax Tribunal shall do so by filing a petition with
21 the Illinois Independent Tax Tribunal pursuant to the Illinois
22 Independent Tax Tribunal Act of 2012.

23 (b) Notice of decision. With respect to protests that are
24 subject to the jurisdiction of the Department, if the taxpayer
25 has not made an election to be subject to the provisions of the
26 Illinois Independent Tax Tribunal Act of 2012, then as ~~As~~ soon

1 as practicable after such reconsideration and hearing, if any,
2 the Department shall issue a notice of decision by mailing such
3 notice by certified or registered mail. Such notice shall set
4 forth briefly the Department's findings of fact and the basis
5 of decision in each case decided in whole or in part adversely
6 to the claimant.

7 (c) Request for rehearing. Within 30 days after the mailing
8 of a notice of decision as provided in subsection (b), the
9 claimant may file with the Department a written request for
10 rehearing in such form as the Department may by regulations
11 prescribe, setting forth the grounds on which rehearing is
12 requested. In any such case, the Department shall, in its
13 discretion, grant either a rehearing or Departmental review
14 unless, within 10 days of receipt of such request, it shall
15 issue a denial of such request by mailing such denial to the
16 claimant by certified or registered mail. If rehearing or
17 Departmental review is granted, as soon as practicable after
18 such rehearing or Departmental review, the Department shall
19 issue a notice of final decision as provided in subsection (b).

20 (d) Finality of decision. If the taxpayer fails to file a
21 timely petition under subsection (a) of this Section, then the
22 Department's notice of deficiency shall become a final
23 assessment at the end of the 60th day after the date of
24 issuance of the notice of deficiency. If the protest is subject
25 to the jurisdiction of the Department, and the taxpayer does
26 not elect to be subject to the provisions of the Illinois

1 Independent Tax Tribunal Act of 2012, then the ~~The~~ action of
2 the Department on the claimant's protest shall become final:

3 (1) 30 days after issuance of a notice of decision as
4 provided in subsection (b); or

5 (2) If a timely request for rehearing was made, upon
6 the issuance of a denial of such request or the issuance of
7 a notice of final decision as provided in subsection (c).

8 If the taxpayer files a petition with the Illinois
9 Independent Tax Tribunal, or otherwise elects to be subject to
10 the provisions of the Illinois Independent Tax Tribunal Act of
11 2012, then the Department's decision will become final as
12 provided in that Act.

13 (Source: P.A. 89-399, eff. 8-20-95.)

14 (35 ILCS 5/914) (from Ch. 120, par. 9-914)

15 Sec. 914. Conduct of Investigations and Hearings. For the
16 purpose of administering and enforcing the provisions of this
17 Act, the Department, or any officer or employee of the
18 Department designated, in writing, by the Director may hold
19 investigations and hearings concerning any matters covered by
20 this Act that are not otherwise delegated to the Illinois
21 Independent Tax Tribunal, and may examine any books, papers,
22 records or memoranda bearing upon such matters, and may require
23 the attendance of any person, or any officer or employee of
24 such person, having knowledge of such matters, and may take
25 testimony and require proof for its information. In the conduct

1 of any investigation or hearing, neither the Department nor any
2 officer or employee thereof shall be bound by the technical
3 rules of evidence, and no informality in any proceeding, or in
4 the manner of taking testimony, shall invalidate any order,
5 decision, rule or regulation made or approved or confirmed by
6 the Department. The Director, or any officer or employee of the
7 Department authorized by the Director shall have power to
8 administer oaths to such persons. The books, papers, records
9 and memoranda of the Department, or parts thereof, may be
10 proved in any hearing, investigation, or legal proceeding by a
11 reproduced copy thereof or by a computer print-out of
12 Department records, under the certificate of the Director. If
13 reproduced copies of the Department's books, papers, records or
14 memoranda are offered as proof, the Director must certify that
15 those copies are true and exact copies of such records on file
16 with the Department. If computer print-outs of records of the
17 Department are offered as proof, the Director must certify that
18 those computer print-outs are true and exact representations of
19 records properly entered into standard electronic computing
20 equipment, in the regular course of the Department's business,
21 at or reasonably near the time of the occurrence of the facts
22 recorded, from trustworthy and reliable information. Such
23 reproduced copy shall, without further proof, be admitted into
24 evidence before the Department or in any legal proceeding.

25 (Source: P.A. 85-299.)

1 (35 ILCS 5/916) (from Ch. 120, par. 9-916)

2 Sec. 916. Production of Witnesses and Records. (a)
3 Subpoenas. The Department or any officer or employee of the
4 Department designated in writing by the Director, shall at its
5 or his or her own instance, or on the written request of any
6 other party to the proceeding, issue subpoenas requiring the
7 attendance of and the giving of testimony by witnesses, and
8 subpoenas duces tecum requiring the production of books,
9 papers, records or memoranda. All subpoenas and subpoenas duces
10 tecum issued under this Act may be served by any person of full
11 age.

12 (b) Fees. The fees of witnesses for attendance and travel
13 shall be the same as the fees of witnesses before a Circuit
14 Court of this State, such fees to be paid when the witness is
15 excused from further attendance. When the witness is subpoenaed
16 at the instance of the Department or any officer or employee
17 thereof, such fees shall be paid in the same manner as other
18 expenses of the Department, and when the witness is subpoenaed
19 at the instance of any other party to any such proceeding the
20 Department may require that the cost of service of the subpoena
21 or subpoenas duces tecum and the fee of the witness be borne by
22 the party at whose instance the witness is summoned. In such
23 case, the Department, in its discretion, may require a deposit
24 to cover the cost of such service and witness fees. A subpoena
25 or subpoena duces tecum so issued shall be served in the same
26 manner as a subpoena issued out of a court.

1 (c) Judicial enforcement. Any Circuit Court of this State,
2 upon the application of the Department or any officer or
3 employee thereof, or upon the application of any other party to
4 the proceeding may, in its discretion, compel the attendance of
5 witnesses, the production of books, papers, records or
6 memoranda and the giving of testimony before the Department or
7 any officer or employee thereof conducting an investigation or
8 holding a hearing not otherwise delegated to the Illinois
9 Independent Tax Tribunal ~~authorized by this Act~~, by an
10 attachment for contempt, or otherwise, in the same manner as
11 production of evidence may be compelled before the Court.

12 (Source: P.A. 83-334.)

13 (35 ILCS 5/918) (from Ch. 120, par. 9-918)

14 Sec. 918. Place of Hearings.

15 All hearings provided for in this Act and not otherwise
16 delegated to the Illinois Independent Tax Tribunal with respect
17 to or concerning a taxpayer having his residence or commercial
18 domicile in this State shall be held at the Department's office
19 nearest to the location of such residence or domicile, except
20 that if the taxpayer has his residence or commercial domicile
21 in Cook County, such hearing shall be held in Cook County. If
22 the taxpayer does not have his residence or commercial domicile
23 in this State, such hearing shall be held in Cook County.

24 (Source: P.A. 76-261.)

1 (35 ILCS 5/1201) (from Ch. 120, par. 12-1201)

2 Sec. 1201. Administrative Review Law; Illinois Independent
3 Tax Tribunal Act of 2012. The provisions of the Administrative
4 Review Law, and the rules adopted pursuant thereto, shall apply
5 to and govern all proceedings for the judicial review of final
6 actions of the Department referred to in Sections 908 (d) and
7 910 (d). Such final actions shall constitute "administrative
8 decisions" as defined in Section 3-101 of the Code of Civil
9 Procedure.

10 Notwithstanding any other provision of law, on and after
11 July 1, 2013, the provisions of the Illinois Independent Tax
12 Tribunal Act, and the rules adopted pursuant thereto, shall
13 apply to and govern all proceedings for the judicial review of
14 final administrative decisions of the Department that are
15 subject to that Act, as defined in Section 1-70 of the Illinois
16 Independent Tax Tribunal Act of 2012.

17 (Source: P.A. 82-783.)

18 (35 ILCS 5/1202) (from Ch. 120, par. 12-1202)

19 Sec. 1202. Venue.

20 Except as otherwise provided in the Illinois Tax Tribunal
21 Act, the ~~The~~ Circuit Court of the county wherein the taxpayer
22 has his residence or commercial domicile, or of Cook County in
23 those cases where the taxpayer does not have his residence or
24 commercial domicile in this State, shall have power to review
25 all final administrative decisions of the Department in

1 administering the provisions of this Act.

2 (Source: P.A. 76-261.)

3 (35 ILCS 5/1408) (from Ch. 120, par. 14-1408)

4 Sec. 1408. Except as otherwise provided in the Illinois Tax
5 Tribunal Act, the ~~The~~ Illinois Administrative Procedure Act is
6 hereby expressly adopted and shall apply to all administrative
7 rules and procedures of the Department of Revenue under this
8 Act, except that (1) paragraph (b) of Section 5-10 of the
9 Illinois Administrative Procedure Act does not apply to final
10 orders, decisions and opinions of the Department, (2)
11 subparagraph (a)2 of Section 5-10 of the Illinois
12 Administrative Procedure Act does not apply to forms
13 established by the Department for use under this Act, and (3)
14 the provisions of Section 10-45 of the Illinois Administrative
15 Procedure Act regarding proposals for decision are excluded and
16 not applicable to the Department under this Act.

17 (Source: P.A. 88-45.)

18 Section 5-25. The Use Tax Act is amended by changing
19 Sections 12b and 20 as follows:

20 (35 ILCS 105/12b) (from Ch. 120, par. 439.12b)

21 Sec. 12b. The Illinois Administrative Procedure Act is
22 hereby expressly adopted and shall apply to all administrative
23 rules and procedures of the Department of Revenue under this

1 Act, except that (1) paragraph (b) of Section 5-10 of the
2 Illinois Administrative Procedure Act does not apply to final
3 orders, decisions and opinions of the Department, (2)
4 subparagraph (a)2 of Section 5-10 of the Illinois
5 Administrative Procedure Act does not apply to forms
6 established by the Department for use under this Act, and (3)
7 the provisions of Section 10-45 of the Illinois Administrative
8 Procedure Act regarding proposals for decision are excluded and
9 not applicable to the Department under this Act to the extent
10 Section 10-45 applies to hearings not otherwise delegated to
11 the Illinois Independent Tax Tribunal.

12 (Source: P.A. 88-45.)

13 (35 ILCS 105/20) (from Ch. 120, par. 439.20)

14 Sec. 20. As soon as practicable after a claim for credit or
15 refund is filed, the Department shall examine the same and
16 determine the amount of credit or refund to which the claimant
17 or the claimant's legal representative, in the event that the
18 claimant shall have died or become a person under legal
19 disability, is entitled and shall, by its Notice of Tentative
20 Determination of Claim, notify the claimant or his or her legal
21 representative of such determination, which determination
22 shall be prima facie correct. Proof of such determination by
23 the Department may be made at any hearing before the Department
24 or in any legal proceeding by a reproduced copy of the
25 Department's record relating thereto, in the name of the

1 Department under the certificate of the Director of Revenue.
2 Such reproduced copy shall, without further proof, be admitted
3 into evidence before the Department or in any legal proceeding
4 and shall be prima facie proof of the correctness of the
5 Department's determination, as shown therein. If such
6 claimant, or the legal representative of a deceased claimant or
7 a claimant who is a person under legal disability shall, within
8 60 days after the Department's Notice of Tentative
9 Determination of Claim, file a protest thereto and request a
10 hearing thereon, the Department shall give notice to such
11 claimant, or the legal representative of a deceased claimant,
12 or a claimant who is a person under legal disability of the
13 time and place fixed for such hearing, and shall hold a hearing
14 in conformity with the provisions of this Act. On and after
15 July 1, 2013, protests concerning matters that are subject to
16 the jurisdiction of the Illinois Independent Tax Tribunal shall
17 be filed with the Tax Tribunal in accordance with the Illinois
18 Independent Tax Tribunal Act of 2012, and hearings concerning
19 those matters shall be held before the Tribunal in accordance
20 with that Act. With respect to protests filed with the
21 Department prior to July 1, 2013 that would otherwise be
22 subject to the jurisdiction of the Illinois Independent Tax
23 Tribunal, the taxpayer may elect to be subject to the
24 provisions of the Illinois Independent Tax Tribunal Act of 2012
25 at any time on or after July 1, 2013, but not later than 30 days
26 after the date on which the protest was filed. If made, the

1 election shall be irrevocable. The Department, and pursuant
2 thereto shall issue its Final Determination of the amount, if
3 any, found to be due as a result of a ~~such~~ hearing before the
4 Department or the Tribunal, to such claimant, or the legal
5 representative of a deceased claimant or a claimant who is a
6 person under legal disability.

7 If a protest to the Department's Notice of Tentative
8 Determination of Claim is not filed within 60 days and a
9 request for a hearing thereon is not made as provided herein,
10 the said Notice shall thereupon become and operate as a Final
11 Determination; and, if the Department's Notice of Tentative
12 Determination, upon becoming a Final Determination, indicates
13 no amount due to the claimant, or, upon issuance of a credit or
14 refund for the amount, if any, found by the Department to be
15 due, the claim in all its aspects shall be closed and no longer
16 open to protest, hearing, judicial review, or by any other
17 proceeding or action whatever, either before the Department or
18 in any court of this State. Claims for credit or refund
19 hereunder must be filed with and initially determined by the
20 Department, the remedy herein provided being exclusive; and no
21 court shall have jurisdiction to determine the merits of any
22 claim except upon review as provided in this Act.

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

24 Section 5-30. The Service Use Tax Act is amended by
25 changing Sections 11, 18, and 20a as follows:

1 (35 ILCS 110/11) (from Ch. 120, par. 439.41)

2 Sec. 11. Every serviceman required or authorized to collect
3 taxes hereunder and every user who is subject to the tax
4 imposed by this Act shall keep such records, receipts, invoices
5 and other pertinent books, documents, memoranda and papers as
6 the Department shall require, in such form as the Department
7 shall require. The Department may adopt rules that establish
8 requirements, including record forms and formats, for records
9 required to be kept and maintained by taxpayers. For purposes
10 of this Section, "records" means all data maintained by the
11 taxpayer, including data on paper, microfilm, microfiche or any
12 type of machine-sensible data compilation. For the purpose of
13 administering and enforcing the provisions hereof, the
14 Department, or any officer or employee of the Department
15 designated, in writing, by the Director thereof, may hold
16 investigations and hearings concerning any matters covered
17 herein and not otherwise delegated to the Illinois Independent
18 Tax Tribunal and may examine any relevant books, papers,
19 records, documents or memoranda of any serviceman or any
20 taxable purchaser for use hereunder, and may require the
21 attendance of such person or any officer or employee of such
22 person, or of any person having knowledge of the facts, and may
23 take testimony and require proof for its information.

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

1 (35 ILCS 110/18) (from Ch. 120, par. 439.48)

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

1 shall hold a hearing in conformity with the provisions of this
2 Act, and pursuant thereto shall issue its Final Determination
3 of the amount, if any, found to be due as a result of such
4 hearing, to such claimant, or the legal representative of a
5 deceased or incompetent claimant.

6 If a protest to the Department's Notice of Tentative
7 Determination of Claim is not filed within 60 days and a
8 request for a hearing thereon is not made as provided herein,
9 the Notice shall thereupon become and operate as a Final
10 Determination; and, if the Department's Notice of Tentative
11 Determination upon becoming a Final Determination, indicates
12 no amount due to the claimant, or, upon issuance of a credit or
13 refund for the amount, if any, found by the Department to be
14 due, the claim in all its aspects shall be closed and no longer
15 open to protest, hearing, judicial review, or by any other
16 proceeding or action whatever, either before the Department or
17 in any court of this State. Claims for credit or refund
18 hereunder must be filed with and initially determined by the
19 Department, the remedy herein provided being exclusive; and no
20 court shall have jurisdiction to determine the merits of any
21 claim except upon review as provided in this Act.

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

23 (35 ILCS 110/20a) (from Ch. 120, par. 439.50a)

24 Sec. 20a. The Illinois Administrative Procedure Act is
25 hereby expressly adopted and shall apply to all administrative

1 rules and procedures of the Department of Revenue under this
2 Act, except that (1) paragraph (b) of Section 5-10 of the
3 Illinois Administrative Procedure Act does not apply to final
4 orders, decisions and opinions of the Department, (2)
5 subparagraph (a)2 of Section 5-10 of the Illinois
6 Administrative Procedure Act does not apply to forms
7 established by the Department for use under this Act, and (3)
8 the provisions of Section 10-45 of the Illinois Administrative
9 Procedure Act regarding proposals for decision are excluded and
10 not applicable to the Department under this Act to the extent
11 Section 10-45 applies to hearings not otherwise delegated to
12 the Illinois Independent Tax Tribunal.

13 (Source: P.A. 88-45.)

14 Section 5-35. The Service Occupation Tax Act is amended by
15 changing Sections 11, 18, and 20a as follows:

16 (35 ILCS 115/11) (from Ch. 120, par. 439.111)

17 Sec. 11. Every supplier required or authorized to collect
18 taxes hereunder and every serviceman making sales of service in
19 this State on or after the effective date hereof shall keep
20 such records, receipts, invoices and other pertinent books,
21 documents, memoranda and papers as the Department shall
22 require, in such form as the Department shall require. The
23 Department may adopt rules that establish requirements,
24 including record forms and formats, for records required to be

1 kept and maintained by taxpayers. For purposes of this Section,
2 "records" means all data maintained by the taxpayer, including
3 data on paper, microfilm, microfiche or any type of
4 machine-sensible data compilation. For the purpose of
5 administering and enforcing the provisions hereof, the
6 Department, or any officer or employee of the Department
7 designated, in writing, by the Director thereof, may hold
8 investigations and hearings not otherwise delegated to the
9 Illinois Independent Tax Tribunal concerning any matters
10 covered herein and may examine any books, papers, records,
11 documents or memoranda of any supplier or serviceman bearing
12 upon the sales of services or the sales of tangible personal
13 property to servicemen, and may require the attendance of such
14 person or any officer or employee of such person, or of any
15 person having knowledge of the facts, and may take testimony
16 and require proof for its information.

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

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

19 Sec. 18. As soon as practicable after a claim for credit or
20 refund is filed, the Department shall examine the same and
21 determine the amount of credit or refund to which the claimant
22 or the claimant's legal representative, in the event that the
23 claimant shall have died or become a person under legal
24 disability, is entitled and shall, by its Notice of Tentative
25 Determination of Claim, notify the claimant or his or her legal

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

24 If a protest to the Department's Notice of Tentative
25 Determination of Claim is not filed within 60 days and a
26 request for a hearing thereon is not made as provided herein,

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

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

15 (35 ILCS 115/20a) (from Ch. 120, par. 439.120a)

16 Sec. 20a. The Illinois Administrative Procedure Act is
17 hereby expressly adopted and shall apply to all administrative
18 rules and procedures of the Department of Revenue under this
19 Act, except that (1) paragraph (b) of Section 5-10 of the
20 Illinois Administrative Procedure Act does not apply to final
21 orders, decisions and opinions of the Department, (2)
22 subparagraph (a)2 of Section 5-10 of the Illinois
23 Administrative Procedure Act does not apply to forms
24 established by the Department for use under this Act, and (3)
25 the provisions of Section 10-45 of the Illinois Administrative

1 Procedure Act regarding proposals for decision are excluded and
2 not applicable to the Department under this Act to the extent
3 Section 10-45 applies to hearings not otherwise delegated to
4 the Illinois Independent Tax Tribunal.

5 (Source: P.A. 88-45.)

