

AN ACT concerning revenue.

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

Article 1. ILLINOIS TAX TRIBUNAL ACT OF 2012

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

Section 1-5. Statement of purpose.

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

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

Tribunal protesting a tax determination made by the Department of Revenue.

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

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

"Department" means the Department of Revenue.

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

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

Section 1-15. Independent Tax Tribunal; establishment.

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

from the authority of the Director of Revenue and the Department of Revenue.

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

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

(2) To accept and expend appropriations.

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

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

(5) To engage in any activity or operation that is incidental to and in furtherance of efficient operation to accomplish the Tax Tribunal's purposes.

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

(1) The State Records Act.

(2) The Illinois Procurement Code, except that the

Illinois Procurement Code does not apply to the hiring of the chief administrative law judge or other administrative law judges pursuant to Section 1-25 of this Act.

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

(4) The State Property Control Act.

(5) The State Officials and Employees Ethics Act.

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

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

(d) The Tax Tribunal shall exercise its jurisdiction on and after July 1, 2013, but the administrative law judges of the Tribunal may be appointed prior to that date and may take any action prior to that date that is necessary to enable the Tax Tribunal to properly exercise its jurisdiction on or after that date. Any administrative proceeding commenced prior to July 1, 2013, that would otherwise be subject to the jurisdiction of the Illinois Independent Tax Tribunal may be conducted according to the procedures set forth in this Act if the taxpayer so elects. Such an election shall be irrevocable and may be made on or after July 1, 2013, but no later than 30 days after the date on which the taxpayer's protest was filed.

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

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

(a) The Governor shall, with the advice and consent of the Senate, appoint a Chief Administrative Law Judge to be the executive of the Tax Tribunal. The Chief Administrative Law Judge shall serve a 5-year term. The Governor may appoint additional administrative law judges, with the advice and consent of the Senate, as necessary to carry out the provisions of this Act, provided that no more than 4 administrative law judges, including the Chief Administrative Law Judge, shall serve at the same time. The administrative law judges, other than the Chief Administrative Law Judge, shall initially be appointed to staggered terms of no greater than 4 years. After the initial terms of office, all administrative law judges, other than the Chief Administrative Law Judge, shall be appointed for terms of 4 years. Each administrative law judge is eligible for reappointment.

(b) Once appointed and confirmed, each administrative law judge shall continue in office until his or her term expires

and until a successor has been appointed and confirmed.

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

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

(e) Each administrative law judge of the Tax Tribunal, including the Chief Administrative Law Judge, shall receive an annual salary equal to that of the Director of the Department

of Revenue. The Chief Administrative Law Judge shall receive an additional \$15,000 annual stipend.

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

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

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

(a) Each administrative law judge of the Tax Tribunal shall be a citizen of the United States and, during the period of his or her service, a resident of this State. No person may be appointed as an administrative law judge unless, at the time of the appointment, the individual has been licensed to practice law in Illinois for a minimum of 8 years and has substantial knowledge of State tax laws and the making of a record in a tax case suitable for judicial review.

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

the Secretary of State.

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

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

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

(b) The Tax Tribunal shall conduct hearings at any of its offices. If the taxpayer does not have his or her place of business in this State, such hearing shall be held at the office designated by the Tax Tribunal in either Cook or Sangamon County. Taxpayers whose residence or place of business is more than 100 miles from either the Sangamon County or Cook County Tax Tribunal office may petition the Tax Tribunal for an alternate hearing location, with a view toward securing to taxpayers a reasonable opportunity to appear before the Tax Tribunal with as little inconvenience and expense as possible.

(c) The State shall provide hearing rooms, chambers, and offices for the Tax Tribunal in both Sangamon County and Cook

County and shall arrange for hearing rooms, chambers, and offices or other appropriate facilities when hearings are held elsewhere.

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

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

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

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

(c) No employee of the Tax Tribunal shall act as attorney, representative, or accountant for others in a matter involving any tax imposed or levied by this State or any other state or local jurisdiction.

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

(e) In addition to the services of the official reporter, the Tax Tribunal may contract the reporting of its proceedings

and, in the contract, fix the terms and conditions under which transcripts will be supplied by the contractor to the Tax Tribunal and to other persons and agencies.

