



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5253

Introduced 2/8/2012, by Rep. David R. Leitch

#### SYNOPSIS AS INTRODUCED:

35 ILCS 735/3-2	from Ch. 120, par. 2603-2
35 ILCS 735/3-3	from Ch. 120, par. 2603-3
35 ILCS 735/3-4	from Ch. 120, par. 2603-4
35 ILCS 735/3-5	from Ch. 120, par. 2603-5
35 ILCS 735/3-6	from Ch. 120, par. 2603-6
35 ILCS 735/3-7.5	

Amends the Uniform Penalty and Interest Act. Provides that certain taxpayers who were in compliance with an agreement entered into with the Department prior to October 1, 2009 pursuant to an audit of the taxpayer or the taxpayer's predecessor-in-interest are not be liable for the increased penalties imposed for failure to satisfy the tax liability during the amnesty period set forth in the Tax Delinquency Amnesty Act.

LRB097 19026 HLH 64265 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

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

7 (35 ILCS 735/3-2) (from Ch. 120, par. 2603-2)

8 Sec. 3-2. Interest.

9 (a) Interest paid by the Department to taxpayers and  
10 interest charged to taxpayers by the Department shall be paid  
11 at the annual rate determined by the Department. For periods  
12 prior to January 1, 2004, that rate shall be the underpayment  
13 rate established under Section 6621 of the Internal Revenue  
14 Code. For periods after December 31, 2003, that rate shall be:

15 (1) for the one-year period beginning with the date of  
16 underpayment or overpayment, the short-term federal rate  
17 established under Section 6621 of the Internal Revenue  
18 Code.

19 (2) for any period beginning the day after the one-year  
20 period described in paragraph (1) of this subsection (a),  
21 the underpayment rate established under Section 6621 of the  
22 Internal Revenue Code.

23 (b) The interest rate shall be adjusted on a semiannual

1 basis, on January 1 and July 1, based upon the underpayment  
2 rate or short-term federal rate going into effect on that  
3 January 1 or July 1 under Section 6621 of the Internal Revenue  
4 Code.

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

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

21 (d) No interest shall be paid upon any overpayment of tax  
22 if the overpayment is refunded or a credit approved within 90  
23 days after the last date prescribed for filing the original  
24 return, or within 90 days of the receipt of the processable  
25 return, or within 90 days after the date of overpayment,  
26 whichever date is latest, as determined without regard to

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

25 (e) Interest on erroneous refunds. Any portion of the tax  
26 imposed by an Act to which this Act is applicable or any

1 interest or penalty which has been erroneously refunded and  
2 which is recoverable by the Department shall bear interest from  
3 the date of payment of the refund. However, no interest will be  
4 charged if the erroneous refund is for an amount less than \$500  
5 and is due to a mistake of the Department.

6 (f) If a taxpayer has a tax liability for the taxable  
7 period ending after June 30, 1983 and prior to July 1, 2002  
8 that is eligible for amnesty under the Tax Delinquency Amnesty  
9 Act and the taxpayer fails to satisfy the tax liability during  
10 the amnesty period provided for in that Act for that taxable  
11 period, then the interest charged by the Department under this  
12 Section shall be imposed at a rate that is 200% of the rate  
13 that would otherwise be imposed under this Section.

14 (g) If a taxpayer has a tax liability for the taxable  
15 period ending after June 30, 2002 and prior to July 1, 2009  
16 that is eligible for amnesty under the Tax Delinquency Amnesty  
17 Act, except for any tax liability reported pursuant to Section  
18 506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)) that  
19 is not final, and the taxpayer fails to satisfy the tax  
20 liability during the amnesty period provided for in that Act  
21 for that taxable period, then the interest charged by the  
22 Department under this Section shall be imposed in an amount  
23 that is 200% of the amount that would otherwise be imposed  
24 under this Section. Notwithstanding any other provision of law,  
25 if (i) the taxpayer entered into an agreement with the  
26 Department prior to October 1, 2009 for the payment of taxes