6 Section 5-40. The Retailers' Occupation Tax Act is amended
7 by changing Sections 4, 5, 5a, 8, 9, 11a, and 12 as follows:

8 (35 ILCS 120/4) (from Ch. 120, par. 443)

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

1 corrected for any reason other than a mathematical error, any
2 return so corrected by the Department shall be prima facie
3 correct and shall be prima facie evidence of the correctness of
4 the amount of tax due, as shown therein. In correcting
5 transaction by transaction reporting returns provided for in
6 Section 3 of this Act, it shall be permissible for the
7 Department to show a single corrected return figure for any
8 given period of a calendar month instead of having to correct
9 each transaction by transaction return form individually and
10 having to show a corrected return figure for each of such
11 transaction by transaction return forms. In making a correction
12 of transaction by transaction, monthly or quarterly returns
13 covering a period of 6 months or more, it shall be permissible
14 for the Department to show a single corrected return figure for
15 any given 6-month period.

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

19 Proof of such correction by the Department may be made at
20 any hearing before the Department or the Illinois Independent
21 Tax Tribunal or in any legal proceeding by a reproduced copy or
22 computer print-out of the Department's record relating thereto
23 in the name of the Department under the certificate of the
24 Director of Revenue. If reproduced copies of the Department's
25 records are offered as proof of such correction, the Director
26 must certify that those copies are true and exact copies of

1 records on file with the Department. If computer print-outs of
2 the Department's records are offered as proof of such
3 correction, the Director must certify that those computer
4 print-outs are true and exact representations of records
5 properly entered into standard electronic computing equipment,
6 in the regular course of the Department's business, at or
7 reasonably near the time of the occurrence of the facts
8 recorded, from trustworthy and reliable information. Such
9 certified reproduced copy or certified computer print-out
10 shall without further proof, be admitted into evidence before
11 the Department or in any legal proceeding and shall be prima
12 facie proof of the correctness of the amount of tax due, as
13 shown therein.

14 If the tax computed upon the basis of the gross receipts as
15 fixed by the Department is greater than the amount of tax due
16 under the return or returns as filed, the Department shall (or
17 if the tax or any part thereof that is admitted to be due by a
18 return or returns, whether filed on time or not, is not paid,
19 the Department may) issue the taxpayer a notice of tax
20 liability for the amount of tax claimed by the Department to be
21 due, together with a penalty in an amount determined in
22 accordance with Section 3-3 of the Uniform Penalty and Interest
23 Act. Provided, that if the incorrectness of any return or
24 returns as determined by the Department is due to negligence or
25 fraud, said penalty shall be in an amount determined in
26 accordance with Section 3-5 or Section 3-6 of the Uniform

1 Penalty and Interest Act, as the case may be. If the notice of
2 tax liability is not based on a correction of the taxpayer's
3 return or returns, but is based on the taxpayer's failure to
4 pay all or a part of the tax admitted by his return or returns
5 (whether filed on time or not) to be due, such notice of tax
6 liability shall be prima facie correct and shall be prima facie
7 evidence of the correctness of the amount of tax due, as shown
8 therein.

9 Proof of such notice of tax liability by the Department may
10 be made at any hearing before the Department or the Illinois
11 Independent Tax Tribunal or in any legal proceeding by a
12 reproduced copy of the Department's record relating thereto in
13 the name of the Department under the certificate of the
14 Director of Revenue. Such reproduced copy shall without further
15 proof, be admitted into evidence before the Department or in
16 any legal proceeding and shall be prima facie proof of the
17 correctness of the amount of tax due, as shown therein.

18 If the person filing any return dies or becomes a person
19 under legal disability at any time before the Department issues
20 its notice of tax liability, such notice shall be issued to the
21 administrator, executor or other legal representative, as
22 such, of such person.

23 Except in case of a fraudulent return, or in the case of an
24 amended return (where a notice of tax liability may be issued
25 on or after each January 1 and July 1 for an amended return
26 filed not more than 3 years prior to such January 1 or July 1,

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

25 If, when a tax or penalty under this Act becomes due and
26 payable, the person alleged to be liable therefor is out of the

1 State, the notice of tax liability may be issued within the
2 times herein limited after his coming into or return to the
3 State; and if, after the tax or penalty under this Act becomes
4 due and payable, the person alleged to be liable therefor
5 departs from and remains out of the State, the time of his or
6 her absence is no part of the time limited for the issuance of
7 the notice of tax liability; but the foregoing provisions
8 concerning absence from the State shall not apply to any case
9 in which, at the time when a tax or penalty becomes due under
10 this Act, the person allegedly liable therefor is not a
11 resident of this State.

12 The time limitation period on the Department's right to
13 issue a notice of tax liability shall not run during any period
14 of time in which the Order of any Court has the effect of
15 enjoining or restraining the Department from issuing the notice
16 of tax liability.

17 If such person or legal representative shall within 60 days
18 after such notice of tax liability file a protest to said
19 notice of tax liability with the Department and request a
20 hearing thereon, the Department shall give notice to such
21 person or legal representative of the time and place fixed for
22 such hearing and shall hold a hearing in conformity with the
23 provisions of this Act, and pursuant thereto shall issue to
24 such person or legal representative a final assessment for the
25 amount found to be due as a result of such hearing. On or after
26 July 1, 2013, protests concerning matters that are subject to

1 the jurisdiction of the Illinois Independent Tax Tribunal shall
2 be filed with the Illinois Independent Tax Tribunal in
3 accordance with the Illinois Independent Tax Tribunal Act of
4 2012, and hearings concerning those matters shall be held
5 before the Tribunal in accordance with that Act. The Tribunal
6 shall give notice to such person of the time and place fixed
7 for such hearing and shall hold a hearing. With respect to
8 protests filed with the Department prior to July 1, 2013 that
9 would otherwise be subject to the jurisdiction of the Illinois
10 Independent Tax Tribunal, the taxpayer may elect to be subject
11 to the provisions of the Illinois Independent Tax Tribunal Act
12 of 2012 at any time on or after July 1, 2013, but not later than
13 30 days after the date on which the protest was filed. If made,
14 the election shall be irrevocable.

15 If a protest to the notice of tax liability and a request
16 for a hearing thereon is not filed within 60 days after such
17 notice, such notice of tax liability shall become final without
18 the necessity of a final assessment being issued and shall be
19 deemed to be a final assessment.

20 After the issuance of a final assessment, or a notice of
21 tax liability which becomes final without the necessity of
22 actually issuing a final assessment as hereinbefore provided,
23 the Department, at any time before such assessment is reduced
24 to judgment, may (subject to rules of the Department) grant a
25 rehearing (or grant departmental review and hold an original
26 hearing if no previous hearing in the matter has been held)

1 upon the application of the person aggrieved. Pursuant to such
2 hearing or rehearing, the Department shall issue a revised
3 final assessment to such person or his legal representative for
4 the amount found to be due as a result of such hearing or
5 rehearing.

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

7 (35 ILCS 120/5) (from Ch. 120, par. 444)

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

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

21 In case any person engaged in the business of selling
22 tangible personal property at retail fails to file a return
23 when and as herein required, but thereafter, prior to the
24 Department's issuance of a notice of tax liability under this
25 Section, files a return but fails to pay the entire tax, a

1 penalty in an amount determined in accordance with Section 3-3
2 of the Uniform Penalty and Interest Act shall be added thereto.

3 In case any person engaged in the business of selling
4 tangible personal property at retail fails to file a return,
5 the Department shall determine the amount of tax due from him
6 according to its best judgment and information, which amount so
7 fixed by the Department shall be prima facie correct and shall
8 be prima facie evidence of the correctness of the amount of tax
9 due, as shown in such determination. In making any such
10 determination of tax due, it shall be permissible for the
11 Department to show a figure that represents the tax due for any
12 given period of 6 months instead of showing the amount of tax
13 due for each month separately. Proof of such determination by
14 the Department may be made at any hearing before the Department
15 or in any legal proceeding by a reproduced copy or computer
16 print-out of the Department's record relating thereto in the
17 name of the Department under the certificate of the Director of
18 Revenue. If reproduced copies of the Department's records are
19 offered as proof of such determination, the Director must
20 certify that those copies are true and exact copies of records
21 on file with the Department. If computer print-outs of the
22 Department's records are offered as proof of such
23 determination, the Director must certify that those computer
24 print-outs are true and exact representations of records
25 properly entered into standard electronic computing equipment,
26 in the regular course of the Department's business, at or

1 reasonably near the time of the occurrence of the facts
2 recorded, from trustworthy and reliable information. Such
3 certified reproduced copy or certified computer print-out
4 shall, without further proof, be admitted into evidence before
5 the Department or in any legal proceeding and shall be prima
6 facie proof of the correctness of the amount of tax due, as
7 shown therein. The Department shall issue the taxpayer a notice
8 of tax liability for the amount of tax claimed by the
9 Department to be due, together with a penalty of 30% thereof.

10 However, where the failure to file any tax return required
11 under this Act on the date prescribed therefor (including any
12 extensions thereof), is shown to be unintentional and
13 nonfraudulent and has not occurred in the 2 years immediately
14 preceding the failure to file on the prescribed date or is due
15 to other reasonable cause the penalties imposed by this Act
16 shall not apply.

17 The taxpayer or the taxpayer's legal representative may ~~If~~
18 ~~such person or the legal representative of such person files,~~
19 within 60 days after such notice, file a protest to such notice
20 of tax liability with the Department and request ~~requests~~ a
21 hearing thereon. The ~~the~~ Department shall give notice to such
22 person or the legal representative of such person of the time
23 and place fixed for such hearing, and shall hold a hearing in
24 conformity with the provisions of this Act, and pursuant
25 thereto shall issue a final assessment to such person or to the
26 legal representative of such person for the amount found to be

1 due as a result of such hearing. On and after July 1, 2013,
2 protests concerning matters that are under the jurisdiction of
3 the Illinois Independent Tax Tribunal shall be filed with the
4 Illinois Independent Tax Tribunal in accordance with the
5 Illinois Independent Tax Tribunal Act of 2012, and hearings
6 concerning those matters shall be held before the Tribunal in
7 accordance with that Act. With respect to protests filed with
8 the Illinois Independent Tax Tribunal, the Tribunal shall give
9 notice to that person or the legal representative of that
10 person of the time and place fixed for a hearing, and shall
11 hold a hearing in conformity with the provisions of this Act
12 and the Illinois Independent Tax Tribunal Act; and pursuant
13 thereto the Department shall issue a final assessment to such
14 person or to the legal representative of such person for the
15 amount found to be due as a result of the hearing. With respect
16 to protests filed with the Department prior to July 1, 2013
17 that would otherwise be subject to the jurisdiction of the
18 Illinois Independent Tax Tribunal, the taxpayer may elect to be
19 subject to the provisions of the Illinois Independent Tax
20 Tribunal Act of 2012 at any time on or after July 1, 2013, but
21 not later than 30 days after the date on which the protest was
22 filed. If made, the election shall be irrevocable.

23 If a protest to the notice of tax liability and a request
24 for a hearing thereon is not filed within 60 days after such
25 notice, such notice of tax liability shall become final without
26 the necessity of a final assessment being issued and shall be

1 deemed to be a final assessment.

2 After the issuance of a final assessment, or a notice of
3 tax liability which becomes final without the necessity of
4 actually issuing a final assessment as hereinbefore provided,
5 the Department, at any time before such assessment is reduced
6 to judgment, may (subject to rules of the Department) grant a
7 rehearing (or grant departmental review and hold an original
8 hearing if no previous hearing in the matter has been held)
9 upon the application of the person aggrieved. Pursuant to such
10 hearing or rehearing, the Department shall issue a revised
11 final assessment to such person or his legal representative for
12 the amount found to be due as a result of such hearing or
13 rehearing.

14 Except in case of failure to file a return, or with the
15 consent of the person to whom the notice of tax liability is to
16 be issued, no notice of tax liability shall be issued on and
17 after each July 1 and January 1 covering gross receipts
18 received during any month or period of time more than 3 years
19 prior to such July 1 and January 1, respectively, except that
20 if a return is not filed at the required time, a notice of tax
21 liability may be issued not later than 3 years after the time
22 the return is filed. The foregoing limitations upon the
23 issuance of a notice of tax liability shall not apply to the
24 issuance of any such notice with respect to any period of time
25 prior thereto in cases where the Department has, within the
26 period of limitation then provided, notified a person of the

1 amount of tax computed even though the Department had not
2 determined the amount of tax due from such person in the manner
3 required herein prior to the issuance of such notice, but in no
4 case shall the amount of any such notice of tax liability for
5 any period otherwise barred by this Act exceed for such period
6 the amount shown in the notice theretofore issued.

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

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

25 In case of failure to pay the tax, or any portion thereof,
26 or any penalty provided for in this Act, or interest, when due,

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

20 After the expiration of the period within which the person
21 assessed may file an action for judicial review under the
22 Administrative Review Law or the Illinois Independent Tax
23 Tribunal Act, as applicable, without such an action being
24 filed, a certified copy of the final assessment or revised
25 final assessment of the Department may be filed with the
26 Circuit Court of the county in which the taxpayer has his

1 principal place of business, or of Sangamon County in those
2 cases in which the taxpayer does not have his principal place
3 of business in this State. The certified copy of the final
4 assessment or revised final assessment shall be accompanied by
5 a certification which recites facts that are sufficient to show
6 that the Department complied with the jurisdictional
7 requirements of the Act in arriving at its final assessment or
8 its revised final assessment and that the taxpayer had his
9 opportunity for an administrative hearing and for judicial
10 review, whether he availed himself or herself of either or both
11 of these opportunities or not. If the court is satisfied that
12 the Department complied with the jurisdictional requirements
13 of the Act in arriving at its final assessment or its revised
14 final assessment and that the taxpayer had his opportunity for
15 an administrative hearing and for judicial review, whether he
16 availed himself of either or both of these opportunities or
17 not, the court shall render judgment in favor of the Department
18 and against the taxpayer for the amount shown to be due by the
19 final assessment or the revised final assessment, plus any
20 interest which may be due, and such judgment shall be entered
21 in the judgment docket of the court. Such judgment shall bear
22 the rate of interest as set by the Uniform Penalty and Interest
23 Act, but otherwise shall have the same effect as other
24 judgments. The judgment may be enforced, and all laws
25 applicable to sales for the enforcement of a judgment shall be
26 applicable to sales made under such judgments. The Department

1 shall file the certified copy of its assessment, as herein
2 provided, with the Circuit Court within 6 years after such
3 assessment becomes final except when the taxpayer consents in
4 writing to an extension of such filing period, and except that
5 the time limitation period on the Department's right to file
6 the certified copy of its assessment with the Circuit Court
7 shall not run during any period of time in which the order of
8 any court has the effect of enjoining or restraining the
9 Department from filing such certified copy of its assessment
10 with the Circuit Court.

11 If, when the cause of action for a proceeding in court
12 accrues against a person, he or she is out of the State, the
13 action may be commenced within the times herein limited, after
14 his or her coming into or return to the State; and if, after
15 the cause of action accrues, he or she departs from and remains
16 out of the State, the time of his or her absence is no part of
17 the time limited for the commencement of the action; but the
18 foregoing provisions concerning absence from the State shall
19 not apply to any case in which, at the time the cause of action
20 accrues, the party against whom the cause of action accrues is
21 not a resident of this State. The time within which a court
22 action is to be commenced by the Department hereunder shall not
23 run from the date the taxpayer files a petition in bankruptcy
24 under the Federal Bankruptcy Act until 30 days after notice of
25 termination or expiration of the automatic stay imposed by the
26 Federal Bankruptcy Act.

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

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

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

22 In addition to any other remedy provided by this Act, and
23 regardless of whether the Department is making or intends to
24 make use of such other remedy, where a corporation or limited
25 liability company registered under this Act violates the
26 provisions of this Act or of any rule or regulation promulgated

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

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

12 (Source: P.A. 96-1383, eff. 1-1-11.)

13 (35 ILCS 120/5a) (from Ch. 120, par. 444a)

14 Sec. 5a. The Department shall have a lien for the tax
15 herein imposed or any portion thereof, or for any penalty
16 provided for in this Act, or for any amount of interest which
17 may be due as provided for in Section 5 of this Act, upon all
18 the real and personal property of any person to whom a final
19 assessment or revised final assessment has been issued as
20 provided in this Act, or whenever a return is filed without
21 payment of the tax or penalty shown therein to be due,
22 including all such property of such persons acquired after
23 receipt of such assessment or filing of such return. The
24 taxpayer is liable for the filing fee incurred by the
25 Department for filing the lien and the filing fee incurred by

1 the Department to file the release of that lien. The filing
2 fees shall be paid to the Department in addition to payment of
3 the tax, penalty, and interest included in the amount of the
4 lien.

5 However, where the lien arises because of the issuance of a
6 final assessment or revised final assessment by the Department,
7 such lien shall not attach and the notice hereinafter referred
8 to in this Section shall not be filed until all proceedings in
9 court for review of such final assessment or revised final
10 assessment have terminated or the time for the taking thereof
11 has expired without such proceedings being instituted.

12 Upon the granting of a rehearing or departmental review
13 pursuant to Section 4 or Section 5 of this Act after a lien has
14 attached, such lien shall remain in full force except to the
15 extent to which the final assessment may be reduced by a
16 revised final assessment following such rehearing or review.

17 The lien created by the issuance of a final assessment
18 shall terminate unless a notice of lien is filed, as provided
19 in Section 5b hereof, within 3 years from the date all
20 proceedings in court for the review of such final assessment
21 have terminated or the time for the taking thereof has expired
22 without such proceedings being instituted, or (in the case of a
23 revised final assessment issued pursuant to a rehearing or
24 departmental review) within 3 years from the date all
25 proceedings in court for the review of such revised final
26 assessment have terminated or the time for the taking thereof

1 has expired without such proceedings being instituted; and
2 where the lien results from the filing of a return without
3 payment of the tax or penalty shown therein to be due, the lien
4 shall terminate unless a notice of lien is filed, as provided
5 in Section 5b hereof, within 3 years from the date when such
6 return is filed with the Department: Provided that the time
7 limitation period on the Department's right to file a notice of
8 lien shall not run during any period of time in which the order
9 of any court has the effect of enjoining or restraining the
10 Department from filing such notice of lien.

11 If the Department finds that a taxpayer is about to depart
12 from the State, or to conceal himself or his property, or to do
13 any other act tending to prejudice or to render wholly or
14 partly ineffectual proceedings to collect such tax unless such
15 proceedings are brought without delay, or if the Department
16 finds that the collection of the amount due from any taxpayer
17 will be jeopardized by delay, the Department shall give the
18 taxpayer notice of such findings and shall make demand for
19 immediate return and payment of such tax, whereupon such tax
20 shall become immediately due and payable. If the taxpayer,
21 within 5 days after such notice (or within such extension of
22 time as the Department may grant), does not comply with such
23 notice or show to the Department that the findings in such
24 notice are erroneous, the Department may file a notice of
25 jeopardy assessment lien in the office of the recorder of the
26 county in which any property of the taxpayer may be located and

1 shall notify the taxpayer of such filing. Such jeopardy
2 assessment lien shall have the same scope and effect as the
3 statutory lien hereinbefore provided for in this Section.

4 If the taxpayer believes that he does not owe some or all
5 of the tax for which the jeopardy assessment lien against him
6 has been filed, or that no jeopardy to the revenue in fact
7 exists, he may protest within 20 days after being notified by
8 the Department of the filing of such jeopardy assessment lien
9 and request a hearing, whereupon the Department shall hold a
10 hearing in conformity with the provisions of this Act and,
11 pursuant thereto, shall notify the taxpayer of its findings as
12 to whether or not such jeopardy assessment lien will be
13 released. If not, and if the taxpayer is aggrieved by this
14 decision, he may file an action for judicial review of such
15 final determination of the Department in accordance with
16 Section 12 of this Act and the Administrative Review Law.