Section 1-45. Jurisdiction of the Tax Tribunal.

(a) Except as provided by the Constitution of the United States, the Constitution of the State of Illinois, or any statutes of this State, including, but not limited to, the State Officers and Employees Money Disposition Act, the Tax Tribunal shall have original jurisdiction over all determinations of the Department reflected on a Notice of Deficiency, Notice of Tax Liability, Notice of Claim Denial, or Notice of Penalty Liability issued under the Illinois Income Tax Act, the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, the Retailers' Occupation Tax Act, the Cigarette Tax Act, the Cigarette Use Tax Act, the Tobacco Products Tax Act of 1995, the Hotel Operators' Occupation Tax Act, the Motor Fuel Tax Law, the Automobile Renting Occupation and Use Tax Act, the Coin-Operated Amusement Device and Redemption Machine Tax Act, the Gas Revenue Tax Act, the Water Company Invested Capital Tax Act, the Telecommunications Excise Tax Act, the Telecommunications Infrastructure Maintenance Fee Act, the Public Utilities Revenue Act, the Electricity Excise Tax Law, the Aircraft Use Tax Law, the Watercraft Use Tax Law, the Gas Use Tax Law, or the Uniform Penalty and Interest Act. Jurisdiction of the Tax Tribunal is

limited to Notices of Tax Liability, Notices of Deficiency, Notices of Claim Denial, and Notices of Penalty Liability where the amount at issue in a notice, or the aggregate amount at issue in multiple notices issued for the same tax year or audit period, exceeds \$15,000, exclusive of penalties and interest. In notices solely asserting either an interest or penalty assessment, or both, the Tax Tribunal shall have jurisdiction over cases where the combined total of all penalties or interest assessed exceeds \$15,000.

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

(c) The Tax Tribunal may require the taxpayer to post a bond equal to 25% of the liability at issue (1) upon motion of the Department and a showing that (A) the taxpayer's action is frivolous or legally insufficient or (B) the taxpayer is acting primarily for the purpose of delaying the collection of tax or prejudicing the ability ultimately to collect the tax, or (2)

if, at any time during the proceedings, it is determined by the Tax Tribunal that the taxpayer is not pursuing the resolution of the case with due diligence. If the Tax Tribunal finds in a particular case that the taxpayer cannot procure and furnish a satisfactory surety or sureties for the kind of bond required herein, the Tax Tribunal may relieve the taxpayer of the obligation of filing such bond, if, upon the timely application for a lien in lieu thereof and accompanying proof therein submitted, the Tax Tribunal is satisfied that any such lien imposed would operate to secure the assessment in the manner and to the degree as would a bond. The Tax Tribunal shall adopt rules for the procedures to be used in securing a bond or lien under this Section.

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

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

- (1) any assessment made under the Property Tax Code;
- (2) any decisions relating to the issuance or denial of an exemption ruling for any entity claiming exemption from any tax imposed under the Property Tax Code or any State tax administered by the Department;
- (3) a notice of proposed tax liability, notice of

proposed deficiency, or any other notice of proposed assessment or notice of intent to take some action;

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

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

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

(f) The Tax Tribunal shall decide questions regarding the constitutionality of statutes and rules adopted by the Department as applied to the taxpayer, but shall not have the power to declare a statute or rule unconstitutional or otherwise invalid on its face. A taxpayer challenging the constitutionality of a statute or rule on its face may present such challenge to the Tribunal for the sole purpose of making a record for review by the Illinois Appellate Court. Failure to raise a constitutional issue regarding the application of a statute or regulations to the taxpayer shall not preclude the taxpayer or the Department from raising those issues at the appellate court level.

Section 1-50. Pleadings.