1 incurred for any part of the taxable period ending after June  
2 30, 2002 and prior to July 1, 2009, (ii) that agreement was the  
3 result of an audit of the taxpayer or the taxpayer's  
4 predecessor-in-interest, (iii) the taxpayer complied with the  
5 agreement during the entire 2010 amnesty period set forth in  
6 the Tax Delinquency Amnesty Act, (iv) a subsequent audit  
7 occurring after November 8, 2010 resulted in a change in the  
8 taxpayer's liability for the same taxable period, and (v) all  
9 taxes due for the period covered by the audits are paid within  
10 90 days after the effective date of this amendatory Act of the  
11 97th General Assembly, then the taxpayer shall not be liable  
12 for the increased penalties under this subsection (g).

13 (h) No interest shall be paid to a taxpayer on any refund  
14 allowed under the Tax Delinquency Amnesty Act.

15 (Source: P.A. 95-331, eff. 8-21-07; 96-1435, eff. 8-16-10.)

16 (35 ILCS 735/3-3) (from Ch. 120, par. 2603-3)

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

18 (a) This subsection (a) is applicable before January 1,  
19 1996. A penalty of 5% of the tax required to be shown due on a  
20 return shall be imposed for failure to file the tax return on  
21 or before the due date prescribed for filing determined with  
22 regard for any extension of time for filing (penalty for late  
23 filing or nonfiling). If any unprocessable return is corrected  
24 and filed within 21 days after notice by the Department, the  
25 late filing or nonfiling penalty shall not apply. If a penalty

1 for late filing or nonfiling is imposed in addition to a  
2 penalty for late payment, the total penalty due shall be the  
3 sum of the late filing penalty and the applicable late payment  
4 penalty. Beginning on the effective date of this amendatory Act  
5 of 1995, in the case of any type of tax return required to be  
6 filed more frequently than annually, when the failure to file  
7 the tax return on or before the date prescribed for filing  
8 (including any extensions) is shown to be nonfraudulent and has  
9 not occurred in the 2 years immediately preceding the failure  
10 to file on the prescribed due date, the penalty imposed by  
11 Section 3-3(a) shall be abated.

12 (a-5) This subsection (a-5) is applicable to returns due on  
13 and after January 1, 1996 and on or before December 31, 2000. A  
14 penalty equal to 2% of the tax required to be shown due on a  
15 return, up to a maximum amount of \$250, determined without  
16 regard to any part of the tax that is paid on time or by any  
17 credit that was properly allowable on the date the return was  
18 required to be filed, shall be imposed for failure to file the  
19 tax return on or before the due date prescribed for filing  
20 determined with regard for any extension of time for filing.  
21 However, if any return is not filed within 30 days after notice  
22 of nonfiling mailed by the Department to the last known address  
23 of the taxpayer contained in Department records, an additional  
24 penalty amount shall be imposed equal to the greater of \$250 or  
25 2% of the tax shown on the return. However, the additional  
26 penalty amount may not exceed \$5,000 and is determined without

1 regard to any part of the tax that is paid on time or by any  
2 credit that was properly allowable on the date the return was  
3 required to be filed (penalty for late filing or nonfiling). If  
4 any unprocessable return is corrected and filed within 30 days  
5 after notice by the Department, the late filing or nonfiling  
6 penalty shall not apply. If a penalty for late filing or  
7 nonfiling is imposed in addition to a penalty for late payment,  
8 the total penalty due shall be the sum of the late filing  
9 penalty and the applicable late payment penalty. In the case of  
10 any type of tax return required to be filed more frequently  
11 than annually, when the failure to file the tax return on or  
12 before the date prescribed for filing (including any  
13 extensions) is shown to be nonfraudulent and has not occurred  
14 in the 2 years immediately preceding the failure to file on the  
15 prescribed due date, the penalty imposed by Section 3-3(a-5)  
16 shall be abated.

