

1 AN ACT concerning taxes.

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
5 amended by changing Section 3-3 as follows:

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

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

8 (a) This subsection (a) is applicable before January 1,
9 1996. A penalty of 5% of the tax required to be shown due on
10 a return shall be imposed for failure to file the tax return
11 on or before the due date prescribed for filing determined
12 with regard for any extension of time for filing (penalty for
13 late filing or nonfiling). If any unprocessable return is
14 corrected and filed within 21 days after notice by the
15 Department, the late filing or nonfiling penalty shall not
16 apply. If a penalty for late filing or nonfiling is imposed
17 in addition to a penalty for late payment, the total penalty
18 due shall be the sum of the late filing penalty and the
19 applicable late payment penalty. Beginning on the effective
20 date of this amendatory Act of 1995, in the case of any type
21 of tax return required to be filed more frequently than
22 annually, when the failure to file the tax return on or
23 before the date prescribed for filing (including any
24 extensions) is shown to be nonfraudulent and has not occurred
25 in the 2 years immediately preceding the failure to file on
26 the prescribed due date, the penalty imposed by Section
27 3-3(a) shall be abated.

28 (a-5) This subsection (a-5) is applicable to returns due
29 on and after January 1, 1996 and on or before December 31,
30 2000. A penalty equal to 2% of the tax required to be shown
31 due on a return, up to a maximum amount of \$250, determined

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

29 (a-10) This subsection (a-10) is applicable to returns
30 due on and after January 1, 2001. A penalty equal to 2% of
31 the tax required to be shown due on a return, up to a maximum
32 amount of \$250, reduced by any tax that is paid on time or by
33 any credit that was properly allowable on the date the return
34 was required to be filed, shall be imposed for failure to

1 file the tax return on or before the due date prescribed for
2 filing determined with regard for any extension of time for
3 filing. However, if any return is not filed within 30 days
4 after notice of nonfiling mailed by the Department to the
5 last known address of the taxpayer contained in Department
6 records, an additional penalty amount shall be imposed equal
7 to the greater of \$250 or 2% of the tax shown on the return.
8 However, the additional penalty amount may not exceed \$5,000
9 and is determined without regard to any part of the tax that
10 is paid on time or by any credit that was properly allowable
11 on the date the return was required to be filed (penalty for
12 late filing or nonfiling). If any unprocessable return is
13 corrected and filed within 30 days after notice by the
14 Department, the late filing or nonfiling penalty shall not
15 apply. If a penalty for late filing or nonfiling is imposed
16 in addition to a penalty for late payment, the total penalty
17 due shall be the sum of the late filing penalty and the
18 applicable late payment penalty. In the case of any type of
19 tax return required to be filed more frequently than
20 annually, when the failure to file the tax return on or
21 before the date prescribed for filing (including any
22 extensions) is shown to be nonfraudulent and has not occurred
23 in the 2 years immediately preceding the failure to file on
24 the prescribed due date, the penalty imposed by Section
25 3-3(a-10) shall be abated.

26 (b) This subsection is applicable before January 1,
27 1998. A penalty of 15% of the tax shown on the return or the
28 tax required to be shown due on the return shall be imposed
29 for failure to pay:

30 (1) the tax shown due on the return on or before
31 the due date prescribed for payment of that tax, an
32 amount of underpayment of estimated tax, or an amount
33 that is reported in an amended return other than an
34 amended return timely filed as required by subsection (b)

1 of Section 506 of the Illinois Income Tax Act (penalty
2 for late payment or nonpayment of admitted liability); or

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

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

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

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

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

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

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

1 notice and demand.

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

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

26 (d) A penalty shall be applied to the tax required to be
27 shown even if that amount is less than the tax shown on the
28 return.

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

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

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

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

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

19 (Source: P.A. 90-491, eff. 1-1-98; 90-548, eff. 12-4-97;
20 91-239, eff. 1-1-00; 91-803, eff. 1-1-01.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.