17 On and after July 1, 2013, protests concerning matters that
18 are subject to the jurisdiction of the Illinois Independent Tax
19 Tribunal shall be filed with the Tribunal, and hearings on
20 those matters shall be held before the Tribunal in accordance
21 with the Illinois Independent Tax Tribunal Act of 2012. The
22 Tribunal shall notify the taxpayer of its findings as to
23 whether or not such jeopardy assessment lien will be released.
24 If not, and if the taxpayer is aggrieved by this decision, he
25 may file an action for judicial review of such final
26 determination of the Department in accordance with Section 12

1 of this Act and the Illinois Independent Tax Tribunal Act of
2 2012.

3 With respect to protests filed with the Department prior to
4 July 1, 2013 that would otherwise be subject to the
5 jurisdiction of the Illinois Independent Tax Tribunal, the
6 taxpayer may elect to be subject to the provisions of the
7 Illinois Independent Tax Tribunal Act of 2012 at any time on or
8 after July 1, 2013, but not later than 30 days after the date
9 on which the protest was filed. If made, the election shall be
10 irrevocable.

11 If, pursuant to such hearing (or after an independent
12 determination of the facts by the Department without a
13 hearing), the Department or the Tribunal determines that some
14 or all of the tax covered by the jeopardy assessment lien is
15 not owed by the taxpayer, or that no jeopardy to the revenue
16 exists, or if on judicial review the final judgment of the
17 court is that the taxpayer does not owe some or all of the tax
18 covered by the jeopardy assessment lien against him, or that no
19 jeopardy to the revenue exists, the Department shall release
20 its jeopardy assessment lien to the extent of such finding of
21 nonliability for the tax, or to the extent of such finding of
22 no jeopardy to the revenue.

23 The Department shall also release its jeopardy assessment
24 lien against the taxpayer whenever the tax and penalty covered
25 by such lien, plus any interest which may be due, are paid and
26 the taxpayer has paid the Department in cash or by guaranteed

1 remittance an amount representing the filing fee for the lien
2 and the filing fee for the release of that lien. The Department
3 shall file that release of lien with the recorder of the county
4 where that lien was filed.

5 Nothing in this Section shall be construed to give the
6 Department a preference over the rights of any bona fide
7 purchaser, holder of a security interest, mechanics
8 lienholder, mortgagee, or judgment lien creditor arising prior
9 to the filing of a regular notice of lien or a notice of
10 jeopardy assessment lien in the office of the recorder in the
11 county in which the property subject to the lien is located:
12 Provided, however, that the word "bona fide", as used in this
13 Section shall not include any mortgage of real or personal
14 property or any other credit transaction that results in the
15 mortgagee or the holder of the security acting as trustee for
16 unsecured creditors of the taxpayer mentioned in the notice of
17 lien who executed such chattel or real property mortgage or the
18 document evidencing such credit transaction. Such lien shall be
19 inferior to the lien of general taxes, special assessments and
20 special taxes heretofore or hereafter levied by any political
21 subdivision of this State.

22 In case title to land to be affected by the notice of lien
23 or notice of jeopardy assessment lien is registered under the
24 provisions of "An Act concerning land titles", approved May 1,
25 1897, as amended, such notice shall be filed in the office of
26 the Registrar of Titles of the county within which the property

1 subject to the lien is situated and shall be entered upon the
2 register of titles as a memorial or charge upon each folium of
3 the register of titles affected by such notice, and the
4 Department shall not have a preference over the rights of any
5 bona fide purchaser, mortgagee, judgment creditor or other lien
6 holder arising prior to the registration of such notice:
7 Provided, however, that the word "bona fide" shall not include
8 any mortgage of real or personal property or any other credit
9 transaction that results in the mortgagee or the holder of the
10 security acting as trustee for unsecured creditors of the
11 taxpayer mentioned in the notice of lien who executed such
12 chattel or real property mortgage or the document evidencing
13 such credit transaction.

14 Such regular lien or jeopardy assessment lien shall not be
15 effective against any purchaser with respect to any item in a
16 retailer's stock in trade purchased from the retailer in the
17 usual course of such retailer's business.

18 (Source: P.A. 92-826, eff. 1-1-03.)

19 (35 ILCS 120/8) (from Ch. 120, par. 447)

20 Sec. 8. For the purpose of administering and enforcing the
21 provisions of this Act, the Department, or any officer or
22 employee of the Department designated, in writing, by the
23 Director thereof, may hold investigations and hearings not
24 otherwise delegated to the Illinois Independent Tax Tribunal
25 concerning any matters covered by this Act and may examine any

1 books, papers, records or memoranda bearing upon the sales of
2 tangible personal property or services of any such person, and
3 may require the attendance of such person or any officer or
4 employee of such person, or of any person having knowledge of
5 such business, and may take testimony and require proof for its
6 information. In the conduct of any investigation or hearing,
7 neither the Department nor any officer or employee thereof
8 shall be bound by the technical rules of evidence, and no
9 informality in any proceeding, or in the manner of taking
10 testimony, shall invalidate any order, decision, rule or
11 regulation made or approved or confirmed by the Department. The
12 Director of Revenue, or any officer or employee of the
13 Department authorized by the Director thereof, shall have power
14 to administer oaths to such persons. The books, papers, records
15 and memoranda of the Department, or parts thereof, may be
16 proved in any hearing, investigation, or legal proceeding by a
17 reproduced copy thereof under the certificate of the Director
18 of Revenue. Such reproduced copy shall, without further proof,
19 be admitted into evidence before the Department or in any legal
20 proceeding.

21 (Source: Laws 1965, p. 200.)

22 (35 ILCS 120/9) (from Ch. 120, par. 448)

23 Sec. 9. No person shall be excused from testifying or from
24 producing any books, papers, records or memoranda in any
25 investigation or upon any hearing not otherwise delegated to

1 the Illinois Independent Tax Tribunal, when ordered to do so by
2 the department or any officer or employee thereof, upon the
3 ground that the testimony or evidence, documentary or
4 otherwise, may tend to incriminate him or subject him to a
5 criminal penalty, but no person shall be prosecuted or
6 subjected to any criminal penalty for, or on account of, any
7 transaction made or thing concerning which he may testify or
8 produce evidence, documentary or otherwise, before the
9 department or an officer or employee thereof; provided, that
10 such immunity shall extend only to a natural person who, in
11 obedience to a subpoena, gives testimony under oath or produces
12 evidence, documentary or otherwise, under oath. No person so
13 testifying shall be exempt from prosecution and punishment for
14 perjury committed in so testifying.

15 (Source: Laws 1933, p. 924.)

16 (35 ILCS 120/11a) (from Ch. 120, par. 450a)

17 Sec. 11a. The Illinois Administrative Procedure Act is
18 hereby expressly adopted and shall apply to all administrative
19 rules and procedures of the Department of Revenue under this
20 Act, except that (1) paragraph (b) of Section 5-10 of the
21 Illinois Administrative Procedure Act does not apply to final
22 orders, decisions and opinions of the Department, (2)
23 subparagraph (a)2 of Section 5-10 of the Illinois
24 Administrative Procedure Act does not apply to forms
25 established by the Department for use under this Act, and (3)

1 the provisions of Section 10-45 of the Illinois Administrative
2 Procedure Act regarding proposals for decision are excluded and
3 not applicable to the Department under this Act to the extent
4 Section 10-45 applies to hearings not otherwise delegated to
5 the Illinois Independent Tax Tribunal.

6 (Source: P.A. 88-45.)

7 (35 ILCS 120/12) (from Ch. 120, par. 451)

8 Sec. 12. The Department is authorized to make, promulgate
9 and enforce such reasonable rules and regulations relating to
10 the administration and enforcement of the provisions of this
11 Act as may be deemed expedient.

12 Whenever notice is required by this Act, such notice may be
13 given by United States registered or certified mail, addressed
14 to the person concerned at his last known address, and proof of
15 such mailing shall be sufficient for the purposes of this Act.
16 Notice of any hearing provided for by this Act shall be so
17 given not less than 7 days prior to the day fixed for the
18 hearing. Following the initial contact of a person represented
19 by an attorney, the Department shall not contact the person
20 concerned but shall only contact the attorney representing the
21 person concerned.

22 All hearings provided for in this Act with respect to or
23 concerning a taxpayer having his or her principal place of
24 business in this State other than in Cook County shall be held
25 at the Department's office nearest to the location of the

1 taxpayer's principal place of business: Provided that if the
2 taxpayer has his or her principal place of business in Cook
3 County, such hearing shall be held in Cook County; and
4 provided, further, that if the taxpayer does not have his or
5 her principal place of business in this State, such hearing
6 shall be held in Sangamon County.

7 The Circuit Court of the County wherein the taxpayer has
8 his or her principal place of business, or of Sangamon County
9 in those cases where the taxpayer does not have his or her
10 principal place of business in this State, shall have power to
11 review all final administrative decisions of the Department in
12 administering the provisions of this Act: Provided that if the
13 administrative proceeding which is to be reviewed judicially is
14 a claim for refund proceeding commenced in accordance with
15 Section 6 of this Act and Section 2a of "An Act in relation to
16 the payment and disposition of moneys received by officers and
17 employees of the State of Illinois by virtue of their office or
18 employment", approved June 9, 1911, as amended, the Circuit
19 Court having jurisdiction of the action for judicial review
20 under this Section and under the Administrative Review Law, as
21 amended, shall be the same court that entered the temporary
22 restraining order or preliminary injunction which is provided
23 for in Section 2a of "An Act in relation to the payment and
24 disposition of moneys received by officers and employees of the
25 State of Illinois by virtue of their office or employment", and
26 which enables such claim proceeding to be processed and

1 disposed of as a claim for refund proceeding rather than as a
2 claim for credit proceeding.

3 The provisions of the Administrative Review Law, and the
4 rules adopted pursuant thereto, shall apply to and govern all
5 proceedings for the judicial review of final administrative
6 decisions of the Department hereunder, except with respect to
7 protests and hearings held before the Illinois Independent Tax
8 Tribunal. The provisions of the Illinois Independent Tax
9 Tribunal Act, and the rules adopted pursuant thereto, shall
10 apply to and govern all proceedings for the judicial review of
11 administrative decisions of the Department that are subject to
12 the jurisdiction of the Illinois Independent Tax Tribunal. The
13 term "administrative decision" is defined as in Section 3-101
14 of the Code of Civil Procedure.

15 Except with respect to decisions that are subject to the
16 jurisdiction of the Illinois Independent Tax Tribunal, any ~~Any~~
17 person filing an action under the Administrative Review Law to
18 review a final assessment or revised final assessment issued by
19 the Department under this Act shall, within 20 days after
20 filing the complaint, file a bond with good and sufficient
21 surety or sureties residing in this State or licensed to do
22 business in this State or, instead of the bond, obtain an order
23 from the court imposing a lien upon the plaintiff's property as
24 hereinafter provided. If the person filing the complaint fails
25 to comply with this bonding requirement within 20 days after
26 filing the complaint, the Department shall file a motion to

1 dismiss and the court shall dismiss the action unless the
2 person filing the action complies with the bonding requirement
3 set out in this provision within 30 days after the filing of
4 the Department's motion to dismiss. Upon dismissal of any
5 complaint for failure to comply with the jurisdictional
6 prerequisites herein set forth, the court is empowered to and
7 shall enter judgment against the taxpayer and in favor of the
8 Department in the amount of the final assessment or revised
9 final assessment, together with any interest which may have
10 accrued since the Department issued the final assessment or
11 revised final assessment, and for costs, which judgment is
12 enforceable as other judgments for the payment of money. The
13 lien provided for in this Section shall not be applicable to
14 the real property of a corporate surety duly licensed to do
15 business in this State. The amount of such bond shall be fixed
16 and approved by the court, but shall not be less than the
17 amount of the tax and penalty claimed to be due by the
18 Department in its final assessment or revised final assessment
19 to the person filing such bond, plus the amount of interest due
20 from such person to the Department at the time when the
21 Department issued its final assessment to such person. Such
22 bond shall be executed to the Department of Revenue and shall
23 be conditioned on the taxpayer's payment within 30 days after
24 termination of the proceedings for judicial review of the
25 amount of tax and penalty and interest found by the court to be
26 due in such proceedings for judicial review. Such bond, when

1 filed and approved, shall, from such time until 2 years after
2 termination of the proceedings for judicial review in which the
3 bond is filed, be a lien against the real estate situated in
4 the county in which the bond is filed, of the person filing
5 such bond, and of the surety or sureties on such bond, until
6 the condition of the bond has been complied with or until the
7 bond has been canceled as hereinafter provided. If the person
8 filing any such bond fails to keep the condition thereof, such
9 bond shall thereupon be forfeited, and the Department may
10 institute an action upon such bond in its own name for the
11 entire amount of the bond and costs. Such action upon the bond
12 shall be in addition to any other remedy provided for herein.
13 If the person filing such bond complies with the condition
14 thereof, or if, in the proceedings for judicial review in which
15 such bond is filed, the court determines that no amount of tax
16 or penalty or interest is due, such bond shall be canceled.

17 If the court finds in a particular case that the plaintiff
18 cannot procure and furnish a satisfactory surety or sureties
19 for the kind of bond required herein, the court may relieve the
20 plaintiff of the obligation of filing such bond, if, upon the
21 timely application for a lien in lieu thereof and accompanying
22 proof therein submitted, the court is satisfied that any such
23 lien imposed would operate to secure the assessment in the
24 manner and to the degree as would a bond. Upon a finding that
25 such lien applied for would secure the assessment at issue, the
26 court shall enter an order, in lieu of such bond, subjecting

1 the plaintiff's real and personal property (including
2 subsequently acquired property), situated in the county in
3 which such order is entered, to a lien in favor of the
4 Department. Such lien shall be for the amount of the tax and
5 penalty claimed to be due by the Department in its final
6 assessment or revised final assessment, plus the amount of
7 interest due from such person to the Department at the time
8 when the Department issued its final assessment to such person,
9 and shall continue in full force and effect until the
10 termination of the proceedings for judicial review, or until
11 the plaintiff pays, to the Department, the tax and penalty and
12 interest to secure which the lien is given, whichever happens
13 first. In the exercise of its discretion, the court may impose
14 a lien regardless of the ratio of the taxpayer's assets to the
15 final assessment or revised final assessment plus the amount of
16 the interest and penalty. Nothing in this Section shall be
17 construed to give the Department a preference over the rights
18 of any bona fide purchaser, mortgagee, judgment creditor or
19 other lien holder arising prior to the entry of the order
20 creating such lien in favor of the Department: Provided,
21 however, that the word "bona fide", as used in this Section,
22 shall not include any mortgage of real or personal property or
23 any other credit transaction that results in the mortgagee or
24 the holder of the security acting as trustee for unsecured
25 creditors of the taxpayer mentioned in the order for lien who
26 executed such chattel or real property mortgage or the document

1 evidencing such credit transaction. Such lien shall be inferior
2 to the lien of general taxes, special assessments and special
3 taxes heretofore or hereafter levied by any political
4 subdivision of this State. Such lien shall not be effective
5 against any purchaser with respect to any item in a retailer's
6 stock in trade purchased from the retailer in the usual course
7 of such retailer's business, and such lien shall not be
8 enforced against the household effects, wearing apparel, or the
9 books, tools or implements of a trade or profession kept for
10 use by any person. Such lien shall not be effective against
11 real property whose title is registered under the provisions of
12 "An Act concerning land titles", approved May 1, 1897, as
13 amended, until the provisions of Section 85 of that Act are
14 complied with.

15 Service upon the Director of Revenue or the Assistant
16 Director of Revenue of the Department of Revenue of summons
17 issued in an action to review a final administrative decision
18 of the Department shall be service upon the Department. The
19 Department shall certify the record of its proceedings if the
20 taxpayer pays to it the sum of 75¢ per page of testimony taken
21 before the Department and 25¢ per page of all other matters
22 contained in such record, except that these charges may be
23 waived where the Department is satisfied that the aggrieved
24 party is a poor person who cannot afford to pay such charges.
25 If payment for such record is not made by the taxpayer within
26 30 days after notice from the Department or the Attorney

1 General of the cost thereof, the court in which the proceeding
2 is pending, on motion of the Department, shall dismiss the
3 complaint and (where the administrative decision as to which
4 the action for judicial review was filed is a final assessment
5 or revised final assessment) shall enter judgment against the
6 taxpayer and in favor of the Department for the amount of tax
7 and penalty shown by the Department's final assessment or
8 revised final assessment to be due, plus interest as provided
9 for in Section 5 of this Act from the date when the liability
10 upon which such interest accrued became delinquent until the
11 entry of the judgment in the action for judicial review under
12 the Administrative Review Law, and also for costs.

13 Whenever any proceeding provided by this Act is begun
14 before the Department, either by the Department or by a person
15 subject to this Act, and such person thereafter dies or becomes
16 a person under legal disability before such proceeding is
17 concluded, the legal representative of the deceased or person
18 under legal disability shall notify the Department of such
19 death or legal disability. Such legal representative, as such,
20 shall then be substituted by the Department for such person. If
21 the legal representative fails to notify the Department of his
22 or her appointment as such legal representative, the Department
23 may, upon its own motion, substitute such legal representative
24 in the proceeding pending before the Department for the person
25 who died or became a person under legal disability.

26 The changes made by this amendatory Act of 1995 apply to

1 all actions pending on and after the effective date of this
2 amendatory Act of 1995 to review a final assessment or revised
3 final assessment issued by the Department.

4 (Source: P.A. 89-60, eff. 6-30-95.)

5 Section 5-45. The Cigarette Tax Act is amended by changing
6 Sections 3, 8, 8a, 9a, 9b, and 10 as follows:

7 (35 ILCS 130/3) (from Ch. 120, par. 453.3)

8 Sec. 3. Affixing tax stamp; remitting tax to the
9 Department. Payment of the taxes imposed by Section 2 of this
10 Act shall (except as hereinafter provided) be evidenced by
11 revenue tax stamps affixed to each original package of
12 cigarettes. Each distributor of cigarettes, before delivering
13 or causing to be delivered any original package of cigarettes
14 in this State to a purchaser, shall firmly affix a proper stamp
15 or stamps to each such package, or (in case of manufacturers of
16 cigarettes in original packages which are contained inside a
17 sealed transparent wrapper) shall imprint the required
18 language on the original package of cigarettes beneath such
19 outside wrapper, as hereinafter provided.

20 No stamp or imprint may be affixed to, or made upon, any
21 package of cigarettes unless that package complies with all
22 requirements of the federal Cigarette Labeling and Advertising
23 Act, 15 U.S.C. 1331 and following, for the placement of labels,
24 warnings, or any other information upon a package of cigarettes

1 that is sold within the United States. Under the authority of
2 Section 6, the Department shall revoke the license of any
3 distributor that is determined to have violated this paragraph.
4 A person may not affix a stamp on a package of cigarettes,
5 cigarette papers, wrappers, or tubes if that individual package
6 has been marked for export outside the United States with a
7 label or notice in compliance with Section 290.185 of Title 27
8 of the Code of Federal Regulations. It is not a defense to a
9 proceeding for violation of this paragraph that the label or
10 notice has been removed, mutilated, obliterated, or altered in
11 any manner.

12 Only distributors licensed under this Act and
13 transporters, as defined in Section 9c of this Act, may possess
14 unstamped original packages of cigarettes. Prior to shipment to
15 a secondary distributor or an Illinois retailer, a stamp shall
16 be applied to each original package of cigarettes sold to the
17 secondary distributor or retailer. A distributor may apply tax
18 stamps only to original packages of cigarettes purchased or
19 obtained directly from an in-state maker, manufacturer, or
20 fabricator licensed as a distributor under Section 4 of this
21 Act or an out-of-state maker, manufacturer, or fabricator
22 holding a permit under Section 4b of this Act. A licensed
23 distributor may ship or otherwise cause to be delivered
24 unstamped original packages of cigarettes in, into, or from
25 this State. A licensed distributor may transport unstamped
26 original packages of cigarettes to a facility, wherever

1 located, owned or controlled by such distributor; however, a
2 distributor may not transport unstamped original packages of
3 cigarettes to a facility where retail sales of cigarettes take
4 place or to a facility where a secondary distributor makes
5 sales for resale. Any licensed distributor that ships or
6 otherwise causes to be delivered unstamped original packages of
7 cigarettes into, within, or from this State shall ensure that
8 the invoice or equivalent documentation and the bill of lading
9 or freight bill for the shipment identifies the true name and
10 address of the consignor or seller, the true name and address
11 of the consignee or purchaser, and the quantity by brand style
12 of the cigarettes so transported, provided that this Section
13 shall not be construed as to impose any requirement or
14 liability upon any common or contract carrier.