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

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

(c) Either party may amend a pleading once without leave at any time before the period for responding to it expires. After such time, a pleading may be amended only with the written consent of the adverse party or with the permission of the Tax Tribunal. The Tax Tribunal shall freely grant consent to amend upon such terms as may be just. Except as otherwise ordered by the Tax Tribunal, there shall be an answer to an amended pleading if an answer is required to the pleading being amended. Filing of the answer, or, if the answer has already been filed, the amended answer shall be made no later than 30

days after the filing of the amended petition. The taxpayer may not amend a petition after expiration of the time for filing a petition, if such amendment would have the effect of conferring jurisdiction on the Tax Tribunal over a matter that would otherwise not come within its jurisdiction. An amendment of a pleading shall relate back to the time of filing of the original pleading only as prescribed by Section 2-616 of the Code of Civil Procedure.

Section 1-55. Fees.

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

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

(c) Fees collected under this Section shall be deposited into the Illinois Independent Tax Tribunal Fund, a special fund created in the State treasury. Moneys deposited into the Fund shall be appropriated to the Tribunal to reimburse the Tribunal for costs associated with administering and enforcing the provisions of this Act.

(d) The Tax Tribunal shall not assign any costs or attorney's fees incurred by one party against another party. Claims for expenses and attorney's fees under Section 10-55 of

the Administrative Procedure Act shall first be made to the Department of Revenue. If the claimant is dissatisfied because of the Department's failure to make any award or because of the insufficiency of the award, the claimant may petition the Court of Claims for the amount deemed owed.

Section 1-60. Discovery and stipulation.

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

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

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

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

Section 1-63. Mediation. At any point in the proceedings before the Tax Tribunal, but prior to the hearing under Section 1-65 of this Act, the parties may jointly petition the Tax

Tribunal for mediation. The purpose of the mediation shall be to attempt to settle any contested issues or the case in its entirety. An administrative law judge other than the one initially assigned to hear the case shall serve as the mediator.

Section 1-65. Hearings.

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

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

(c) Hearings shall be open to the public. Taxpayers may petition the Tax Tribunal to close portions of the hearing for good cause shown. Taxpayers may also petition the Tax Tribunal to require that certain pleadings or portions thereof be filed, or that certain evidence or portions thereof be admitted, under seal in order to prevent economic or other harm to the taxpayer. Original tax return documents, schedules, or other attachments and any copies thereof shall not be made available to the public for inspection or copying. Nothing in this Section shall operate to restrict the transmission of records to the appellate court.

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

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

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

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

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

(i) The petition and other pleadings in the proceeding shall be deemed to conform to the proof presented at the hearing, unless a party satisfies the Tax Tribunal that presentation of the evidence would unfairly prejudice the party in maintaining its position on the merits or unless deeming the taxpayer's petition to conform to the proof would confer jurisdiction on the Tax Tribunal over a matter that would not otherwise come within its jurisdiction.

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

Section 1-67. Temporary suspension of proceedings.

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

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

Section 1-70. Decisions.

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

notice of its decision to the taxpayer and to the Department.

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

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

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

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

Section 1-75. Appeals.

(a) The taxpayer and the Department are entitled to judicial review of a final decision of the Tribunal in the Illinois Appellate Court, in accordance with Section 3-113 of the Administrative Review Law.

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

Section 1-80. Representation.

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

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

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

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

(b) All published decisions shall be edited by the Tax Tribunal so that the identification number of the taxpayer and any related entities or employees, and any trade secrets or other intellectual property, are not disclosed or identified.

(c) Within 30 days following the issuance of any hearing decision, the taxpayer affected by the decision may also request that the Tax Tribunal omit specifically identified trade secrets or other confidential or proprietary information

prior to publication of the decision. The Tax Tribunal shall approve those requests if it determines that the requests are reasonable and that the disclosure of such information would potentially cause economic or other injury to the taxpayer.

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

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

Section 1-90. Service of process and mailings.

(a) Mailings by first class or certified or registered mail, postage prepaid, to the address of the taxpayer given on the taxpayer's petition, or to the address of the taxpayer's

representative of record, if any, or to the usual place of business of the Department, shall constitute personal service on the other party. The Tax Tribunal may by rule prescribe that notice by other means shall constitute personal service and may in a particular case order that notice be given to additional persons or by other means.