17 (a-10) This subsection (a-10) is applicable to returns due  
18 on and after January 1, 2001. A penalty equal to 2% of the tax  
19 required to be shown due on a return, up to a maximum amount of  
20 \$250, reduced by any tax that is paid on time or by any credit  
21 that was properly allowable on the date the return was required  
22 to be filed, shall be imposed for failure to file the tax  
23 return on or before the due date prescribed for filing  
24 determined with regard for any extension of time for filing.  
25 However, if any return is not filed within 30 days after notice  
26 of nonfiling mailed by the Department to the last known address



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

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

25 (1) the tax shown due on the return on or before the  
26 due date prescribed for payment of that tax, an amount of

1 underpayment of estimated tax, or an amount that is  
2 reported in an amended return other than an amended return  
3 timely filed as required by subsection (b) of Section 506  
4 of the Illinois Income Tax Act (penalty for late payment or  
5 nonpayment of admitted liability); or

6 (2) the full amount of any tax required to be shown due  
7 on a return and which is not shown (penalty for late  
8 payment or nonpayment of additional liability), within 30  
9 days after a notice of arithmetic error, notice and demand,  
10 or a final assessment is issued by the Department. In the  
11 case of a final assessment arising following a protest and  
12 hearing, the 30-day period shall not begin until all  
13 proceedings in court for review of the final assessment  
14 have terminated or the period for obtaining a review has  
15 expired without proceedings for a review having been  
16 instituted. In the case of a notice of tax liability that  
17 becomes a final assessment without a protest and hearing,  
18 the penalty provided in this paragraph (2) shall be imposed  
19 at the expiration of the period provided for the filing of  
20 a protest.

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

26 (1) the tax shown due on the return on or before the

1 due date prescribed for payment of that tax, an amount of  
2 underpayment of estimated tax, or an amount that is  
3 reported in an amended return other than an amended return  
4 timely filed as required by subsection (b) of Section 506  
5 of the Illinois Income Tax Act (penalty for late payment or  
6 nonpayment of admitted liability); or

7 (2) the full amount of any tax required to be shown due  
8 on a return and which is not shown (penalty for late  
9 payment or nonpayment of additional liability), within 30  
10 days after a notice of arithmetic error, notice and demand,  
11 or a final assessment is issued by the Department. In the  
12 case of a final assessment arising following a protest and  
13 hearing, the 30-day period shall not begin until all  
14 proceedings in court for review of the final assessment  
15 have terminated or the period for obtaining a review has  
16 expired without proceedings for a review having been  
17 instituted. In the case of a notice of tax liability that  
18 becomes a final assessment without a protest and hearing,  
19 the penalty provided in this paragraph (2) shall be imposed  
20 at the expiration of the period provided for the filing of  
21 a protest.

22 (b-10) This subsection (b-10) is applicable to returns due  
23 on and after January 1, 2001 and on or before December 31,  
24 2003. A penalty shall be imposed for failure to pay:

25 (1) the tax shown due on a return on or before the due  
26 date prescribed for payment of that tax, an amount of

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

20 (2) the full amount of any tax required to be shown due  
21 on a return and that is not shown (penalty for late payment  
22 or nonpayment of additional liability), within 30 days  
23 after a notice of arithmetic error, notice and demand, or a  
24 final assessment is issued by the Department. In the case  
25 of a final assessment arising following a protest and  
26 hearing, the 30-day period shall not begin until all

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

11 (b-15) This subsection (b-15) is applicable to returns due  
12 on and after January 1, 2004 and on or before December 31,  
13 2004. A penalty shall be imposed for failure to pay the tax  
14 shown due or required to be shown due on a return on or before  
15 the due date prescribed for payment of that tax, an amount of  
16 underpayment of estimated tax, or an amount that is reported in  
17 an amended return other than an amended return timely filed as  
18 required by subsection (b) of Section 506 of the Illinois  
19 Income Tax Act (penalty for late payment or nonpayment of  
20 admitted liability). The amount of penalty imposed under this  
21 subsection (b-15) (1) shall be 2% of any amount that is paid no  
22 later than 30 days after the due date, 10% of any amount that  
23 is paid later than 30 days after the due date and not later  
24 than 90 days after the due date, 15% of any amount that is paid  
25 later than 90 days after the due date and not later than 180  
26 days after the due date, and 20% of any amount that is paid

1 later than 180 days after the due date. If notice and demand is  
2 made for the payment of any amount of tax due and if the amount  
3 due is paid within 30 days after the date of this notice and  
4 demand, then the penalty for late payment or nonpayment of  
5 admitted liability under this subsection (b-15)(1) on the  
6 amount so paid shall not accrue for the period after the date  
7 of the notice and demand.