15 The Department, or any person authorized by the Department,
16 shall sell such stamps only to persons holding valid licenses
17 as distributors under this Act. On and after July 1, 2003,
18 payment for such stamps must be made by means of electronic
19 funds transfer. The Department may refuse to sell stamps to any
20 person who does not comply with the provisions of this Act.
21 Beginning on the effective date of this amendatory Act of the
22 92nd General Assembly and through June 30, 2002, persons
23 holding valid licenses as distributors may purchase cigarette
24 tax stamps up to an amount equal to 115% of the distributor's
25 average monthly cigarette tax stamp purchases over the 12
26 calendar months prior to the effective date of this amendatory

1 Act of the 92nd General Assembly.

2 Prior to December 1, 1985, the Department shall allow a
3 distributor 21 days in which to make final payment of the
4 amount to be paid for such stamps, by allowing the distributor
5 to make payment for the stamps at the time of purchasing them
6 with a draft which shall be in such form as the Department
7 prescribes, and which shall be payable within 21 days
8 thereafter: Provided that such distributor has filed with the
9 Department, and has received the Department's approval of, a
10 bond, which is in addition to the bond required under Section 4
11 of this Act, payable to the Department in an amount equal to
12 80% of such distributor's average monthly tax liability to the
13 Department under this Act during the preceding calendar year or
14 \$500,000, whichever is less. The Bond shall be joint and
15 several and shall be in the form of a surety company bond in
16 such form as the Department prescribes, or it may be in the
17 form of a bank certificate of deposit or bank letter of credit.
18 The bond shall be conditioned upon the distributor's payment of
19 amount of any 21-day draft which the Department accepts from
20 that distributor for the delivery of stamps to that distributor
21 under this Act. The distributor's failure to pay any such
22 draft, when due, shall also make such distributor automatically
23 liable to the Department for a penalty equal to 25% of the
24 amount of such draft.

25 On and after December 1, 1985 and until July 1, 2003, the
26 Department shall allow a distributor 30 days in which to make

1 final payment of the amount to be paid for such stamps, by
2 allowing the distributor to make payment for the stamps at the
3 time of purchasing them with a draft which shall be in such
4 form as the Department prescribes, and which shall be payable
5 within 30 days thereafter, and beginning on January 1, 2003 and
6 thereafter, the draft shall be payable by means of electronic
7 funds transfer: Provided that such distributor has filed with
8 the Department, and has received the Department's approval of,
9 a bond, which is in addition to the bond required under Section
10 4 of this Act, payable to the Department in an amount equal to
11 150% of such distributor's average monthly tax liability to the
12 Department under this Act during the preceding calendar year or
13 \$750,000, whichever is less, except that as to bonds filed on
14 or after January 1, 1987, such additional bond shall be in an
15 amount equal to 100% of such distributor's average monthly tax
16 liability under this Act during the preceding calendar year or
17 \$750,000, whichever is less. The bond shall be joint and
18 several and shall be in the form of a surety company bond in
19 such form as the Department prescribes, or it may be in the
20 form of a bank certificate of deposit or bank letter of credit.
21 The bond shall be conditioned upon the distributor's payment of
22 the amount of any 30-day draft which the Department accepts
23 from that distributor for the delivery of stamps to that
24 distributor under this Act. The distributor's failure to pay
25 any such draft, when due, shall also make such distributor
26 automatically liable to the Department for a penalty equal to

1 25% of the amount of such draft.

2 Every prior continuous compliance taxpayer shall be exempt
3 from all requirements under this Section concerning the
4 furnishing of such bond, as defined in this Section, as a
5 condition precedent to his being authorized to engage in the
6 business licensed under this Act. This exemption shall continue
7 for each such taxpayer until such time as he may be determined
8 by the Department to be delinquent in the filing of any
9 returns, or is determined by the Department (either through the
10 Department's issuance of a final assessment which has become
11 final under the Act, or by the taxpayer's filing of a return
12 which admits tax to be due that is not paid) to be delinquent
13 or deficient in the paying of any tax under this Act, at which
14 time that taxpayer shall become subject to the bond
15 requirements of this Section and, as a condition of being
16 allowed to continue to engage in the business licensed under
17 this Act, shall be required to furnish bond to the Department
18 in such form as provided in this Section. Such taxpayer shall
19 furnish such bond for a period of 2 years, after which, if the
20 taxpayer has not been delinquent in the filing of any returns,
21 or delinquent or deficient in the paying of any tax under this
22 Act, the Department may reinstate such person as a prior
23 continuance compliance taxpayer. Any taxpayer who fails to pay
24 an admitted or established liability under this Act may also be
25 required to post bond or other acceptable security with the
26 Department guaranteeing the payment of such admitted or

1 established liability.

2 Except as otherwise provided in this Section, any ~~Any~~
3 person aggrieved by any decision of the Department under this
4 Section may, within the time allowed by law, protest and
5 request a hearing, whereupon the Department shall give notice
6 and shall hold a hearing in conformity with the provisions of
7 this Act and then issue its final administrative decision in
8 the matter to such person. On and after July 1, 2013, protests
9 concerning matters that are subject to the jurisdiction of the
10 Illinois Independent Tax Tribunal shall be filed with the
11 Tribunal in accordance with the Illinois Independent Tax
12 Tribunal Act of 2012, and hearings on those matters shall be
13 held before the Tribunal in accordance with that Act. With
14 respect to protests filed with the Department prior to July 1,
15 2013 that would otherwise be subject to the jurisdiction of the
16 Illinois Independent Tax Tribunal, the taxpayer may elect to be
17 subject to the provisions of the Illinois Independent Tax
18 Tribunal Act at any time on or after July 1, 2013, but not
19 later than 30 days after the date on which the protest was
20 filed. If made, the election shall be irrevocable. In the
21 absence of such a protest filed within the time allowed by law,
22 the Department's decision shall become final without any
23 further determination being made or notice given.

24 The Department shall discharge any surety and shall release
25 and return any bond or security deposited, assigned, pledged,
26 or otherwise provided to it by a taxpayer under this Section

1 within 30 days after:

2 (1) Such taxpayer becomes a prior continuous compliance
3 taxpayer; or

4 (2) Such taxpayer has ceased to collect receipts on which
5 he is required to remit tax to the Department, has filed a
6 final tax return, and has paid to the Department an amount
7 sufficient to discharge his remaining tax liability as
8 determined by the Department under this Act. The Department
9 shall make a final determination of the taxpayer's outstanding
10 tax liability as expeditiously as possible after his final tax
11 return has been filed. If the Department cannot make such final
12 determination within 45 days after receiving the final tax
13 return, within such period it shall so notify the taxpayer,
14 stating its reasons therefor.

15 The Department may authorize distributors to affix revenue
16 tax stamps by imprinting tax meter stamps upon original
17 packages of cigarettes. The Department shall adopt rules and
18 regulations relating to the imprinting of such tax meter stamps
19 as will result in payment of the proper taxes as herein
20 imposed. No distributor may affix revenue tax stamps to
21 original packages of cigarettes by imprinting tax meter stamps
22 thereon unless such distributor has first obtained permission
23 from the Department to employ this method of affixation. The
24 Department shall regulate the use of tax meters and may, to
25 assure the proper collection of the taxes imposed by this Act,
26 revoke or suspend the privilege, theretofore granted by the

1 Department to any distributor, to imprint tax meter stamps upon
2 original packages of cigarettes.

3 Illinois cigarette manufacturers who place their
4 cigarettes in original packages which are contained inside a
5 sealed transparent wrapper, and similar out-of-State cigarette
6 manufacturers who elect to qualify and are accepted by the
7 Department as distributors under Section 4b(a) of this Act,
8 shall pay the taxes imposed by this Act by remitting the amount
9 thereof to the Department by the 5th day of each month covering
10 cigarettes shipped or otherwise delivered in Illinois to
11 purchasers during the preceding calendar month. Such
12 manufacturers of cigarettes in original packages which are
13 contained inside a sealed transparent wrapper, before
14 delivering such cigarettes or causing such cigarettes to be
15 delivered in this State to purchasers, shall evidence their
16 obligation to remit the taxes due with respect to such
17 cigarettes by imprinting language to be prescribed by the
18 Department on each original package of such cigarettes
19 underneath the sealed transparent outside wrapper of such
20 original package, in such place thereon and in such manner as
21 the Department may designate. Such imprinted language shall
22 acknowledge the manufacturer's payment of or liability for the
23 tax imposed by this Act with respect to the distribution of
24 such cigarettes.

25 A distributor shall not affix, or cause to be affixed, any
26 stamp or imprint to a package of cigarettes, as provided for in

1 this Section, if the tobacco product manufacturer, as defined
2 in Section 10 of the Tobacco Product Manufacturers' Escrow Act,
3 that made or sold the cigarettes has failed to become a
4 participating manufacturer, as defined in subdivision (a)(1)
5 of Section 15 of the Tobacco Product Manufacturers' Escrow Act,
6 or has failed to create a qualified escrow fund for any
7 cigarettes manufactured by the tobacco product manufacturer
8 and sold in this State or otherwise failed to bring itself into
9 compliance with subdivision (a)(2) of Section 15 of the Tobacco
10 Product Manufacturers' Escrow Act.

11 (Source: P.A. 95-1053, eff. 1-1-10; 96-782, eff. 1-1-10;
12 96-1027, eff. 7-12-10.)

13 (35 ILCS 130/8) (from Ch. 120, par. 453.8)

14 Sec. 8. The Department may make, promulgate and enforce
15 such reasonable rules and regulations relating to the
16 administration and enforcement of this Act as may be deemed
17 expedient.

18 Whenever notice is required by this Act, such notice may be
19 given by United States certified or registered mail, addressed
20 to the person concerned at his last known address, and proof of
21 such mailing shall be sufficient for the purposes of this Act.
22 Notice of any hearing provided for by this Act and held before
23 the Department shall be so given not less than 7 days prior to
24 the day fixed for the hearing.

25 Hearings provided for in this Act, other than hearings

1 before the Illinois Independent Tax Tribunal, shall be held:

2 (1) In Cook County, if the taxpayer's or licensee's
3 principal place of business is in that county;

4 (2) At the Department's office nearest the taxpayer's
5 or licensee's principal place of business, if the
6 taxpayer's or licensee's principal place of business is in
7 Illinois but outside Cook County;

8 (3) In Sangamon County, if the taxpayer's or licensee's
9 principal place of business is outside Illinois.

10 The Circuit Court of the County wherein the hearing is held
11 has power to review all final administrative decisions of the
12 Department in administering this Act. The provisions of the
13 Administrative Review Law, and all amendments and
14 modifications thereof, and the rules adopted pursuant thereto,
15 shall apply to and govern all proceedings for the judicial
16 review of final administrative decisions of the Department
17 under this Act. The term "administrative decision" is defined
18 as in Section 3-101 of the Code of Civil Procedure.

19 Service upon the Director of Revenue or Assistant Director
20 of Revenue of summons issued in any action to review a final
21 administrative decision shall be service upon the Department.
22 The Department shall certify the record of its proceedings if
23 the distributor, secondary distributor, or manufacturer with
24 authority to maintain manufacturer representatives pays to it
25 the sum of 75¢ per page of testimony taken before the
26 Department and 25¢ per page of all other matters contained in

1 such record, except that these charges may be waived where the
2 Department is satisfied that the aggrieved party is a poor
3 person who cannot afford to pay such charges. Before the
4 delivery of such record to the person applying for it, payment
5 of these charges must be made, and if the record is not paid
6 for within 30 days after notice that such record is available,
7 the complaint may be dismissed by the court upon motion of the
8 Department.

9 No stay order shall be entered by the Circuit Court unless
10 the distributor, secondary distributor, or manufacturer with
11 authority to maintain manufacturer representatives files with
12 the court a bond in an amount fixed and approved by the court,
13 to indemnify the State against all loss and injury which may be
14 sustained by it on account of the review proceedings and to
15 secure all costs which may be occasioned by such proceedings.

16 Whenever any proceeding provided by this Act is begun
17 before the Department, either by the Department or by a person
18 subject to this Act, and such person thereafter dies or becomes
19 a person under legal disability before such proceeding is
20 concluded, the legal representative of the deceased person or
21 of the person under legal disability shall notify the
22 Department of such death or legal disability. Such legal
23 representative, as such, shall then be substituted by the
24 Department for such person. If the legal representative fails
25 to notify the Department of his or her appointment as such
26 legal representative, the Department may, upon its own motion,

1 substitute such legal representative in the proceeding pending
2 before the Department for the person who died or became a
3 person under legal disability.

4 Hearings to contest an administrative decision under this
5 Act conducted as a result of a protest filed with the Illinois
6 Independent Tax Tribunal on or after July 1, 2013 shall be
7 conducted pursuant to the provisions of the Illinois
8 Independent Tax Tribunal Act of 2012.

9 (Source: P.A. 96-1027, eff. 7-12-10; 97-587, eff. 8-26-11.)

10 (35 ILCS 130/8a) (from Ch. 120, par. 453.8a)

11 Sec. 8a. The Illinois Administrative Procedure Act is
12 hereby expressly adopted and shall apply to all administrative
13 rules and procedures of the Department of Revenue under this
14 Act, except that (1) paragraph (b) of Section 5-10 of the
15 Illinois Administrative Procedure Act does not apply to final
16 orders, decisions and opinions of the Department, (2)
17 subparagraph (a)2 of Section 5-10 of the Illinois
18 Administrative Procedure Act does not apply to forms
19 established by the Department for use under this Act, and (3)
20 the provisions of Section 10-45 of the Illinois Administrative
21 Procedure Act regarding proposals for decision are excluded and
22 not applicable to the Department under this Act to the extent
23 Section 10-45 applies to hearings not otherwise subject to the
24 Illinois Independent Tax Tribunal Act of 2012.

25 (Source: P.A. 88-45.)

1 (35 ILCS 130/9a) (from Ch. 120, par. 453.9a)

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

3 (1) As soon as practicable after any return is filed, the
4 Department shall examine such return and shall correct such
5 return according to its best judgment and information, which
6 return so corrected by the Department shall be prima facie
7 correct and shall be prima facie evidence of the correctness of
8 the amount of tax due, as shown therein. Instead of requiring
9 the distributor to file an amended return, the Department may
10 simply notify the distributor of the correction or corrections
11 it has made. Proof of such correction by the Department may be
12 made at any hearing before the Department or in any legal
13 proceeding by a reproduced copy of the Department's record
14 relating thereto in the name of the Department under the
15 certificate of the Director of Revenue. Such reproduced copy
16 shall, without further proof, be admitted into evidence before
17 the Department or in any legal proceeding and shall be prima
18 facie proof of the correctness of the amount of tax due, as
19 shown therein. If the Department finds that any amount of tax
20 is due from the distributor, the Department shall issue the
21 distributor a notice of tax liability for the amount of tax
22 claimed by the Department to be due, together with a penalty in
23 an amount determined in accordance with Sections 3-3, 3-5 and
24 3-6 of the Uniform Penalty and Interest Act. If, in
25 administering the provisions of this Act, comparison of a

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

22 (2) Except as otherwise provided in this Section, if ~~if~~,
23 within 60 days after such notice of tax liability, the
24 distributor or his or her legal representative files a protest
25 to such notice of tax liability and requests a hearing thereon,
26 the Department shall give notice to such distributor or legal

1 representative of the time and place fixed for such hearing,
2 and shall hold a hearing in conformity with the provisions of
3 this Act, and pursuant thereto shall issue a final assessment
4 to such distributor or legal representative for the amount
5 found to be due as a result of such hearing. On or after July 1,
6 2013, protests concerning matters that are subject to the
7 jurisdiction of the Illinois Independent Tax Tribunal shall be
8 filed in accordance with the Illinois Independent Tax Tribunal
9 Act of 2012, and hearings concerning those matters shall be
10 held before the Tribunal in accordance with that Act. With
11 respect to protests filed with the Department prior to July 1,
12 2013 that would otherwise be subject to the jurisdiction of the
13 Illinois Independent Tax Tribunal, the taxpayer may elect to be
14 subject to the provisions of the Illinois Independent Tax
15 Tribunal Act at any time on or after July 1, 2013, but not
16 later than 30 days after the date on which the protest was
17 filed. If made, the election shall be irrevocable. If a protest
18 to the notice of tax liability and a request for a hearing
19 thereon is not filed within the time allowed by law ~~60 days~~
20 ~~after such notice of tax liability,~~ such notice of tax
21 liability shall become final without the necessity of a final
22 assessment being issued and shall be deemed to be a final
23 assessment.

24 (3) In case of failure to pay the tax, or any portion
25 thereof, or any penalty provided for in this Act, when due, the
26 Department may bring suit to recover the amount of such tax, or

1 portion thereof, or penalty; or, if the taxpayer dies or
2 becomes incompetent, by filing claim therefor against his
3 estate; provided that no such action with respect to any tax,
4 or portion thereof, or penalty, shall be instituted more than 2
5 years after the cause of action accrues, except with the
6 consent of the person from whom such tax or penalty is due.

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

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

17 If, when the cause of action for a proceeding in court
18 accrues against a person, he or she is out of the State, the
19 action may be commenced within the times herein limited, after
20 his or her coming into or return to the State; and if, after
21 the cause of action accrues, he or she departs from and remains
22 out of the State, the time of his or her absence is no part of
23 the time limited for the commencement of the action; but the
24 foregoing provisions concerning absence from the State shall
25 not apply to any case in which, at the time the cause of action
26 accrues, the party against whom the cause of action accrues is

1 not a resident of this State. The time within which a court
2 action is to be commenced by the Department hereunder shall not
3 run while the taxpayer is a debtor in any proceeding under the
4 Federal Bankruptcy Act nor thereafter until 90 days after the
5 Department is notified by such debtor of being discharged in
6 bankruptcy.

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

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

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

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

22 All of the provisions of Sections 5a, 5b, 5c, 5d, 5e, 5f,
23 5g, 5i and 5j of the Retailers' Occupation Tax Act, which are
24 not inconsistent with this Act, and Section 3-7 of the Uniform
25 Penalty and Interest Act shall apply, as far as practicable, to
26 the subject matter of this Act to the same extent as if such

1 provisions were included herein. References in such
2 incorporated Sections of the "Retailers' Occupation Tax Act" to
3 retailers, to sellers or to persons engaged in the business of
4 selling tangible personal property shall mean distributors
5 when used in this Act.