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

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

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

Article 5. AMENDATORY PROVISIONS

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

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

Sec. 1.02. For the purposes of this Act:

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

Accordingly, for a 5-member public body, 3 members of the body constitute a quorum and the affirmative vote of 3 members is necessary to adopt any motion, resolution, or ordinance, unless a greater number is otherwise required.

"Public body" includes all legislative, executive, administrative or advisory bodies of the State, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, and any

subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees which are supported in whole or in part by tax revenue, or which expend tax revenue, except the General Assembly and committees or commissions thereof. "Public body" includes tourism boards and convention or civic center boards located in counties that are contiguous to the Mississippi River with populations of more than 250,000 but less than 300,000. "Public body" includes the Health Facilities and Services Review Board. "Public body" does not include a child death review team or the Illinois Child Death Review Teams Executive Council established under the Child Death Review Team Act, ~~or~~ an ethics commission acting under the State Officials and Employees Ethics Act, or the Illinois Independent Tax Tribunal.

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

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

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

Sec. 7. Exemptions.

(1) When a request is made to inspect or copy a public record that contains information that is exempt from disclosure under this Section, but also contains information that is not exempt from disclosure, the public body may elect to redact the information that is exempt. The public body shall make the

remaining information available for inspection and copying. Subject to this requirement, the following shall be exempt from inspection and copying:

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

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

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

(c) Personal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. "Unwarranted invasion of personal privacy" means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy.

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

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

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

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

(iv) unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies; except that the identities of witnesses to traffic accidents, traffic accident reports, and rescue reports shall be provided by agencies of local government, except when disclosure would interfere with an active criminal investigation conducted by the agency that is the recipient of the

request;

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

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

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

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

(f) Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body. The exemption provided in this paragraph (f) extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents.

(g) Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are

furnished under a claim that they are proprietary, privileged or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business, and only insofar as the claim directly applies to the records requested.

The information included under this exemption includes all trade secrets and commercial or financial information obtained by a public body, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund. The exemption contained in this item does not apply to the aggregate financial performance information of a private equity fund, nor to the identity of the fund's managers or general partners. The exemption contained in this item does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm.

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

(h) Proposals and bids for any contract, grant, or agreement, including information which if it were

disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made.

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

(j) The following information pertaining to educational matters:

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

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

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

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

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

(l) Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act.

(m) Communications between a public body and an attorney or auditor representing the public body that would not be subject to discovery in litigation, and materials prepared or compiled by or for a public body in

anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the public body, and materials prepared or compiled with respect to internal audits of public bodies.

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

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

(p) Records relating to collective negotiating matters between public bodies and their employees or representatives, except that any final contract or agreement shall be subject to inspection and copying.

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

(r) The records, documents, and information relating

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

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

(t) Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a public body responsible for the regulation or supervision of financial institutions or insurance companies, unless disclosure is otherwise required by State law.

(u) Information that would disclose or might lead to the disclosure of secret or confidential information,

codes, algorithms, programs, or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act.

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

(w) (Blank).

(x) Maps and other records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility, by a power generator, or by the Illinois Power Agency.

(y) Information contained in or related to proposals, bids, or negotiations related to electric power procurement under Section 1-75 of the Illinois Power Agency

Act and Section 16-111.5 of the Public Utilities Act that is determined to be confidential and proprietary by the Illinois Power Agency or by the Illinois Commerce Commission.

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

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

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

(cc) Information regarding interments, entombments, or inurnments of human remains that are submitted to the Cemetery Oversight Database under the Cemetery Care Act or the Cemetery Oversight Act, whichever is applicable.

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

(ee) ~~(dd)~~ The names, addresses, or other personal information of persons who are minors and are also

participants and registrants in programs of park districts, forest preserve districts, conservation districts, recreation agencies, and special recreation associations.

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

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

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

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

(Source: P.A. 96-261, eff. 1-1-10; 96-328, eff. 8-11-09; 96-542, eff. 1-1-10; 96-558, eff. 1-1-10; 96-736, eff. 7-1-10; 96-863, eff. 3-1-10; 96-1378, eff. 7-29-10; 97-333, eff.

8-12-11; 97-385, eff. 8-15-11; 97-452, eff. 8-19-11; revised 9-2-11.)