8 (b-20) This subsection (b-20) is applicable to returns due  
9 on and after January 1, 2005.

10 (1) A penalty shall be imposed for failure to pay,  
11 prior to the due date for payment, any amount of tax the  
12 payment of which is required to be made prior to the filing  
13 of a return or without a return (penalty for late payment  
14 or nonpayment of estimated or accelerated tax). The amount  
15 of penalty imposed under this paragraph (1) shall be 2% of  
16 any amount that is paid no later than 30 days after the due  
17 date and 10% of any amount that is paid later than 30 days  
18 after the due date.

19 (2) A penalty shall be imposed for failure to pay the  
20 tax shown due or required to be shown due on a return on or  
21 before the due date prescribed for payment of that tax or  
22 an amount that is reported in an amended return other than  
23 an amended return timely filed as required by subsection  
24 (b) of Section 506 of the Illinois Income Tax Act (penalty  
25 for late payment or nonpayment of tax). The amount of  
26 penalty imposed under this paragraph (2) shall be 2% of any

1 amount that is paid no later than 30 days after the due  
2 date, 10% of any amount that is paid later than 30 days  
3 after the due date and prior to the date the Department has  
4 initiated an audit or investigation of the taxpayer, and  
5 20% of any amount that is paid after the date the  
6 Department has initiated an audit or investigation of the  
7 taxpayer; provided that the penalty shall be reduced to 15%  
8 if the entire amount due is paid not later than 30 days  
9 after the Department has provided the taxpayer with an  
10 amended return (following completion of an occupation,  
11 use, or excise tax audit) or a form for waiver of  
12 restrictions on assessment (following completion of an  
13 income tax audit); provided further that the reduction to  
14 15% shall be rescinded if the taxpayer makes any claim for  
15 refund or credit of the tax, penalties, or interest  
16 determined to be due upon audit, except in the case of a  
17 claim filed pursuant to subsection (b) of Section 506 of  
18 the Illinois Income Tax Act or to claim a carryover of a  
19 loss or credit, the availability of which was not  
20 determined in the audit. For purposes of this paragraph  
21 (2), any overpayment reported on an original return that  
22 has been allowed as a refund or credit to the taxpayer  
23 shall be deemed to have not been paid on or before the due  
24 date for payment and any amount paid under protest pursuant  
25 to the provisions of the State Officers and Employees Money  
26 Disposition Act shall be deemed to have been paid after the

1 Department has initiated an audit and more than 30 days  
2 after the Department has provided the taxpayer with an  
3 amended return (following completion of an occupation,  
4 use, or excise tax audit) or a form for waiver of  
5 restrictions on assessment (following completion of an  
6 income tax audit).

7 (3) The penalty imposed under this subsection (b-20)  
8 shall be deemed assessed at the time the tax upon which the  
9 penalty is computed is assessed, except that, if the  
10 reduction of the penalty imposed under paragraph (2) of  
11 this subsection (b-20) to 15% is rescinded because a claim  
12 for refund or credit has been filed, the increase in  
13 penalty shall be deemed assessed at the time the claim for  
14 refund or credit is filed.

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

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

24 (e) This subsection (e) is applicable to returns due before  
25 January 1, 2001. If both a subsection (b)(1) or (b-5)(1)  
26 penalty and a subsection (b)(2) or (b-5)(2) penalty are



1 assessed against the same return, the subsection (b)(2) or  
2 (b-5)(2) penalty shall be assessed against only the additional  
3 tax found to be due.

4 (e-5) This subsection (e-5) is applicable to returns due on  
5 and after January 1, 2001. If both a subsection (b-10)(1)  
6 penalty and a subsection (b-10)(2) penalty are assessed against  
7 the same return, the subsection (b-10)(2) penalty shall be  
8 assessed against only the additional tax found to be due.