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

7 (35 ILCS 130/9b) (from Ch. 120, par. 453.9b)

8 Sec. 9b. Failure to file return; penalty; protest. In case
9 any person who is required to file a return under this Act
10 fails to file such return, the Department shall determine the
11 amount of tax due from him according to its best judgment and
12 information, which amount so fixed by the Department shall be
13 prima facie correct and shall be prima facie evidence of the
14 correctness of the amount of tax due, as shown in such
15 determination. Proof of such determination by the Department
16 may be made at any hearing before the Department or in any
17 legal proceeding by a reproduced copy of the Department's
18 record relating thereto in the name of the Department under the
19 certificate of the Director of Revenue. Such reproduced copy
20 shall, without further proof, be admitted into evidence before
21 the Department or in any legal proceeding and shall be prima
22 facie proof of the correctness of the amount of tax due, as
23 shown therein. The Department shall issue such person a notice
24 of tax liability for the amount of tax claimed by the
25 Department to be due, together with a penalty in an amount

1 determined in accordance with Sections 3-3, 3-5 and 3-6 of the
2 Uniform Penalty and Interest Act. If such person or the legal
3 representative of such person, within 60 days after such
4 notice, files a protest to such notice of tax liability and
5 requests a hearing thereon, the Department shall give notice to
6 such person or the legal representative of such person of the
7 time and place fixed for such hearing and shall hold a hearing
8 in conformity with the provisions of this Act, and pursuant
9 thereto shall issue a final assessment to such person or to the
10 legal representative of such person for the amount found to be
11 due as a result of such hearing. Hearings to protest a notice
12 of tax liability issued pursuant to this Section that are
13 conducted as a result of a protest filed with the Illinois
14 Independent Tax Tribunal on or after July 1, 2013 shall be
15 conducted pursuant to the Illinois Independent Tax Tribunal
16 Act. If a protest to the notice of tax liability and a request
17 for a hearing thereon is not filed within 60 days after such
18 notice of tax liability, such notice of tax liability shall
19 become final without the necessity of a final assessment being
20 issued and shall be deemed to be a final assessment.

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

22 (35 ILCS 130/10) (from Ch. 120, par. 453.10)

23 Sec. 10. The Department, or any officer or employee
24 designated in writing by the Director thereof, for the purpose
25 of administering and enforcing the provisions of this Act, may

1 hold investigations and, except as otherwise provided in the
2 Illinois Independent Tax Tribunal Act of 2012, may hold
3 hearings concerning any matters covered by this Act, and may
4 examine books, papers, records or memoranda bearing upon the
5 sale or other disposition of cigarettes by a distributor,
6 secondary distributor, manufacturer with authority to maintain
7 manufacturer representatives under Section 4f of this Act, or
8 manufacturer representative, and may issue subpoenas requiring
9 the attendance of a distributor, secondary distributor,
10 manufacturer with authority to maintain manufacturer
11 representatives under Section 4f of this Act, or manufacturer
12 representative, or any officer or employee of a distributor,
13 secondary distributor, manufacturer with authority to maintain
14 manufacturer representatives under Section 4f of this Act, or
15 any person having knowledge of the facts, and may take
16 testimony and require proof, and may issue subpoenas duces
17 tecum to compel the production of relevant books, papers,
18 records and memoranda, for the information of the Department.

19 All hearings to contest administrative decisions of the
20 Department conducted as a result of a protest filed with the
21 Illinois Independent Tax Tribunal on or after July 1, 2013
22 shall be subject to the provisions of the Illinois Independent
23 Tax Tribunal Act of 2012.

24 In the conduct of any investigation or hearing provided for
25 by this Act, neither the Department, nor any officer or
26 employee thereof, shall be bound by the technical rules of

1 evidence, and no informality in the proceedings nor in the
2 manner of taking testimony shall invalidate any rule, order,
3 decision or regulation made, approved or confirmed by the
4 Department.

5 The Director of Revenue, or any duly authorized officer or
6 employee of the Department, shall have the power to administer
7 oaths to such persons required by this Act to give testimony
8 before the said Department.

9 The books, papers, records and memoranda of the Department,
10 or parts thereof, may be proved in any hearing, investigation
11 or legal proceeding by a reproduced copy thereof under the
12 certificate of the Director of Revenue. Such reproduced copy
13 shall, without further proof, be admitted into evidence before
14 the Department or in any legal proceeding.

15 (Source: P.A. 96-1027, eff. 7-12-10; 97-587, eff. 8-26-11.)

16 Section 5-50. The Cigarette Use Tax Act is amended by
17 changing Sections 3, 13, 13a, 21, and 21a as follows:

18 (35 ILCS 135/3) (from Ch. 120, par. 453.33)

19 Sec. 3. Stamp payment. The tax hereby imposed shall be
20 collected by a distributor maintaining a place of business in
21 this State or a distributor authorized by the Department
22 pursuant to Section 7 hereof to collect the tax, and the amount
23 of the tax shall be added to the price of the cigarettes sold
24 by such distributor. Collection of the tax shall be evidenced

1 by a stamp or stamps affixed to each original package of
2 cigarettes or by an authorized substitute for such stamp
3 imprinted on each original package of such cigarettes
4 underneath the sealed transparent outside wrapper of such
5 original package, except as hereinafter provided. Each
6 distributor who is required or authorized to collect the tax
7 herein imposed, before delivering or causing to be delivered
8 any original packages of cigarettes in this State to any
9 purchaser, shall firmly affix a proper stamp or stamps to each
10 such package, or (in the case of manufacturers of cigarettes in
11 original packages which are contained inside a sealed
12 transparent wrapper) shall imprint the required language on the
13 original package of cigarettes beneath such outside wrapper as
14 hereinafter provided. Such stamp or stamps need not be affixed
15 to the original package of any cigarettes with respect to which
16 the distributor is required to affix a like stamp or stamps by
17 virtue of the Cigarette Tax Act, however, and no tax imprint
18 need be placed underneath the sealed transparent wrapper of an
19 original package of cigarettes with respect to which the
20 distributor is required or authorized to employ a like tax
21 imprint by virtue of the Cigarette Tax Act.

22 No stamp or imprint may be affixed to, or made upon, any
23 package of cigarettes unless that package complies with all
24 requirements of the federal Cigarette Labeling and Advertising
25 Act, 15 U.S.C. 1331 and following, for the placement of labels,
26 warnings, or any other information upon a package of cigarettes

1 that is sold within the United States. Under the authority of
2 Section 6, the Department shall revoke the license of any
3 distributor that is determined to have violated this paragraph.
4 A person may not affix a stamp on a package of cigarettes,
5 cigarette papers, wrappers, or tubes if that individual package
6 has been marked for export outside the United States with a
7 label or notice in compliance with Section 290.185 of Title 27
8 of the Code of Federal Regulations. It is not a defense to a
9 proceeding for violation of this paragraph that the label or
10 notice has been removed, mutilated, obliterated, or altered in
11 any manner.

12 Only distributors licensed under this Act and
13 transporters, as defined in Section 9c of the Cigarette Tax
14 Act, may possess unstamped original packages of cigarettes.
15 Prior to shipment to an Illinois retailer or secondary
16 distributor, a stamp shall be applied to each original package
17 of cigarettes sold to the retailer or secondary distributor. A
18 distributor may apply a tax stamp only to an original package
19 of cigarettes purchased or obtained directly from an in-state
20 maker, manufacturer, or fabricator licensed as a distributor
21 under Section 4 of this Act or an out-of-state maker,
22 manufacturer, or fabricator holding a permit under Section 7 of
23 this Act. A licensed distributor may ship or otherwise cause to
24 be delivered unstamped original packages of cigarettes in,
25 into, or from this State. A licensed distributor may transport
26 unstamped original packages of cigarettes to a facility,

1 wherever located, owned or controlled by such distributor;
2 however, a distributor may not transport unstamped original
3 packages of cigarettes to a facility where retail sales of
4 cigarettes take place or to a facility where a secondary
5 distributor makes sales for resale. Any licensed distributor
6 that ships or otherwise causes to be delivered unstamped
7 original packages of cigarettes into, within, or from this
8 State shall ensure that the invoice or equivalent documentation
9 and the bill of lading or freight bill for the shipment
10 identifies the true name and address of the consignor or
11 seller, the true name and address of the consignee or
12 purchaser, and the quantity by brand style of the cigarettes so
13 transported, provided that this Section shall not be construed
14 as to impose any requirement or liability upon any common or
15 contract carrier.

16 Distributors making sales of cigarettes to secondary
17 distributors shall add the amount of the tax to the price of
18 the cigarettes sold by the distributors. Secondary
19 distributors making sales of cigarettes to retailers shall
20 include the amount of the tax in the price of the cigarettes
21 sold to retailers. The amount of tax shall not be less than the
22 amount of taxes imposed by the State and all local
23 jurisdictions. The amount of local taxes shall be calculated
24 based on the location of the retailer's place of business shown
25 on the retailer's certificate of registration or
26 sub-registration issued to the retailer pursuant to Section 2a

1 of the Retailers' Occupation Tax Act. The original packages of
2 cigarettes sold by the retailer shall bear all the required
3 stamps, or other indicia, for the taxes included in the price
4 of cigarettes.

5 Stamps, when required hereunder, shall be purchased from
6 the Department, or any person authorized by the Department, by
7 distributors. On and after July 1, 2003, payment for such
8 stamps must be made by means of electronic funds transfer. The
9 Department may refuse to sell stamps to any person who does not
10 comply with the provisions of this Act. Beginning on June 6,
11 2002 and through June 30, 2002, persons holding valid licenses
12 as distributors may purchase cigarette tax stamps up to an
13 amount equal to 115% of the distributor's average monthly
14 cigarette tax stamp purchases over the 12 calendar months prior
15 to June 6, 2002.

16 Prior to December 1, 1985, the Department shall allow a
17 distributor 21 days in which to make final payment of the
18 amount to be paid for such stamps, by allowing the distributor
19 to make payment for the stamps at the time of purchasing them
20 with a draft which shall be in such form as the Department
21 prescribes, and which shall be payable within 21 days
22 thereafter: Provided that such distributor has filed with the
23 Department, and has received the Department's approval of, a
24 bond, which is in addition to the bond required under Section 4
25 of this Act, payable to the Department in an amount equal to
26 80% of such distributor's average monthly tax liability to the

1 Department under this Act during the preceding calendar year or
2 \$500,000, whichever is less. The bond shall be joint and
3 several and shall be in the form of a surety company bond in
4 such form as the Department prescribes, or it may be in the
5 form of a bank certificate of deposit or bank letter of credit.
6 The bond shall be conditioned upon the distributor's payment of
7 the amount of any 21-day draft which the Department accepts
8 from that distributor for the delivery of stamps to that
9 distributor under this Act. The distributor's failure to pay
10 any such draft, when due, shall also make such distributor
11 automatically liable to the Department for a penalty equal to
12 25% of the amount of such draft.

13 On and after December 1, 1985 and until July 1, 2003, the
14 Department shall allow a distributor 30 days in which to make
15 final payment of the amount to be paid for such stamps, by
16 allowing the distributor to make payment for the stamps at the
17 time of purchasing them with a draft which shall be in such
18 form as the Department prescribes, and which shall be payable
19 within 30 days thereafter, and beginning on January 1, 2003 and
20 thereafter, the draft shall be payable by means of electronic
21 funds transfer: Provided that such distributor has filed with
22 the Department, and has received the Department's approval of,
23 a bond, which is in addition to the bond required under Section
24 4 of this Act, payable to the Department in an amount equal to
25 150% of such distributor's average monthly tax liability to the
26 Department under this Act during the preceding calendar year or

1 \$750,000, whichever is less, except that as to bonds filed on
2 or after January 1, 1987, such additional bond shall be in an
3 amount equal to 100% of such distributor's average monthly tax
4 liability under this Act during the preceding calendar year or
5 \$750,000, whichever is less. The bond shall be joint and
6 several and shall be in the form of a surety company bond in
7 such form as the Department prescribes, or it may be in the
8 form of a bank certificate of deposit or bank letter of credit.
9 The bond shall be conditioned upon the distributor's payment of
10 the amount of any 30-day draft which the Department accepts
11 from that distributor for the delivery of stamps to that
12 distributor under this Act. The distributor's failure to pay
13 any such draft, when due, shall also make such distributor
14 automatically liable to the Department for a penalty equal to
15 25% of the amount of such draft.

16 Every prior continuous compliance taxpayer shall be exempt
17 from all requirements under this Section concerning the
18 furnishing of such bond, as defined in this Section, as a
19 condition precedent to his being authorized to engage in the
20 business licensed under this Act. This exemption shall continue
21 for each such taxpayer until such time as he may be determined
22 by the Department to be delinquent in the filing of any
23 returns, or is determined by the Department (either through the
24 Department's issuance of a final assessment which has become
25 final under the Act, or by the taxpayer's filing of a return
26 which admits tax to be due that is not paid) to be delinquent

1 or deficient in the paying of any tax under this Act, at which
2 time that taxpayer shall become subject to the bond
3 requirements of this Section and, as a condition of being
4 allowed to continue to engage in the business licensed under
5 this Act, shall be required to furnish bond to the Department
6 in such form as provided in this Section. Such taxpayer shall
7 furnish such bond for a period of 2 years, after which, if the
8 taxpayer has not been delinquent in the filing of any returns,
9 or delinquent or deficient in the paying of any tax under this
10 Act, the Department may reinstate such person as a prior
11 continuance compliance taxpayer. Any taxpayer who fails to pay
12 an admitted or established liability under this Act may also be
13 required to post bond or other acceptable security with the
14 Department guaranteeing the payment of such admitted or
15 established liability.

16 Except as otherwise provided in this Section, any ~~Any~~
17 person aggrieved by any decision of the Department under this
18 Section may, within the time allowed by law, protest and
19 request a hearing before the Department, whereupon the
20 Department shall give notice and shall hold a hearing in
21 conformity with the provisions of this Act and then issue its
22 final administrative decision in the matter to such person.
23 Effective July 1, 2013, protests concerning matters that are
24 subject to the jurisdiction of the Illinois Independent Tax
25 Tribunal shall be filed in accordance with the Illinois
26 Independent Tax Tribunal Act of 2012, and hearings concerning

1 those matters shall be held before the Tribunal in accordance
2 with that Act. With respect to protests filed with the
3 Department prior to July 1, 2013 that would otherwise be
4 subject to the jurisdiction of the Illinois Independent Tax
5 Tribunal, the person filing the protest may elect to be subject
6 to the provisions of the Illinois Independent Tax Tribunal Act
7 of 2012 at any time on or after July 1, 2013, but not later than
8 30 days after the date on which the protest was filed. If made,
9 the election shall be irrevocable. In the absence of such a
10 protest filed within the time allowed by law, the Department's
11 decision shall become final without any further determination
12 being made or notice given.

13 The Department shall discharge any surety and shall release
14 and return any bond or security deposited, assigned, pledged,
15 or otherwise provided to it by a taxpayer under this Section
16 within 30 days after:

17 (1) such Taxpayer becomes a prior continuous
18 compliance taxpayer; or

19 (2) such taxpayer has ceased to collect receipts on
20 which he is required to remit tax to the Department, has
21 filed a final tax return, and has paid to the Department an
22 amount sufficient to discharge his remaining tax liability
23 as determined by the Department under this Act. The
24 Department shall make a final determination of the
25 taxpayer's outstanding tax liability as expeditiously as
26 possible after his final tax return has been filed. If the

1 Department cannot make such final determination within 45
2 days after receiving the final tax return, within such
3 period it shall so notify the taxpayer, stating its reasons
4 therefor.

5 At the time of purchasing such stamps from the Department
6 when purchase is required by this Act, or at the time when the
7 tax which he has collected is remitted by a distributor to the
8 Department without the purchase of stamps from the Department
9 when that method of remitting the tax that has been collected
10 is required or authorized by this Act, the distributor shall be
11 allowed a discount during any year commencing July 1 and ending
12 the following June 30 in accordance with the schedule set out
13 hereinbelow, from the amount to be paid by him to the
14 Department for such stamps, or to be paid by him to the
15 Department on the basis of monthly remittances (as the case may
16 be), to cover the cost, to such distributor, of collecting the
17 tax herein imposed by affixing such stamps to the original
18 packages of cigarettes sold by such distributor or by placing
19 tax imprints underneath the sealed transparent wrapper of
20 original packages of cigarettes sold by such distributor (as
21 the case may be): (1) Prior to December 1, 1985, a discount
22 equal to 1-2/3% of the amount of the tax up to and including
23 the first \$700,000 paid hereunder by such distributor to the
24 Department during any such year; 1-1/3% of the next \$700,000 of
25 tax or any part thereof, paid hereunder by such distributor to
26 the Department during any such year; 1% of the next \$700,000 of

1 tax, or any part thereof, paid hereunder by such distributor to
2 the Department during any such year; and 2/3 of 1% of the
3 amount of any additional tax paid hereunder by such distributor
4 to the Department during any such year or (2) On and after
5 December 1, 1985, a discount equal to 1.75% of the amount of
6 the tax payable under this Act up to and including the first
7 \$3,000,000 paid hereunder by such distributor to the Department
8 during any such year and 1.5% of the amount of any additional
9 tax paid hereunder by such distributor to the Department during
10 any such year.

11 Two or more distributors that use a common means of
12 affixing revenue tax stamps or that are owned or controlled by
13 the same interests shall be treated as a single distributor for
14 the purpose of computing the discount.

15 Cigarette manufacturers who are distributors under Section
16 7(a) of this Act, and who place their cigarettes in original
17 packages which are contained inside a sealed transparent
18 wrapper, shall be required to remit the tax which they are
19 required to collect under this Act to the Department by
20 remitting the amount thereof to the Department by the 5th day
21 of each month, covering cigarettes shipped or otherwise
22 delivered to points in Illinois to purchasers during the
23 preceding calendar month, but a distributor need not remit to
24 the Department the tax so collected by him from purchasers
25 under this Act to the extent to which such distributor is
26 required to remit the tax imposed by the Cigarette Tax Act to

1 the Department with respect to the same cigarettes. All taxes
2 upon cigarettes under this Act are a direct tax upon the retail
3 consumer and shall conclusively be presumed to be precollected
4 for the purpose of convenience and facility only. Cigarette
5 manufacturers that are distributors licensed under Section
6 7(a) of this Act and who place their cigarettes in original
7 packages which are contained inside a sealed transparent
8 wrapper, before delivering such cigarettes or causing such
9 cigarettes to be delivered in this State to purchasers, shall
10 evidence their obligation to collect and remit the tax due with
11 respect to such cigarettes by imprinting language to be
12 prescribed by the Department on each original package of such
13 cigarettes underneath the sealed transparent outside wrapper
14 of such original package, in such place thereon and in such
15 manner as the Department may prescribe; provided (as stated
16 hereinbefore) that this requirement does not apply when such
17 distributor is required or authorized by the Cigarette Tax Act
18 to place the tax imprint provided for in the last paragraph of
19 Section 3 of that Act underneath the sealed transparent wrapper
20 of such original package of cigarettes. Such imprinted language
21 shall acknowledge the manufacturer's collection and payment of
22 or liability for the tax imposed by this Act with respect to
23 such cigarettes.

24 The Department shall adopt the design or designs of the tax
25 stamps and shall procure the printing of such stamps in such
26 amounts and denominations as it deems necessary to provide for

1 the affixation of the proper amount of tax stamps to each
2 original package of cigarettes.

3 Where tax stamps are required, the Department may authorize
4 distributors to affix revenue tax stamps by imprinting tax
5 meter stamps upon original packages of cigarettes. The
6 Department shall adopt rules and regulations relating to the
7 imprinting of such tax meter stamps as will result in payment
8 of the proper taxes as herein imposed. No distributor may affix
9 revenue tax stamps to original packages of cigarettes by
10 imprinting meter stamps thereon unless such distributor has
11 first obtained permission from the Department to employ this
12 method of affixation. The Department shall regulate the use of
13 tax meters and may, to assure the proper collection of the
14 taxes imposed by this Act, revoke or suspend the privilege,
15 theretofore granted by the Department to any distributor, to
16 imprint tax meter stamps upon original packages of cigarettes.

17 The tax hereby imposed and not paid pursuant to this
18 Section shall be paid to the Department directly by any person
19 using such cigarettes within this State, pursuant to Section 12
20 hereof.

21 A distributor shall not affix, or cause to be affixed, any
22 stamp or imprint to a package of cigarettes, as provided for in
23 this Section, if the tobacco product manufacturer, as defined
24 in Section 10 of the Tobacco Product Manufacturers' Escrow Act,
25 that made or sold the cigarettes has failed to become a
26 participating manufacturer, as defined in subdivision (a)(1)

1 of Section 15 of the Tobacco Product Manufacturers' Escrow Act,
2 or has failed to create a qualified escrow fund for any
3 cigarettes manufactured by the tobacco product manufacturer
4 and sold in this State or otherwise failed to bring itself into
5 compliance with subdivision (a) (2) of Section 15 of the Tobacco
6 Product Manufacturers' Escrow Act.