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

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

Sec. 2505-510. Informal assessment review.

(a) The Department has the power to establish an informal assessment review process at which an impartial Department designee, who has the authority and knowledge to recommend an appropriate conclusion to the matter, shall review adjustments recommended by examiners and auditors. The Director shall provide by rule for the availability of an informal assessment review before the issuance of a notice of tax liability or notice of deficiency upon completion of an audit of the taxpayer or before a formal hearing. A taxpayer may be represented by a party of his or her choice during the informal assessment review procedure and need not be represented by an attorney.

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

(c) Offers of disposition of a proposed audit adjustment

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

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

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

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

Sec. 908. Procedure on protest.

(a) Time for protest. Within 60 days (150 days if the taxpayer is outside the United States) after the issuance of a notice of deficiency, the taxpayer may file (i) a protest against the proposed assessment with the Department or (ii) a petition with the Illinois Independent Tax Tribunal, as provided in this subsection (a). Prior to July 1, 2013, a written protest against the proposed assessment shall be filed with the Department in such form as the Department may by regulations prescribe, setting forth the grounds on which such protest is based. If such a protest is filed, the Department

shall reconsider the proposed assessment and, if the taxpayer has so requested, shall grant the taxpayer or his authorized representative a hearing.

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

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

(b) Notice of decision. With respect to protests filed with the Department that are not subject to the provisions of the Illinois Independent Tax Tribunal Act of 2012, as ~~As~~ soon as practicable after such reconsideration and hearing, if any, the Department shall issue a notice of decision by mailing such notice by certified or registered mail. Such notice shall set forth briefly the Department's findings of fact and the basis of decision in each case decided in whole or in part adversely to the taxpayer.

(c) Request for rehearing. With respect to protests filed with the Department that are not subject to the provisions of the Illinois Independent Tax Tribunal Act of 2012, within

~~Within~~ 30 days after the mailing of a notice of decision, the taxpayer may file with a Department a written request for rehearing in such form as the Department may by regulations prescribe, setting forth the grounds on which rehearing is requested. In any such case, the Department shall, in its discretion, grant either a rehearing or Departmental review unless, within 10 days of receipt of such request, it shall issue a denial of such request by mailing such denial to the taxpayer by certified or registered mail. If rehearing or Departmental review is granted, as soon as practicable after such rehearing or Departmental review, the Department shall issue a notice of final decision as provided in subsection (b).

(d) Finality of decision. If the taxpayer fails to file a timely protest or petition under subsection (a) of this Section, then the Department's notice of deficiency shall become a final assessment at the end of the 60th day after the date of issuance of the notice of deficiency (or the 150th day if the taxpayer is outside the United States). If the taxpayer files a protest with the Department, and the taxpayer does not elect to be subject to the provisions of the Illinois Independent Tax Tribunal Act of 2012, then the ~~The~~ action of the Department on the taxpayer's protest shall become final:

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

(2) if a timely request for rehearing was made, upon the issuance of a denial of such request or the issuance of

a notice of final decision as provided in subsection (c).

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

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

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

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

Sec. 909. Credits and Refunds.

(a) In general. In the case of any overpayment, the Department, within the applicable period of limitations for a claim for refund, may credit the amount of such overpayment, including any interest allowed thereon, against any liability

in respect of the tax imposed by this Act, regardless of whether other collection remedies are closed to the Department on the part of the person who made the overpayment and shall refund any balance to such person.

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

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

(d) Refund claim. Every claim for refund shall be filed with the Department in writing in such form as the Department may by regulations prescribe, and shall state the specific grounds upon which it is founded.

(e) Notice of denial. As soon as practicable after a claim for refund is filed, the Department shall examine it and either issue a notice of refund, abatement or credit to the claimant or issue a notice of denial. If the Department has failed to approve or deny the claim before the expiration of 6 months

from the date the claim was filed, the claimant may nevertheless thereafter file with the Department a written protest in such form as the Department may by regulation prescribe, provided that, on or after July 1, 2013, protests concerning matters that are subject to the jurisdiction of the Illinois Independent Tax Tribunal shall be filed with the Illinois Independent Tax Tribunal and not with the Department. If the protest is subject to the jurisdiction of the Department ~~a protest is filed~~, the Department shall consider the claim and, if the taxpayer has so requested, shall grant the taxpayer or the taxpayer's authorized representative a hearing within 6 months after the date such request is filed.