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

13 (g) The time within which to file a return or pay an amount  
14 of tax due without imposition of a penalty does not extend the  
15 time within which to file a protest to a notice of tax  
16 liability or a notice of deficiency.

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

21 (i) If a taxpayer has a tax liability for the taxable  
22 period ending after June 30, 1983 and prior to July 1, 2002  
23 that is eligible for amnesty under the Tax Delinquency Amnesty  
24 Act and the taxpayer fails to satisfy the tax liability during  
25 the amnesty period provided for in that Act for that taxable  
26 period, then the penalty imposed by the Department under this

1 Section shall be imposed in an amount that is 200% of the  
2 amount that would otherwise be imposed under this Section.

3 (j) If a taxpayer has a tax liability for the taxable  
4 period ending after June 30, 2002 and prior to July 1, 2009  
5 that is eligible for amnesty under the Tax Delinquency Amnesty  
6 Act, except for any tax liability reported pursuant to Section  
7 506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)) that  
8 is not final, and the taxpayer fails to satisfy the tax  
9 liability during the amnesty period provided for in that Act  
10 for that taxable period, then the penalty imposed by the  
11 Department under this Section shall be imposed in an amount  
12 that is 200% of the amount that would otherwise be imposed  
13 under this Section. Notwithstanding any other provision of law,  
14 if (i) the taxpayer entered into an agreement with the  
15 Department prior to October 1, 2009 for the payment of taxes  
16 incurred for any part of the taxable period ending after June  
17 30, 2002 and prior to July 1, 2009, (ii) that agreement was the  
18 result of an audit of the taxpayer or the taxpayer's  
19 predecessor-in-interest, (iii) the taxpayer complied with the  
20 agreement during the entire 2010 amnesty period set forth in  
21 the Tax Delinquency Amnesty Act, (iv) a subsequent audit  
22 occurring after November 8, 2010 resulted in a change in the  
23 taxpayer's liability for the same taxable period, and (v) all  
24 taxes due for the period covered by the audits are paid within  
25 90 days after the effective date of this amendatory Act of the  
26 97th General Assembly, then the taxpayer shall not be liable

1 for the increased penalties under this subsection (j).

2 (Source: P.A. 96-1435, eff. 8-16-10.)

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

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

6 (a) Failure to file correct information returns -  
7 imposition of penalty.

8 (1) In general. Unless otherwise provided in a tax Act,  
9 in the case of a failure described in paragraph (2) of this  
10 subsection (a) by any person with respect to an information  
11 return, that person shall pay a penalty of \$5 for each  
12 return or statement with respect to which the failure  
13 occurs, but the total amount imposed on that person for all  
14 such failures during any calendar year shall not exceed  
15 \$25,000.

16 (2) Failures subject to penalty. The following  
17 failures are subject to the penalty imposed in paragraph  
18 (1) of this subsection (a):

19 (A) any failure to file an information return with  
20 the Department on or before the required filing date,  
21 or

22 (B) any failure to include all of the information  
23 required to be shown on the return or the inclusion of  
24 incorrect information.

25 (b) Reduction where correction in specified period.

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

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

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

10          (c) Information return defined. An information return is  
11          any tax return required by a tax Act to be filed with the  
12          Department that does not, by law, require the payment of a tax  
13          liability.

14          (d) If a taxpayer has a tax liability for the taxable  
15          period ending after June 30, 1983 and prior to July 1, 2002  
16          that is eligible for amnesty under the Tax Delinquency Amnesty  
17          Act and the taxpayer fails to satisfy the tax liability during  
18          the amnesty period provided for in that Act for that taxable  
19          period, then the penalty imposed by the Department under this  
20          Section shall be imposed in an amount that is 200% of the  
21          amount that would otherwise be imposed under this Section.