7 (Source: P.A. 96-782, eff. 1-1-10; 96-1027, eff. 7-12-10.)

8 (35 ILCS 135/13) (from Ch. 120, par. 453.43)

9 Sec. 13. Examination and correction of return. As soon as
10 practicable after any return is filed, the Department shall
11 examine such return and shall correct such return according to
12 its best judgment and information, which return so corrected by
13 the Department shall be prima facie correct and shall be prima
14 facie evidence of the correctness of the amount of tax due, as
15 shown therein. Proof of such correction by the Department may
16 be made at any hearing before the Department or in any legal
17 proceeding by a reproduced copy of the Department's record
18 relating thereto in the name of the Department under the
19 certificate of the Director of Revenue. Such reproduced copy
20 shall, without further proof, be admitted into evidence before
21 the Department or in any legal proceeding and shall be prima
22 facie proof of the correctness of the amount of tax due, as
23 shown therein. If the tax as fixed by the Department is greater
24 than the amount of the tax due under the return as filed, the
25 Department shall issue the person filing such return a notice

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

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

1 Except as otherwise provided in this Section, if ~~if~~ within
2 60 days after such notice of tax liability, the person to whom
3 such notice is issued or his legal representative files a
4 protest to such notice of tax liability and requests a hearing
5 thereon, the Department shall give notice to such person or
6 legal representative of the time and place fixed for such
7 hearing, and shall hold a hearing in conformity with the
8 provisions of this Act, and pursuant thereto shall issue a
9 final assessment to such person or legal representative for the
10 amount found to be due as a result of such hearing. Effective
11 July 1, 2013, protests concerning matters that are subject to
12 the jurisdiction of the Illinois Independent Tax Tribunal shall
13 be filed with the Tribunal in accordance with the Illinois
14 Independent Tax Tribunal Act of 2012, and hearings concerning
15 those matters shall be held before the Tribunal in accordance
16 with that Act. With respect to protests filed with the
17 Department prior to July 1, 2013 that would otherwise be
18 subject to the jurisdiction of the Illinois Independent Tax
19 Tribunal, the person filing the protest may elect to be subject
20 to the provisions of the Illinois Independent Tax Tribunal Act
21 of 2012 at any time on or after July 1, 2013, but not later than
22 30 days after the date on which the protest was filed. If made,
23 the election shall be irrevocable. If a protest to the notice
24 of tax liability and a request for a hearing thereon is not
25 filed within the time allowed by law ~~60 days after such notice~~
26 ~~of tax liability,~~ such notice of tax liability shall become

1 final without the necessity of a final assessment being issued
2 and shall be deemed to be a final assessment.

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

4 (35 ILCS 135/13a) (from Ch. 120, par. 453.43a)

5 Sec. 13a. Failure to file return. In case any person who is
6 required to file a return under this Act fails to file such
7 return, the Department shall determine the amount of tax due
8 from him according to its best judgment and information, which
9 amount so fixed by the Department shall be prima facie correct
10 and shall be prima facie evidence of the correctness of the
11 amount of tax due, as shown in such determination. Proof of
12 such determination by the Department may be made at any hearing
13 before the Department or in any legal proceeding by a
14 reproduced copy of the Department's record relating thereto in
15 the name of the Department under the certificate of the
16 Director of Revenue. Such reproduced copy shall, without
17 further proof, be admitted into evidence before the Department
18 or in any legal proceeding and shall be prima facie proof of
19 the correctness of the amount of tax due, as shown therein. The
20 Department shall issue such person a notice of tax liability
21 for the amount of tax claimed by the Department to be due,
22 together with a penalty in an amount determined in accordance
23 with Sections 3-3, 3-5 and 3-6 of the Uniform Penalty and
24 Interest Act. Except as otherwise provided in this Section, if
25 ~~if~~ such person or the legal representative of such person,

1 within 60 days after such notice, files a protest to such
2 notice of tax liability and requests a hearing thereon, the
3 Department shall give notice to such person or the legal
4 representative of such person of the time and place fixed for
5 such hearing, and shall hold a hearing in conformity with the
6 provisions of this Act, and pursuant thereto shall issue a
7 final assessment to such person or to the legal representative
8 of such person for the amount found to be due as a result of
9 such hearing. Effective July 1, 2013, protests concerning
10 matters that are subject to the jurisdiction of the Illinois
11 Independent Tax Tribunal shall be filed with the Tribunal in
12 accordance with the Illinois Independent Tax Tribunal Act of
13 2012, and hearings concerning those matters shall be held
14 before the Tribunal in accordance with that Act. With respect
15 to protests filed with the Department prior to July 1, 2013
16 that would otherwise be subject to the jurisdiction of the
17 Illinois Independent Tax Tribunal, the person filing the
18 protest may elect to be subject to the provisions of the
19 Illinois Independent Tax Tribunal Act of 2012 at any time on or
20 after July 1, 2013, but not later than 30 days after the date
21 on which the protest was filed. If made, the election shall be
22 irrevocable. If a protest to the notice of tax liability and a
23 request for a hearing thereon is not filed within the time
24 allowed by law ~~60 days after such notice of tax liability~~, such
25 notice of tax liability shall become final without the
26 necessity of a final assessment being issued and shall be

1 deemed to be a final assessment.

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

3 (35 ILCS 135/21) (from Ch. 120, par. 453.51)

4 Sec. 21. The Department may make, promulgate and enforce
5 such reasonable rules and regulations relating to the
6 administration and enforcement of this Act as may be deemed
7 expedient.

8 Whenever notice is required by this Act, such notice may be
9 given by United States certified or registered mail, addressed
10 to the person concerned at his or her last known address, and
11 proof of such mailing shall be sufficient for the purposes of
12 this Act. Notice of any hearing provided for by this Act and
13 held before the Department shall be so given not less than 7
14 days prior to the day fixed for the hearing.

15 Hearings provided for in this Act, other than hearings
16 before the Illinois Independent Tax Tribunal, shall be held:

17 (1) In Cook County, if the taxpayer's or licensee's
18 principal place of business is in that county;

19 (2) At the Department's office nearest the taxpayer's
20 or licensee's principal place of business, if the
21 taxpayer's or licensee's principal place of business is in
22 Illinois but outside Cook County;

23 (3) In Sangamon County, if the taxpayer's or licensee's
24 principal place of business is outside Illinois.

25 The Circuit Court of the County wherein the hearing is held

1 shall have power to review all final administrative decisions
2 of the Department in administering this Act. The provisions of
3 the Administrative Review Law, as amended, and the rules
4 adopted pursuant thereto, shall apply to and govern all
5 proceedings for the judicial review of final administrative
6 decisions of the Department under this Act. The term
7 "administrative decision" is defined as in Section 3-101 of the
8 Code of Civil Procedure.

9 Service upon the Director of Revenue or Assistant Director
10 of Revenue of the Department of Revenue of summons issued in
11 any action to review a final administrative decision shall be
12 service upon the Department. The Department shall certify the
13 record of its proceedings if the plaintiff in the action for
14 judicial review shall pay to it the sum of 75¢ per page of
15 testimony taken before the Department and 25¢ per page of all
16 other matters contained in such record, except that these
17 charges may be waived where the Department is satisfied that
18 the aggrieved party is a poor person who cannot afford to pay
19 such charges. However, before the delivery of such record to
20 the person applying for it payment of these charges must be
21 made, and if the record is not paid for within 30 days after
22 notice that such record is available, the complaint may be
23 dismissed by the court upon motion of the Department.

24 No stay order shall be entered by the Circuit Court unless
25 the plaintiff in the action for judicial review files with the
26 court a bond in an amount fixed and approved by the court, to

1 indemnify the State against all loss and injury which may be
2 sustained by it on account of the review proceedings and to
3 secure all costs which may be occasioned by such proceedings.

4 Whenever any proceeding provided by this Act is commenced
5 before the Department, either by the Department or by a person
6 subject to this Act, and such person thereafter dies or becomes
7 a person under legal disability before such proceeding is
8 concluded, the legal representative of the deceased or a person
9 under legal disability shall notify the Department of such
10 death or legal disability. Such legal representative, as such,
11 shall then be substituted by the Department for such person. If
12 the legal representative fails to notify the Department of his
13 or her appointment as such legal representative, the Department
14 may, upon its own motion, substitute such legal representative
15 in the proceeding pending before the Department for the person
16 who died or became a person under legal disability.

17 Hearings to protest an administrative decision of the
18 Department conducted as a result of a protest filed with the
19 Illinois Independent Tax Tribunal on or after July 1, 2013
20 shall be conducted pursuant to the provisions of the Illinois
21 Independent Tax Tribunal Act of 2012.

22 (Source: P.A. 96-1027, eff. 7-12-10.)

23 (35 ILCS 135/21a) (from Ch. 120, par. 453.51a)

24 Sec. 21a. The Illinois Administrative Procedure Act is
25 hereby expressly adopted and shall apply to all administrative

1 rules and procedures of the Department of Revenue under this
2 Act, except that (1) paragraph (b) of Section 5-10 of the
3 Illinois Administrative Procedure Act does not apply to final
4 orders, decisions and opinions of the Department, (2)
5 subparagraph (a)2 of Section 5-10 of the Illinois
6 Administrative Procedure Act does not apply to forms
7 established by the Department for use under this Act, and (3)
8 the provisions of Section 10-45 of the Illinois Administrative
9 Procedure Act regarding proposals for decision are excluded and
10 not applicable to the Department under this Act to the extent
11 Section 10-45 applies to hearings not otherwise subject to the
12 Illinois Independent Tax Tribunal Act of 2012.

13 (Source: P.A. 88-45.)

14 Section 5-55. The Tobacco Products Tax Act of 1995 is
15 amended by changing Section 10-58 as follows:

16 (35 ILCS 143/10-58)

17 Sec. 10-58. Sale of forfeited tobacco products or vending
18 devices.

19 (a) When any tobacco products or any vending devices are
20 declared forfeited to the State by the Department, as provided
21 in Section 10-55, and when all proceedings for the judicial
22 review of the Department's decision have terminated, the
23 Department shall, to the extent that its decision is sustained
24 on review, sell the property for the best price obtainable and

1 shall forthwith pay over the proceeds of the sale to the State
2 Treasurer. If the value of the property to be sold at any one
3 time is \$500 or more, however, the property shall be sold only
4 to the highest and best bidder on terms and conditions, and on
5 open competitive bidding after public advertisement, in a
6 manner and for terms as the Department, by rule, may prescribe.

7 (b) If no complaint for review, as provided in Section 12
8 of the Retailers' Occupation Tax Act, has been filed within the
9 time required by ~~the Administrative Review~~ Law, and if no stay
10 order has been entered under that Law, the Department shall
11 proceed to destroy, maintain and use in an undercover capacity,
12 or sell the property for the best price obtainable and shall
13 forthwith pay over the proceeds of the sale to the State
14 Treasurer. If the value of the property to be sold at any one
15 time is \$500 or more, however, the property shall be sold only
16 to the highest and best bidder on terms and conditions, and on
17 open competitive bidding after public advertisement, in a
18 manner and for terms as the Department, by rule, may prescribe.

19 (c) Upon making a sale of tobacco products as provided in
20 this Section, the Department shall affix a distinctive stamp to
21 each of the tobacco products so sold indicating that they are
22 sold under this Section.

23 (d) Notwithstanding the foregoing, any tobacco products
24 seized under this Act may, at the discretion of the Director of
25 Revenue, be distributed to any eleemosynary institution within
26 the State of Illinois.

1 (Source: P.A. 94-776, eff. 5-19-06.)

2 Section 5-60. The Hotel Operators' Occupation Tax Act is
3 amended by changing Section 10 as follows:

4 (35 ILCS 145/10) (from Ch. 120, par. 481b.40)

5 Sec. 10. The Illinois Administrative Procedure Act is
6 hereby expressly adopted and shall apply to all administrative
7 rules and procedures of the Department of Revenue under this
8 Act, except that (1) paragraph (b) of Section 5-10 of the
9 Illinois Administrative Procedure Act does not apply to final
10 orders, decisions and opinions of the Department, (2)
11 subparagraph (a)2 of Section 5-10 of the Illinois
12 Administrative Procedure Act does not apply to forms
13 established by the Department for use under this Act, and (3)
14 the provisions of Section 10-45 of the Illinois Administrative
15 Procedure Act regarding proposals for decision are excluded and
16 not applicable to the Department under this Act to the extent
17 Section 10-45 applies to hearings not otherwise subject to the
18 Illinois Independent Tax Tribunal Act of 2012.

19 (Source: P.A. 88-45.)

20 Section 5-65. The Motor Fuel Tax Law is amended by changing
21 Section 18 as follows:

22 (35 ILCS 505/18) (from Ch. 120, par. 433.1)

1 Sec. 18. The Illinois Administrative Procedure Act is
2 hereby expressly adopted and shall apply to all administrative
3 rules and procedures of the Department of Revenue under this
4 Act, except that (1) paragraph (b) of Section 5-10 of the
5 Illinois Administrative Procedure Act does not apply to final
6 orders, decisions and opinions of the Department, (2)
7 subparagraph (a)2 of Section 5-10 of the Illinois
8 Administrative Procedure Act does not apply to forms
9 established by the Department for use under this Act, and (3)
10 the provisions of Section 10-45 of the Illinois Administrative
11 Procedure Act regarding proposals for decision are excluded and
12 not applicable to the Department under this Act to the extent
13 Section 10-45 applies to hearings not otherwise subject to the
14 Illinois Independent Tax Tribunal Act of 2012.

15 (Source: P.A. 88-45.)

16 Section 5-70. The Coin-Operated Amusement Device and
17 Redemption Machine Tax Act is amended by changing Sections 4a,
18 10, and 14 as follows:

19 (35 ILCS 510/4a) (from Ch. 120, par. 481b.4a)

20 Sec. 4a. The Illinois Administrative Procedure Act is
21 hereby expressly adopted and shall apply to all administrative
22 rules and procedures of the Department of Revenue under this
23 Act, except that (1) paragraph (b) of Section 5-10 of the
24 Illinois Administrative Procedure Act does not apply to final

1 orders, decisions and opinions of the Department, (2)
2 subparagraph (a)2 of Section 5-10 of the Illinois
3 Administrative Procedure Act does not apply to forms
4 established by the Department for use under this Act, and (3)
5 the provisions of Section 10-45 of the Illinois Administrative
6 Procedure Act regarding proposals for decision are excluded and
7 not applicable to the Department under this Act to the extent
8 Section 10-45 applies to hearings not otherwise subject to the
9 Illinois Independent Tax Tribunal Act of 2012.

10 (Source: P.A. 88-45.)

11 (35 ILCS 510/10) (from Ch. 120, par. 481b.10)

12 Sec. 10. All final administrative decisions of the
13 Department of Revenue under any of the provisions of this Act
14 shall be subject to judicial review pursuant to the provisions
15 of the Administrative Review Law or the Illinois Independent
16 Tax Tribunal Act of 2012, as applicable, and any amendment and
17 modifications thereof, and the rules adopted relative thereto.

18 (Source: P.A. 82-783.)

19 (35 ILCS 510/14) (from Ch. 120, par. 481b.14)

20 Sec. 14. After seizing any coin-in-the-slot-operated
21 amusement device, as provided in Section 13 of this Act, the
22 Department shall hold a hearing in the county where such
23 amusement device was seized and shall determine whether such
24 amusement device was being displayed in a manner which violates

1 any provision of this Act.

2 The Department shall give not less than 7 days' notice of
3 the time and place of such hearing to the owner of such
4 amusement device if he is known, and also to the person in
5 whose possession the amusement device so taken was found, if
6 such person is known and if such person in possession is not
7 the owner of said amusement device.

8 In case neither the owner nor the person in possession of
9 such amusement device is known, the Department shall cause
10 publication of the time and place of such hearing to be made at
11 least once in each week for 3 weeks successively in a newspaper
12 of general circulation in the county where such hearing is to
13 be held.

14 If, as the result of such hearing, the Department shall
15 determine that the amusement device seized was, at the time of
16 seizure, being displayed in a manner which violates this Act,
17 the Department shall enter an order declaring such amusement
18 device confiscated and forfeited to the State, and to be sold
19 by the Department in the manner provided for hereinafter in
20 this Section. The Department shall give notice of such order to
21 the owner of such amusement device if he is known, and also to
22 the person in whose possession the amusement device so taken
23 was found, if such person is known and if such person in
24 possession is not the owner of such amusement device. In case
25 neither the owner nor the person in possession of such
26 amusement device is known, the Department shall cause

1 publication of such order to be made at least once in each week
2 for 3 weeks successively in a newspaper of general circulation
3 in the county where such hearing was held.

4 The person from whom such amusement device has been seized
5 (or the owner of such device if that is a different person) may
6 redeem and reclaim such device by paying, to the Department,
7 within 30 days after the Department's order of confiscation and
8 forfeiture becomes final, an amount equal to twice the annual
9 tax applicable to such amusement device, plus a penalty of 10%.

10 When any amusement device shall have been declared
11 forfeited to the State by the Department, as provided in this
12 Section, and when all proceedings for the judicial review of
13 the Department's decision have terminated, the Department
14 shall (if such amusement device is not redeemed and reclaimed
15 within the time and in the manner provided for in this
16 Section), to the extent that its decision is sustained on
17 review, sell such amusement device for the best price
18 obtainable and shall forthwith pay over the proceeds of such
19 sale to the State Treasurer; provided, however, that if the
20 value of the property to be sold at any one time shall be
21 \$500.00 or more, such property shall be sold only to the
22 highest and best bidder on such terms and conditions and on
23 open competitive bidding after public advertisement, in such
24 manner and for such terms as the Department, by rule, may
25 prescribe.

26 If no complaint for review, as provided in Section 10 of

1 this Act, has been filed within the time required by law ~~the~~
2 ~~Administrative Review Law~~, and if such amusement device is not
3 redeemed and reclaimed within the time and in the manner
4 provided for in this Section, the Department shall proceed to
5 sell said property for the best price obtainable and shall
6 forthwith pay over the proceeds of such sale to the State
7 Treasurer; provided, however, that if the value of the property
8 to be sold at any one time shall be \$500.00 or more, such
9 property shall be sold only to the highest and best bidder on
10 such terms and conditions and on open competitive bidding after
11 public advertisement, in such manner and for such terms as the
12 Department, by rule, may prescribe.

13 (Source: P.A. 82-783.)

14 Section 5-75. The Cannabis and Controlled Substances Tax
15 Act is amended by changing Sections 16, 25, and 26 as follows:

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

17 Sec. 16. All assessments are Jeopardy Assessments - lien.

18 (a) Assessment. An assessment for a dealer not possessing
19 valid stamps or other official indicia showing that the tax has
20 been paid shall be considered a jeopardy assessment or
21 collection, as provided by Section 1102 of the Illinois Income
22 Tax Act. The Department shall determine and assess a tax and
23 applicable penalties and interest according to the best
24 judgment and information available to the Department, which

1 amount so fixed by the Department shall be prima facie correct
2 and shall be prima facie evidence of the correctness of the
3 amount of tax due, as shown in such determination. When,
4 according to the best judgment and information available to the
5 Department with regard to all real and personal property and
6 rights to property of the dealer, there is no reasonable
7 expectation of collection of the amount of tax and penalty to
8 be assessed, the Department may issue an assessment under this
9 Section for the amount of tax without penalty.

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

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

26 After the expiration of the period within which the person

1 assessed may file an action for judicial review ~~under the~~
2 ~~Administrative Review Law~~ without such action being filed, a
3 certified copy of the final assessment or revised final
4 assessment of the Department may be filed with the Circuit
5 Court of the county in which the dealer resides, or of Cook
6 County in the case of a dealer who does not reside in this
7 State, or in the county where the violation of this Act took
8 place. The certified copy of the final assessment or revised
9 final assessment shall be accompanied by a certification which
10 recites facts that are sufficient to show that the Department
11 complied with the jurisdictional requirements of the Act in
12 arriving at its final assessment or its revised final
13 assessment and that the dealer had this opportunity for an
14 administrative hearing and for judicial review, whether he
15 availed himself or herself of either or both of these
16 opportunities or not. If the court is satisfied that the
17 Department complied with the jurisdictional requirements of
18 the Act in arriving at its final assessment or its revised
19 final assessment and that the taxpayer had his opportunity for
20 an administrative hearing and for judicial review, whether he
21 availed himself of either or both of these opportunities or
22 not, the court shall render judgment in favor of the Department
23 and against the taxpayer for the amount shown to be due by the
24 final assessment or the revised final assessment, plus any
25 interest which may be due, and such judgment shall be entered
26 in the judgment docket of the court. Such judgment shall bear

1 the same rate of interest and shall have the same effect as
2 other judgments. The judgment may be enforced, and all laws
3 applicable to sales for the enforcement of a judgment shall be
4 applicable to sales made under such judgments. The Department
5 shall file the certified copy of its assessment, as herein
6 provided, with the Circuit Court within 2 years after such
7 assessment becomes final except when the taxpayer consents in
8 writing to an extension of such filing period, and except that
9 the time limitation period on the Department's right to file
10 the certified copy of its assessment with the Circuit Court
11 shall not run during any period of time in which the order of
12 any court has the effect of enjoining or restraining the
13 Department from filing such certified copy of its assessment
14 with the Circuit Court.

15 If, when the cause of action for a proceeding in court
16 accrues against a person, he or she is out of the State, the
17 action may be commenced within the times herein limited, after
18 his or her coming into or returning to the State; and if, after
19 the cause of action accrues, he or she departs from and remains
20 out of the State, the time of his or her absence from the
21 State, the time of his or her absence is no part of the time
22 limited for the commencement of the action; but the foregoing
23 provisions concerning absence from the State shall not apply to
24 any case in which, at the time the cause of action accrues, the
25 party against whom the cause of action accrues is not a
26 resident of this State. The time within which a court action is

1 to be commenced by the Department hereunder shall not run from
2 the date the taxpayer files a petition in bankruptcy under the
3 Federal Bankruptcy Act until 30 days after notice of
4 termination or expiration of the automatic stay imposed by the
5 Federal Bankruptcy Act.

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

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

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

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

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

7 (35 ILCS 520/25) (from Ch. 120, par. 2175)

8 Sec. 25. Administrative Procedure Act - Application. The
9 Illinois Administrative Procedure Act is hereby expressly
10 adopted and shall apply to all administrative rules and
11 procedures of the Department of Revenue under this Act, except
12 that: (1) subsection (b) of Section 5-10 of the Illinois
13 Administrative Procedure Act does not apply to final orders,
14 decisions and opinions of the Department; (2) paragraph 2 of
15 subsection (a) of Section 5-10 of the Illinois Administrative
16 Procedure Act does not apply to forms established by the
17 Department for use under this Act; and (3) the provisions of
18 Section 10-45 of the Illinois Administrative Procedure Act
19 regarding proposals for decision are excluded and not
20 applicable to the Department under this Act to the extent
21 Section 10-45 applies to hearings not otherwise subject to the
22 Illinois Independent Tax Tribunal Act of 2012.

23 (Source: P.A. 88-45.)

24 (35 ILCS 520/26) (from Ch. 120, par. 2176)

1 Sec. 26. Administrative Review. Except as otherwise
2 provided in this Section, the ~~The~~ provisions of the
3 Administrative Review Law, and the rules adopted pursuant
4 thereto, shall apply to and govern all proceedings for the
5 judicial review of final administrative decisions of the
6 Department under this Act. The term "administrative decision"
7 is defined as in Section 3-101 of the Code of Civil Procedure.
8 The provisions of Section 12 of the Retailers' Occupation Tax
9 Act shall apply to dealers subject to this Act to the same
10 extent as if such provisions were included herein.

11 Notwithstanding any other provision of law, the provisions
12 of the Illinois Independent Tax Tribunal Act of 2012, and the
13 rules adopted pursuant thereto, shall apply to and govern
14 judicial review of final administrative decisions that are
15 subject to the Illinois Independent Tax Tribunal Act of 2012.

16 (Source: P.A. 86-380.)

17 Section 5-80. The Gas Revenue Tax Act is amended by
18 changing Sections 8, 10, 12, and 12c as follows:

19 (35 ILCS 615/8) (from Ch. 120, par. 467.23)

20 Sec. 8. For the purpose of administering and enforcing the
21 provisions of this Act, the Department or any officer or
22 employee of the Department designated, in writing, by the
23 Director thereof, may hold investigations and, except for those
24 matters reserved to the Illinois Independent Tax Tribunal, may

1 hold hearings concerning any matters covered by this Act and
2 may examine any books, papers, records or memoranda bearing
3 upon the business transacted by any such taxpayer and may
4 require the attendance of such taxpayer or any officer or
5 employee of such taxpayer, or of any person having knowledge of
6 such business, and may take testimony and require proof for its
7 information. In the conduct of any investigation or hearing,
8 neither the Department nor any officer or employee thereof
9 shall be bound by the technical rules of evidence, and no
10 informality in any proceeding, or in the manner of taking
11 testimony, shall invalidate any order, decision, rule or
12 regulation made or approved or confirmed by the Department. The
13 Director or any officer or employee thereof shall have power to
14 administer oaths to any such persons. The books, papers,
15 records, and memoranda of the Department, or parts thereof, may
16 be proved in any hearing, investigation or legal proceeding by
17 a reproduced copy thereof under the certificate of the
18 Director. Such reproduced copy shall, without further proof, be
19 admitted into evidence before the Department or in any legal
20 proceeding.

21 (Source: Laws 1965, p. 198.)

22 (35 ILCS 615/10) (from Ch. 120, par. 467.25)

23 Sec. 10. The Department or any officer or employee of the
24 Department designated, in writing, by the Director thereof,
25 shall at its or his or her own instance, or on the written

1 request of any party to the proceeding, issue subpoenas
2 requiring the attendance of and the giving of testimony by
3 witnesses, and subpoenas duces tecum requiring the production
4 of books, papers, records or memoranda. All subpoenas issued
5 under this Act may be served by any person of full age. The
6 fees of witnesses for attendance and travel shall be the same
7 as the fees of witnesses before the circuit court of this
8 State; such fees to be paid when the witness is excused from
9 further attendance. When the witness is subpoenaed at the
10 instance of the Department or any officer or employee thereof,
11 such fees shall be paid in the same manner as other expenses of
12 the Department, and when the witness is subpoenaed at the
13 instance of any taxpayer to any such proceeding the Department
14 may require that the cost of service of the subpoena and the
15 fee of the witness be borne by the taxpayer at whose instance
16 the witness is summoned. In such case, the Department, in its
17 discretion, may require a deposit to cover the cost of such
18 service and witness fees. A subpoena issued as aforesaid shall
19 be served in the same manner as a subpoena issued out of a
20 court.

21 Any circuit court of this State, upon the application of
22 the Department or any officer or employee thereof may, in its
23 discretion, compel the attendance of witnesses, the production
24 of books, papers, records or memoranda and the giving of
25 testimony before the Department or any officer or employee
26 thereof conducting an investigation or holding a hearing

1 authorized by this Act, by an attachment for contempt, or
2 otherwise, in the same manner as production of evidence may be
3 compelled before the court.

4 The Department or any officer or employee thereof, or any
5 party in an investigation or hearing before the Department, may
6 cause the depositions of witnesses residing within or without
7 the State to be taken in the manner prescribed by law for like
8 depositions in civil actions in courts of this State, and, to
9 that end, compel the attendance of witnesses and the production
10 of books, papers, records or memoranda.

11 Notwithstanding any other provision of law, the provisions
12 of the Illinois Independent Tax Tribunal Act of 2012, and the
13 rules adopted pursuant thereto, shall apply to and govern
14 judicial review of final administrative decisions that are
15 subject to the Illinois Independent Tax Tribunal Act of 2012.

16 (Source: P.A. 83-334.)

17 (35 ILCS 615/12) (from Ch. 120, par. 467.27)

18 Sec. 12. The Circuit Court of the county wherein a hearing
19 is held shall have power to review all final administrative
20 decisions of the Department in administering the provisions of
21 this Act: Provided that if the administrative proceeding which
22 is to be reviewed judicially is a claim for refund proceeding
23 commenced in accordance with Section 6 of this Act and Section
24 2a of "An Act in relation to the payment and disposition of
25 moneys received by officers and employees of the State of

1 Illinois by virtue of their office or employment", approved
2 June 9, 1911, as amended, the Circuit Court having jurisdiction
3 of the action for judicial review under this Section and under
4 the Administrative Review Law, as amended, shall be the same
5 court that entered the temporary restraining order or
6 preliminary injunction which is provided for in Section 2a of
7 "An Act in relation to the payment and disposition of moneys
8 received by officers and employees of the State of Illinois by
9 virtue of their office or employment", and which enables such
10 claim proceeding to be processed and disposed of as a claim for
11 refund proceeding rather than as a claim for credit proceeding.

12 Except as otherwise provided in this Section, the ~~The~~
13 provisions of the Administrative Review Law, and the rules
14 adopted pursuant thereto, shall apply to and govern all
15 proceedings for the judicial review of final administrative
16 decisions of the Department hereunder. The term
17 "administrative decision" is defined as in Section 3-101 of the
18 Code of Civil Procedure.

19 Notwithstanding any other provision of law, the provisions
20 of the Illinois Independent Tax Tribunal Act of 2012, and the
21 rules adopted pursuant thereto, shall apply to and govern
22 judicial review of final administrative decisions that are
23 subject to the Illinois Independent Tax Tribunal Act of 2012.

24 Service upon the Director or Assistant Director of the
25 Department of Revenue of summons issued in any action to review
26 a final administrative decision shall be service upon the

1 Department. The Department shall certify the record of its
2 proceedings if the taxpayer shall pay to it the sum of 75¢ per
3 page of testimony taken before the Department and 25¢ per page
4 of all other matters contained in such record, except that
5 these charges may be waived where the Department is satisfied
6 that the aggrieved party is a poor person who cannot afford to
7 pay such charges.

8
9 (Source: P.A. 83-342.)

10 (35 ILCS 615/12c) (from Ch. 120, par. 467.27c)

11 Sec. 12c. The Illinois Administrative Procedure Act is
12 hereby expressly adopted and shall apply to all administrative
13 rules and procedures of the Department of Revenue under this
14 Act, except that (1) paragraph (b) of Section 5-10 of the
15 Illinois Administrative Procedure Act does not apply to final
16 orders, decisions and opinions of the Department, (2)
17 subparagraph (a)2 of Section 5-10 of the Illinois
18 Administrative Procedure Act does not apply to forms
19 established by the Department for use under this Act, and (3)
20 the provisions of Section 10-45 of the Illinois Administrative
21 Procedure Act regarding proposals for decision are excluded and
22 not applicable to the Department under this Act to the extent
23 Section 10-45 applies to hearings not otherwise subject to the
24 Illinois Independent Tax Tribunal Act of 2012.

25 (Source: P.A. 88-45.)

1 Section 5-85. The Public Utilities Revenue Act is amended
2 by changing Sections 8, 12, and 12a as follows:

3 (35 ILCS 620/8) (from Ch. 120, par. 475)

4 Sec. 8. For the purpose of administering and enforcing the
5 provisions of this Act, the Department or any officer or
6 employee of the Department designated, in writing, by the
7 Director thereof, may hold investigations and, except for those
8 matters reserved to the Illinois Independent Tax Tribunal, may
9 hold hearings concerning any matters covered by this Act and
10 may examine any books, papers, records or memoranda bearing
11 upon the business transacted by any such taxpayer and may
12 require the attendance of such taxpayer or any officer or
13 employee of such taxpayer, or of any person having knowledge of
14 such business, and may take testimony and require proof for its
15 information. In the conduct of any investigation or hearing,
16 neither the Department nor any officer or employee thereof
17 shall be bound by the technical rules of evidence, and no
18 informality in any proceeding, or in the manner of taking
19 testimony, shall invalidate any order, decision, rule or
20 regulation made or approved or confirmed by the Department. The
21 Director or any officer or employee thereof shall have power to
22 administer oaths to any such persons. The books, papers,
23 records and memoranda of the Department, or parts thereof, may
24 be proved in any hearing, investigation, or legal proceeding by

1 a reproduced copy thereof under the certificate of the
2 Director. Such reproduced copy shall, without further proof, be
3 admitted into evidence before the Department or in any legal
4 proceeding.

5 (Source: Laws 1965, p. 199.)

6 (35 ILCS 620/12) (from Ch. 120, par. 479)

7 Sec. 12. The Department may make, promulgate and enforce
8 such reasonable rules and regulations relating to the
9 administration and enforcement of this Act as may be deemed
10 expedient.

11 Whenever notice to a taxpayer is required by this Act, such
12 notice may be given by United States certified or registered
13 mail, addressed to the taxpayer concerned at his or her last
14 known address, and proof of such mailing shall be sufficient
15 for the purposes of this Act. In the case of a notice of
16 hearing, such notice shall be mailed not less than 7 days prior
17 to the day fixed for the hearing.

18 All hearings provided for in this Act with respect to a
19 taxpayer having his or her principal place of business in any
20 of the several counties of this State shall be held in the
21 county wherein the taxpayer has his or her principal place of
22 business. If the taxpayer does not have his or her principal
23 place of business in this State, such hearings shall be held in
24 Sangamon County.

25 Notwithstanding any other provision of law, all hearings

1 held before the Illinois Independent Tax Tribunal shall be held
2 in accordance with the Illinois Independent Tax Tribunal Act of
3 2012.

4 Except with respect to matters under the jurisdiction of
5 the Illinois Independent Tax Tribunal, the ~~The~~ Circuit Court of
6 the county wherein a hearing is held shall have power to review
7 all final administrative decisions of the Department in
8 administering this Act. If, however, the administrative
9 proceeding which is to be reviewed judicially is a claim for
10 refund proceeding commenced in accordance with Section 6 of
11 this Act and Section 2a of "An Act in relation to the payment
12 and disposition of moneys received by officers and employees of
13 the State of Illinois by virtue of their office or employment",
14 approved June 9, 1911, as amended, the Circuit Court having
15 jurisdiction of the action for judicial review under this
16 Section and under the Administrative Review Law, as amended,
17 shall be the same court that entered the temporary restraining
18 order or preliminary injunction which is provided for in
19 Section 2a of "An Act in relation to the payment and
20 disposition of moneys received by officers and employees of the
21 State of Illinois by virtue of their office or employment", and
22 which enables such claim proceeding to be processed and
23 disposed of as a claim for refund proceeding rather than as a
24 claim for credit proceeding.

25 Except as otherwise provided in this Section, the ~~The~~
26 provisions of the Administrative Review Law, and the rules

1 adopted pursuant thereto, shall apply to and govern all
2 proceedings for the judicial review of final administrative
3 decisions of the Department under this Act. The term
4 "administrative decision" is defined as in Section 3-101 of the
5 Code of Civil Procedure.

6 Notwithstanding any other provision of law, the provisions
7 of the Illinois Independent Tax Tribunal Act of 2012, and the
8 rules adopted pursuant thereto, shall apply to and govern
9 judicial review of final administrative decisions that are
10 subject to the Illinois Independent Tax Tribunal Act of 2012.

11 Service upon the Director or Assistant Director of the
12 Department of Revenue of summons issued in any action to review
13 a final administrative decision is service upon the Department.
14 The Department shall certify the record of its proceedings if
15 the taxpayer pays to it the sum of 75¢ per page of testimony
16 taken before the Department and 25¢ per page of all other
17 matters contained in such record, except that these charges may
18 be waived where the Department is satisfied that the aggrieved
19 party is a poor person who cannot afford to pay such charges.

20 Whenever any proceeding provided by this Act is begun by
21 the Department or by a person subject thereto and such person
22 thereafter dies or becomes a person under legal disability
23 before such proceeding is concluded, the legal representative
24 of the deceased or the person under legal disability shall
25 notify the Department of such death or legal disability. Such
26 legal representative, as such, shall then be substituted by the

1 Department for such person. Within 20 days after notice to the
2 legal representative of the time fixed for that purpose, the
3 proceeding may go forward in all respects and with like effect
4 as though the person had not died or become a person under
5 legal disability.

6 (Source: P.A. 83-342.)

7 (35 ILCS 620/12a) (from Ch. 120, par. 479a)

8 Sec. 12a. The Illinois Administrative Procedure Act is
9 hereby expressly adopted and shall apply to all administrative
10 rules and procedures of the Department of Revenue under this
11 Act, except that (1) paragraph (b) of Section 5-10 of the
12 Illinois Administrative Procedure Act does not apply to final
13 orders, decisions and opinions of the Department, (2)
14 subparagraph (a)2 of Section 5-10 of the Illinois
15 Administrative Procedure Act does not apply to forms
16 established by the Department for use under this Act, and (3)
17 the provisions of Section 10-45 of the Illinois Administrative
18 Procedure Act regarding proposals for decision are excluded and
19 not applicable to the Department under this Act to the extent
20 Section 10-45 applies to hearings not otherwise subject to the
21 Illinois Independent Tax Tribunal Act of 2012.

22 (Source: P.A. 88-45.)

23 Section 5-90. The Water Company Invested Capital Tax Act is
24 amended by changing Sections 8, 10, 12, and 14 as follows:

1 (35 ILCS 625/8) (from Ch. 120, par. 1418)

2 Sec. 8. For the purpose of administering and enforcing the
3 provisions of this Act, the Department or any officer or
4 employee of the Department designated, in writing, by the
5 Director thereof, may hold investigations and, except for those
6 matters reserved to the Illinois Independent Tax Tribunal, may
7 hold hearings concerning any matters covered by this Act and
8 may examine any books, papers, records or memoranda bearing
9 upon the business transacted by any such taxpayer and may
10 require the attendance of such taxpayer or any officer or
11 employee of such taxpayer, or of any person having knowledge of
12 such business, and may take testimony and require proof for its
13 information. In the conduct of any investigation or hearing,
14 neither the Department nor any officer or employee thereof
15 shall be bound by the technical rules of evidence, and no
16 informality in any proceeding, or in the manner of taking
17 testimony, shall invalidate any order, decision, rule or
18 regulation made or approved or confirmed by the Department. The
19 Director or any officer or employee thereof shall have power to
20 administer oaths to any such persons. The books, papers,
21 records and memoranda of the Department, or parts thereof, may
22 be proved in any hearing, investigation, or legal proceeding by
23 a reproduced copy thereof under the certificate of the
24 Director. Such reproduced copy shall, without further proof, be
25 admitted into evidence before the Department or in any legal

1 proceeding.

2 (Source: P.A. 82-274.)

3 (35 ILCS 625/10) (from Ch. 120, par. 1420)

4 Sec. 10. The Department or any officer or employee of the
5 Department designated, in writing, by the Director thereof,
6 shall at its or his own instance, or on the written request of
7 any party to the proceeding, issue subpoenas requiring the
8 attendance of and the giving of testimony by witnesses, and
9 subpoenas duces tecum requiring the production of books,
10 papers, records or memoranda. All subpoenas issued under this
11 Act may be served by any person of full age. The fees of
12 witnesses for attendance and travel shall be the same as the
13 fees of witnesses before the Circuit Court of this State; such
14 fees are to be paid when the witness is excused from further
15 attendance. When the witness is subpoenaed at the instance of
16 the Department or any officer or employee thereof, such fees
17 shall be paid in the same manner as other expenses of the
18 Department, and when the witness is subpoenaed at the instance
19 of any taxpayer to any such proceeding the Department may
20 require that the cost of service of the subpoena and the fee of
21 the witness be borne by the taxpayer at whose instance the
22 witness is summoned. In such case, the Department, in its
23 discretion, may require a deposit to cover the cost of such
24 service and witness fees. A subpoena issued as aforesaid shall
25 be served in the same manner as a subpoena issued out of a

1 court.