22          (e) If a taxpayer has a tax liability for the taxable  
23          period ending after June 30, 2002 and prior to July 1, 2009  
24          that is eligible for amnesty under the Tax Delinquency Amnesty  
25          Act, except for any tax liability reported pursuant to Section  
26          506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)) that

1 is not final, and the taxpayer fails to satisfy the tax  
2 liability during the amnesty period provided for in that Act  
3 for that taxable period, then the penalty imposed by the  
4 Department under this Section shall be imposed in an amount  
5 that is 200% of the amount that would otherwise be imposed  
6 under this Section. Notwithstanding any other provision of law,  
7 if (i) the taxpayer entered into an agreement with the  
8 Department prior to October 1, 2009 for the payment of taxes  
9 incurred for any part of the taxable period ending after June  
10 30, 2002 and prior to July 1, 2009, (ii) that agreement was the  
11 result of an audit of the taxpayer or the taxpayer's  
12 predecessor-in-interest, (iii) the taxpayer complied with the  
13 agreement during the entire 2010 amnesty period set forth in  
14 the Tax Delinquency Amnesty Act, (iv) a subsequent audit  
15 occurring after November 8, 2010 resulted in a change in the  
16 taxpayer's liability for the same taxable period, and (v) all  
17 taxes due for the period covered by the audits are paid within  
18 90 days after the effective date of this amendatory Act of the  
19 97th General Assembly, then the taxpayer shall not be liable  
20 for the increased penalties under this subsection (e).

21 (Source: P.A. 96-1435, eff. 8-16-10.)

22 (35 ILCS 735/3-5) (from Ch. 120, par. 2603-5)

23 Sec. 3-5. Penalty for negligence.

24 (a) If any return or amended return is prepared  
25 negligently, but without intent to defraud, and filed, in

1 addition to any penalty imposed under Section 3-3 of this Act,  
2 a penalty shall be imposed in an amount equal to 20% of any  
3 resulting deficiency.

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

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

12 (d) If a taxpayer has a tax liability for the taxable  
13 period ending after June 30, 1983 and prior to July 1, 2002  
14 that is eligible for amnesty under the Tax Delinquency Amnesty  
15 Act and the taxpayer fails to satisfy the tax liability during  
16 the amnesty period provided for in that Act for that taxable  
17 period, then the penalty imposed by the Department shall be  
18 imposed in an amount that is 200% of the amount that would  
19 otherwise be imposed in accordance with this Section.

20 (e) If a taxpayer has a tax liability for the taxable  
21 period ending after June 30, 2002 and prior to July 1, 2009  
22 that is eligible for amnesty under the Tax Delinquency Amnesty  
23 Act, except for any tax liability reported pursuant to Section  
24 506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)) that  
25 is not final, and the taxpayer fails to satisfy the tax  
26 liability during the amnesty period provided for in that Act

1 for that taxable period, then the penalty imposed by the  
2 Department under this Section shall be imposed in an amount  
3 that is 200% of the amount that would otherwise be imposed  
4 under this Section. Notwithstanding any other provision of law,  
5 if (i) the taxpayer entered into an agreement with the  
6 Department prior to October 1, 2009 for the payment of taxes  
7 incurred for any part of the taxable period ending after June  
8 30, 2002 and prior to July 1, 2009, (ii) that agreement was the  
9 result of an audit of the taxpayer or the taxpayer's  
10 predecessor-in-interest, (iii) the taxpayer complied with the  
11 agreement during the entire 2010 amnesty period set forth in  
12 the Tax Delinquency Amnesty Act, (iv) a subsequent audit  
13 occurring after November 8, 2010 resulted in a change in the  
14 taxpayer's liability for the same taxable period, and (v) all  
15 taxes due for the period covered by the audits are paid within  
16 90 days after the effective date of this amendatory Act of the  
17 97th General Assembly, then the taxpayer shall not be liable  
18 for the increased penalties under this subsection (e).

19 (Source: P.A. 96-1435, eff. 8-16-10.)