2 Any Circuit Court of this State, or any judge thereof, upon
3 the application of the Department or any officer or employee
4 thereof may, in its or his discretion, compel the attendance of
5 witnesses, the production of books, papers, records or
6 memoranda and the giving of testimony before the Department or
7 any officer or employee thereof conducting an investigation or
8 holding a hearing authorized by this Act, by an attachment for
9 contempt, or otherwise, in the same manner as production of
10 evidence may be compelled before the court.

11 The Department or any officer or employee thereof, or any
12 party in an investigation or hearing before the Department, may
13 cause the depositions of witnesses residing within or without
14 the State to be taken in the manner prescribed by law for like
15 depositions in civil actions in courts of this State, and, to
16 that end, compel the attendance of witnesses and the production
17 of books, papers, records or memoranda.

18 Hearings before the Illinois Independent Tax Tribunal
19 shall be conducted pursuant to the provisions of the Illinois
20 Independent Tax Tribunal Act of 2012.

21 (Source: P.A. 82-274.)

22 (35 ILCS 625/12) (from Ch. 120, par. 1422)

23 Sec. 12. Except as otherwise provided in this Section with
24 respect to the Illinois Independent Tax Tribunal, the ~~The~~
25 Circuit Court of the county wherein a hearing is held shall

1 have power to review all final administrative decisions of the
2 Department in administering this Act. If, however, the
3 administrative proceeding which is to be reviewed judicially is
4 a claim for refund proceeding commenced in accordance with
5 Section 6 of this Act and Section 2a of "An Act in relation to
6 the payment and disposition of moneys received by officers and
7 employees of the State of Illinois by virtue of their office or
8 employment", approved June 9, 1911, as amended, the Circuit
9 Court having jurisdiction of the action for judicial review
10 under this Section and under the Administrative Review Law
11 shall be the same court that entered the injunctive order which
12 is provided for in Section 2a of "An Act in relation to the
13 payment and disposition of moneys received by officers and
14 employees of the State of Illinois by virtue of their office or
15 employment", and which enables such claim proceeding to be
16 processed and disposed of as a claim for refund proceeding
17 rather than as a claim for credit proceeding.

18 Except as otherwise provided in this Section with respect
19 to the Illinois Independent Tax Tribunal, the ~~The~~ provisions of
20 the Administrative Review Law, as amended, and the rules
21 adopted pursuant thereto, shall apply to and govern all
22 proceedings for the judicial review of final administrative
23 decisions of the Department under this Act. The term
24 "administrative decision" is defined as in Section 3-101 of the
25 Code of Civil Procedure, approved August 19, 1981, as amended.

26 The provisions of the Illinois Independent Tax Tribunal Act

1 of 2012, and the rules adopted pursuant thereto, shall apply to
2 and govern all proceedings for the judicial review of final
3 administrative decisions of the Department that are subject to
4 the jurisdiction of the Illinois Independent Tax Tribunal.

5 Service upon the Director or Assistant Director of the
6 Department of Revenue of summons issued in any action to review
7 a final administrative decision is service upon the Department.
8 The Department shall certify the record of its proceedings if
9 the taxpayer pays to it the sum of 75¢ per page of testimony
10 taken before the Department and 25¢ per page of all other
11 matters contained in such record, except that these charges may
12 be waived where the Department is satisfied that the aggrieved
13 party is a poor person who cannot afford to pay such charges.

14 (Source: P.A. 84-548.)

15 (35 ILCS 625/14) (from Ch. 120, par. 1424)

16 Sec. 14. The Illinois Administrative Procedure Act, as now
17 or hereafter amended, is hereby expressly adopted and shall
18 apply to all administrative rules and procedures of the
19 Department of Revenue under this Act, except that (1) paragraph
20 (b) of Section 5-10 of the that Act does not apply to final
21 orders, decisions and opinions of the Department; (2)
22 subparagraph 2 of paragraph (a) of Section 5-10 of that Act
23 does not apply to forms established by the Department for use
24 under this Act; and (3) the provisions of Section 10-45 of that
25 Act regarding proposals for decision are excluded and not

1 applicable to the Department under this Act to the extent
2 Section 10-45 applies to hearings not otherwise subject to the
3 Illinois Independent Tax Tribunal Act of 2012.

4 (Source: P.A. 88-45.)

5 Section 5-100. The Telecommunications Excise Tax Act is
6 amended by changing Sections 12, 16, and 18 as follows:

7 (35 ILCS 630/12) (from Ch. 120, par. 2012)

8 Sec. 12. For the purpose of administering and enforcing the
9 provisions of this Article, the Department or any officer or
10 employee of the Department designated, in writing, by the
11 Director thereof, may hold investigations and, except for
12 matters otherwise reserved to the Illinois Independent Tax
13 Tribunal, may hold hearings concerning any matters covered by
14 this Article and may examine any books, papers, records or
15 memoranda bearing upon the business transacted or purchased by
16 any such retailer or taxpayer and may require the attendance of
17 such retailer or taxpayer or any officer or employee of such,
18 or of any person having knowledge of such business, and may
19 take testimony and require proof of its information. In the
20 conduct of any investigation or hearing, neither the Department
21 nor any officer or employee thereof shall be bound by the
22 technical rules of evidence, and no informality in any
23 proceeding, or in the manner of taking testimony, shall
24 invalidate any order, decision, rule or regulation made or

1 approved or confirmed by the Department. The Director or any
2 officer or employee thereof shall have power to administer
3 oaths to any such persons. The books, papers, records and
4 memoranda of the Department, or parts thereof, may be provided
5 in any hearing, investigation or legal proceeding by a
6 reproduced copy thereof under the certificate of the Director.
7 Such reproduced copy shall, without further proof, be admitted
8 into evidence before the Department or in any legal proceeding.
9 (Source: P.A. 84-126.)

10 (35 ILCS 630/16) (from Ch. 120, par. 2016)

11 Sec. 16. Except as otherwise provided in this Section with
12 respect to the Illinois Independent Tax Tribunal, the ~~The~~
13 circuit court of any county wherein a hearing is held shall
14 have power to review all final administrative decisions of the
15 Department in administering the provision of this Article:
16 Provided that if the administrative proceeding which is to be
17 reviewed judicially is a claim for refund proceeding commenced
18 under this Article and Section 2a of "An Act in relation to the
19 payment and disposition of moneys received by officers and
20 employees of the State of Illinois by virtue of their office or
21 employment", approved June 9, 1911, as amended, the circuit
22 court having jurisdiction of the action for judicial review
23 under this Section and under the Administrative Review Law
24 shall be the same court that entered the temporary restraining
25 order or preliminary injunction which is provided for in

1 Section 2a of "An Act in relation to the payment and
2 disposition of moneys received by officers and employees of the
3 State of Illinois by virtue of their office or employment", and
4 which enables such claim proceeding to be processed and
5 disposed of as a claim for refund proceeding rather than as a
6 claim for credit proceeding.

7 Except as otherwise provided in this Section with respect
8 to the Illinois Independent Tax Tribunal, the ~~The~~ provisions of
9 the Administrative Review Law, and the rules adopted pursuant
10 thereto, shall apply to and govern all proceedings for the
11 judicial review of final administrative decisions of the
12 Department hereunder. The term "administrative decision" is
13 defined as in Section 3-101 of the Code of Civil Procedure.

14 The provisions of the Illinois Independent Tax Tribunal Act
15 of 2012, and the rules adopted pursuant thereto, shall apply to
16 and govern all proceedings for the judicial review of final
17 administrative decisions of the Department that are subject to
18 the jurisdiction of the Illinois Independent Tax Tribunal.

19 Service upon the Director or Assistant Director of the
20 Department of Revenue of summons issued in any action to review
21 a final administrative decision shall be service upon the
22 Department. The Department shall certify the record of its
23 proceedings if the taxpayer shall pay to it the sum of 75¢ per
24 page of testimony taken before the Department and 25¢ per page
25 of all other matters contained in such record, except that
26 these charges may be waived where the Department is satisfied

1 that the aggrieved party is a poor person who cannot afford to
2 pay such charges.

3 (Source: P.A. 84-126.)

4 (35 ILCS 630/18) (from Ch. 120, par. 2018)

5 Sec. 18. The Illinois Administrative Procedure Act is
6 hereby expressly adopted and shall apply to all administrative
7 rules and procedures of the Department of Revenue under this
8 Article, except that: (1) paragraph (b) of Section 5-10 of the
9 Illinois Administrative Procedure Act does not apply to final
10 orders, decisions and opinions of the Department; (2)
11 subparagraph (a)(2) of Section 5-10 of the Illinois
12 Administrative Procedure Act does not apply to forms
13 established by the Department for use under this Article; and
14 (3) the provisions of Section 10-45 of the Illinois
15 Administrative Procedure Act regarding proposals for decision
16 are excluded and not applicable to the Department under this
17 Article to the extent Section 10-45 applies to hearings not
18 otherwise subject to the Illinois Independent Tax Tribunal Act
19 of 2012.

20 (Source: P.A. 88-45.)

21 Section 5-105. The Telecommunications Infrastructure
22 Maintenance Fee Act is amended by changing Sections 27.10,
23 27.30, and 27.40 as follows:

1 (35 ILCS 635/27.10)

2 Sec. 27.10. Investigations and hearings. For the purpose of
3 administering and enforcing the provisions of this Act, the
4 Department or any officer or employee of the Department
5 designated, in writing, by the Director thereof, may hold
6 investigations and, except for matters otherwise reserved to
7 the Illinois Independent Tax Tribunal, may hold hearings
8 concerning any matters covered by this Act and may examine any
9 books, papers, records, or memoranda bearing upon the business
10 transacted by any such telecommunications retailer and may
11 require the attendance of such telecommunications retailer or
12 any officer or employee of such telecommunications retailer, or
13 of any person having knowledge of such business, and may take
14 testimony and require proof for its information. In the conduct
15 of any investigation or hearing, neither the Department nor any
16 officer or employee thereof shall be bound by the technical
17 rules of evidence, and no informality in any proceeding, or in
18 the manner of taking testimony, shall invalidate any order,
19 decision, rule, or regulation made, approved, or confirmed by
20 the Department. The Director or any officer or employee thereof
21 shall have power to administer oaths to any such persons. The
22 books, papers, records, and memoranda of the Department, or
23 parts thereof, may be proved in any hearing, investigation, or
24 legal proceeding by a reproduced copy thereof under the
25 certificate of the Director. Such reproduced copy shall without
26 further proof, be admitted into evidence before the Department

1 or in any legal proceeding.

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

3 (35 ILCS 635/27.30)

4 Sec. 27.30. Review under Administrative Review Law. The
5 Circuit Court of the county wherein a hearing is held shall
6 have power to review all final administrative decisions of the
7 Department in administering the provisions of this Act:
8 Provided that if the administrative proceeding that is to be
9 reviewed judicially is a claim for refund proceeding commenced
10 in accordance with this Act and Section 2a of the State
11 Officers and Employees Money Disposition Act, the Circuit Court
12 having jurisdiction of the action for judicial review under
13 this Section and under the Administrative Review Law shall be
14 the same court that entered the temporary restraining order or
15 preliminary injunction that is provided for in Section 2a of
16 the State Officers and Employees Money Disposition Act and that
17 enables such claim proceeding to be processed and disposed of
18 as a claim for refund proceeding rather than as a claim for
19 credit proceeding.

20 Except as otherwise provided in this Section with respect
21 to the Illinois Independent Tax Tribunal, the ~~The~~ provisions of
22 the Administrative Review Law, and the rules adopted pursuant
23 thereto, shall apply to and govern all proceedings for the
24 judicial review of final administrative decisions of the
25 Department hereunder. The term "administrative decision" is

1 defined as in Section 3-101 of the Code of Civil Procedure.

2 The provisions of the Illinois Independent Tax Tribunal
3 Act, and the rules adopted pursuant thereto, shall apply to and
4 govern all proceedings for the judicial review of final
5 administrative decisions of the Department that are subject to
6 the jurisdiction of the Illinois Independent Tax Tribunal.

7 Service upon the Director or Assistant Director of the
8 Department of Revenue of summons issued in any action to review
9 a final administrative decision shall be service upon the
10 Department. The Department shall certify the record of its
11 proceedings if the telecommunications retailer shall pay to it
12 the sum of 75¢ per page of testimony taken before the
13 Department and 25¢ per page of all other matters contained in
14 such record, except that these charges may be waived where the
15 Department is satisfied that the aggrieved party is a poor
16 person who cannot afford to pay such charges.

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

18 (35 ILCS 635/27.40)

19 Sec. 27.40. Application of Illinois Administrative
20 Procedure Act. The Illinois Administrative Procedure Act is
21 hereby expressly adopted and shall apply to all administrative
22 rules and procedures of the Department of Revenue under this
23 Act, except that (i) paragraph (b) of Section 5-10 of the
24 Administrative Procedure Act does not apply to final orders,
25 decisions, and opinions of the Department, (ii) subparagraph

1 (a) (ii) of Section 5-10 of the Administrative Procedure Act
2 does not apply to forms established by the Department for use
3 under this Act, and (iii) the provisions of Section 10-45 of
4 the Administrative Procedure Act regarding proposals for
5 decision are excluded and not applicable to the Department
6 under this Act to the extent Section 10-45 applies to hearings
7 not otherwise subject to the Illinois Independent Tax Tribunal
8 Act.

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

10 Section 5-110. The Electricity Excise Tax Law is amended by
11 changing Sections 2-14 and 2-15 as follows:

12 (35 ILCS 640/2-14)

13 Sec. 2-14. Rules and regulations; hearing; review under
14 Administrative Review Law; death or incompetency of party. The
15 Department may make, promulgate and enforce such reasonable
16 rules and regulations relating to the administration and
17 enforcement of this Law as may be deemed expedient.

18 Whenever notice to a purchaser or to a delivering supplier
19 is required by this Law, such notice may be personally served
20 or given by United States certified or registered mail,
21 addressed to the purchaser or delivering supplier concerned at
22 his or her last known address, and proof of such mailing shall
23 be sufficient for the purposes of this Law. In the case of a
24 notice of hearing, the notice shall be mailed not less than 21

1 days prior to the date fixed for the hearing.

2 All hearings provided for in this Law with respect to a
3 purchaser or to a delivering supplier having its principal
4 address or principal place of business in any of the several
5 counties of this State shall be held in the county wherein the
6 purchaser or delivering supplier has its principal address or
7 principal place of business. If the purchaser or delivering
8 supplier does not have its principal address or principal place
9 of business in this State, such hearings shall be held in
10 Sangamon County. Except as otherwise provided in this Section
11 with respect to the Illinois Independent Tax Tribunal, the ~~The~~
12 Circuit Court of any county wherein a hearing is held shall
13 have power to review all final administrative decisions of the
14 Department in administering the provisions of this Law. If,
15 however, the administrative proceeding which is to be reviewed
16 judicially is a claim for refund proceeding commenced in
17 accordance with this Law and Section 2a of the State Officers
18 and Employees Money Disposition Act, the Circuit Court having
19 jurisdiction of the action for judicial review under this
20 Section and under the Administrative Review Law shall be the
21 same court that entered the temporary restraining order or
22 preliminary injunction which is provided for in Section 2a of
23 the State Officers and Employees Money Disposition Act and
24 which enables such claim proceeding to be processed and
25 disposed of as a claim for refund proceeding rather than as a
26 claim for credit proceeding.

1 Except as otherwise provided with respect to the Illinois
2 Independent Tax Tribunal, the ~~The~~ provisions of the
3 Administrative Review Law, and the rules adopted pursuant
4 thereto, shall apply to and govern all proceedings for the
5 judicial review of final administrative decisions of the
6 Department hereunder. The term "administrative decision" is
7 defined as in Section 3-101 of the Code of Civil Procedure.

8 The provisions of the Illinois Independent Tax Tribunal
9 Act, and the rules adopted pursuant thereto, shall apply to and
10 govern all proceedings for the judicial review of final
11 administrative decisions of the Department that are subject to
12 the jurisdiction of the Illinois Independent Tax Tribunal.

13 Service upon the Director or Assistant Director of the
14 Department of Revenue of summons issued in any action to review
15 a final administrative decision is service upon the Department.
16 The Department shall certify the record of its proceedings if
17 the person commencing such action shall pay to it the sum of 75
18 cents per page of testimony taken before the Department and 25
19 cents per page of all other matters contained in such record,
20 except that these charges may be waived where the Department is
21 satisfied that the aggrieved party is a poor person who cannot
22 afford to pay such charges.

23 Whenever any proceeding provided by this Law has been begun
24 by the Department or by a person subject thereto and such
25 person thereafter dies or becomes a person under legal
26 disability before the proceeding has been concluded, the legal

1 representative of the deceased person or a person under legal
2 disability shall notify the Department of such death or legal
3 disability. The legal representative, as such, shall then be
4 substituted by the Department in place of and for the person.

5 Within 20 days after notice to the legal representative of
6 the time fixed for that purpose, the proceeding may proceed in
7 all respects and with like effect as though the person had not
8 died or become a person under legal disability.

9 (Source: P.A. 90-561, eff. 8-1-98.)

10 (35 ILCS 640/2-15)

11 Sec. 2-15. Illinois Administrative Procedure Act;
12 application. The Illinois Administrative Procedure Act is
13 hereby expressly adopted and shall apply to all administrative
14 rules and procedures of the Department under this Law, except
15 that: (1) paragraph (b) of Section 5-10 of the Illinois
16 Administrative Procedure Act does not apply to final orders,
17 decisions and opinions of the Department, (2) subparagraph
18 (a)(ii) of Section 5-10 of the Illinois Administrative
19 Procedure Act does not apply to forms established by the
20 Department for use under this Law, and (3) the provisions of
21 Section 10-45 of the Illinois Administrative Procedure Act
22 regarding proposals for decision are excluded and not
23 applicable to the Department under this Law to the extent
24 Section 10-45 applies to hearings not otherwise subject to the
25 Illinois Independent Tax Tribunal Act of 2012.

1 (Source: P.A. 90-561, eff. 8-1-98.)

2 Section 5-115. The Uniform Penalty and Interest Act is
3 amended by changing Section 3-12 as follows:

4 (35 ILCS 735/3-12)

5 Sec. 3-12. Appeal options. The Department of Revenue shall
6 include a statement of the appeal options available to the
7 taxpayer, either by law or by departmental rule, for each
8 penalty for late payment, penalty for failure to file a tax
9 return on or before the due date for filing, and penalty for
10 failure to file correct information returns. This Act is
11 subject to the provisions of the Illinois Independent Tax
12 Tribunal Act of 2012.

13 (Source: P.A. 89-597, eff. 1-1-97.)

14 Section 5-120. The State Finance Act is amended by adding
15 Section 5.811 as follows:

16 (30 ILCS 105/5.811 new)

17 Sec. 5.811. The Illinois Independent Tax Tribunal Fund.

18 (35 ILCS 1005/Act rep.)

19 Section 5-125. The Illinois Independent Tax Tribunal Act is
20 repealed.

1 Article 97. INSEVERABILITY

2 Section 97-997. Inseverability. The provisions of this Act
3 are mutually dependent and inseverable. If any provision is
4 held invalid, then the entire Act, including all new and
5 amendatory provisions, is invalid.

6 Article 99. EFFECTIVE DATE

7 Section 99-999. Effective date. This Act takes effect upon
8 becoming law.".