20 (35 ILCS 735/3-6) (from Ch. 120, par. 2603-6)

21 Sec. 3-6. Penalty for fraud.

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

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

4 (c) If a taxpayer has a tax liability for the taxable  
5 period ending after June 30, 1983 and prior to July 1, 2002  
6 that is eligible for amnesty under the Tax Delinquency Amnesty  
7 Act and the taxpayer fails to satisfy the tax liability during  
8 the amnesty period provided for in that Act for that taxable  
9 period, then the penalty imposed by the Department under this  
10 Section shall be imposed in an amount that is 200% of the  
11 amount that would otherwise be imposed under this Section.

12 (d) If a taxpayer has a tax liability for the taxable  
13 period ending after June 30, 2002 and prior to July 1, 2009  
14 that is eligible for amnesty under the Tax Delinquency Amnesty  
15 Act, except for any tax liability reported pursuant to Section  
16 506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)) that  
17 is not final, and the taxpayer fails to satisfy the tax  
18 liability during the amnesty period provided for in that Act  
19 for that taxable period, then the penalty imposed by the  
20 Department under this Section shall be imposed in an amount  
21 that is 200% of the amount that would otherwise be imposed  
22 under this Section. Notwithstanding any other provision of law,  
23 if (i) the taxpayer entered into an agreement with the  
24 Department prior to October 1, 2009 for the payment of taxes  
25 incurred for any part of the taxable period ending after June  
26 30, 2002 and prior to July 1, 2009, (ii) that agreement was the



1 result of an audit of the taxpayer or the taxpayer's  
2 predecessor-in-interest, (iii) the taxpayer complied with the  
3 agreement during the entire 2010 amnesty period set forth in  
4 the Tax Delinquency Amnesty Act, (iv) a subsequent audit  
5 occurring after November 8, 2010 resulted in a change in the  
6 taxpayer's liability for the same taxable period, and (v) all  
7 taxes due for the period covered by the audits are paid within  
8 90 days after the effective date of this amendatory Act of the  
9 97th General Assembly, then the taxpayer shall not be liable  
10 for the increased penalties under this subsection (d).

11 (Source: P.A. 96-1435, eff. 8-16-10.)

12 (35 ILCS 735/3-7.5)

13 Sec. 3-7.5. Bad check penalty.

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

23 (b) If a taxpayer has a tax liability for the taxable  
24 period ending after June 30, 1983 and prior to July 1, 2002  
25 that is eligible for amnesty under the Tax Delinquency Amnesty

1 Act and the taxpayer fails to satisfy the tax liability during  
2 the amnesty period provided for in that Act for that taxable  
3 period, then the penalty imposed by the Department under this  
4 Section shall be imposed in an amount that is 200% of the  
5 amount that would otherwise be imposed under this Section.

6 (c) If a taxpayer has a tax liability for the taxable  
7 period ending after June 30, 2002 and prior to July 1, 2009  
8 that is eligible for amnesty under the Tax Delinquency Amnesty  
9 Act, except for any tax liability reported pursuant to Section  
10 506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)) that  
11 is not final, and the taxpayer fails to satisfy the tax  
12 liability during the amnesty period provided for in that Act  
13 for that taxable period, then the penalty imposed by the  
14 Department under this Section shall be imposed in an amount  
15 that is 200% of the amount that would otherwise be imposed  
16 under this Section. Notwithstanding any other provision of law,  
17 if (i) the taxpayer entered into an agreement with the  
18 Department prior to October 1, 2009 for the payment of taxes  
19 incurred for any part of the taxable period ending after June  
20 30, 2002 and prior to July 1, 2009, (ii) that agreement was the  
21 result of an audit of the taxpayer or the taxpayer's  
22 predecessor-in-interest, (iii) the taxpayer complied with the  
23 agreement during the entire 2010 amnesty period set forth in  
24 the Tax Delinquency Amnesty Act, (iv) a subsequent audit  
25 occurring after November 8, 2010 resulted in a change in the  
26 taxpayer's liability for the same taxable period, and (v) all

1 taxes due for the period covered by the audits are paid within  
2 90 days after the effective date of this amendatory Act of the  
3 97th General Assembly, then the taxpayer shall not be liable  
4 for the increased penalties under this subsection (c).

5 (Source: P.A. 96-1435, eff. 8-16-10.)