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

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

(g) An overpayment of tax shown on the face of an unsigned return shall be considered forfeited to the State if after notice and demand for signature by the Department the taxpayer

fails to provide a signature and 3 years have passed from the date the return was filed. An overpayment of tax refunded to a taxpayer whose return was filed electronically shall be considered an erroneous refund under Section 912 of this Act if, after proper notice and demand by the Department, the taxpayer fails to provide a required signature document. A notice and demand for signature in the case of a return reflecting an overpayment may be made by first class mail. This subsection (g) shall apply to all returns filed pursuant to this Act since 1969.

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

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

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

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

(a) Time for protest. Within 60 days after the denial of the claim, the claimant may file (i) a protest with the Department or (ii) a petition with the Illinois Independent Tax Tribunal, as provided in this subsection (a). A ~~a~~ written protest against such denial shall be filed with the Department in such form as the Department may by regulations prescribe, setting forth the grounds on which such protest is based. If such a protest is filed, the Department shall reconsider the denial and, if the taxpayer has so requested, shall grant the

taxpayer or his authorized representative a hearing. With respect to protests filed with the Department prior to July 1, 2013 that would otherwise be subject to the jurisdiction of the Illinois Independent Tax Tribunal, the taxpayer may elect to be subject to the provisions of the Illinois Independent Tax Tribunal Act of 2012 on or after July 1, 2013, but not later than 30 days after the date on which the protest was filed. If made, the election shall be irrevocable.

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

(b) Notice of decision. With respect to protests that are subject to the jurisdiction of the Department, if the taxpayer has not made an election to be subject to the provisions of the Illinois Independent Tax Tribunal Act of 2012, then as ~~As~~ soon as practicable after such reconsideration and hearing, if any, the Department shall issue a notice of decision by mailing such notice by certified or registered mail. Such notice shall set forth briefly the Department's findings of fact and the basis of decision in each case decided in whole or in part adversely to the claimant.

(c) Request for rehearing. Within 30 days after the mailing of a notice of decision as provided in subsection (b), the claimant may file with the Department a written request for

rehearing in such form as the Department may by regulations prescribe, setting forth the grounds on which rehearing is requested. In any such case, the Department shall, in its discretion, grant either a rehearing or Departmental review unless, within 10 days of receipt of such request, it shall issue a denial of such request by mailing such denial to the claimant by certified or registered mail. If rehearing or Departmental review is granted, as soon as practicable after such rehearing or Departmental review, the Department shall issue a notice of final decision as provided in subsection (b).

(d) Finality of decision. If the taxpayer fails to file a timely protest or petition under subsection (a) of this Section, then the Department's notice of deficiency shall become a final assessment at the end of the 60th day after the date of issuance of the notice of deficiency. If the protest is subject to the jurisdiction of the Department, and the taxpayer does not elect to be subject to the provisions of the Illinois Independent Tax Tribunal Act of 2012, then the ~~The~~ action of the Department on the claimant's protest shall become final:

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

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

If the taxpayer files a petition with the Illinois Independent Tax Tribunal, or otherwise elects to be subject to

the provisions of the Illinois Independent Tax Tribunal Act of 2012, then the Department's decision will become final as provided in that Act.

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

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

Sec. 914. Conduct of Investigations and Hearings. For the purpose of administering and enforcing the provisions of this Act, the Department, or any officer or employee of the Department designated, in writing, by the Director may hold investigations and hearings concerning any matters covered by this Act that are not otherwise delegated to the Illinois Independent Tax Tribunal, and may examine any books, papers, records or memoranda bearing upon such matters, and may require the attendance of any person, or any officer or employee of such person, having knowledge of such matters, and may take testimony and require proof for its information. In the conduct of any investigation or hearing, neither the Department nor any officer or employee thereof shall be bound by the technical rules of evidence, and no informality in any proceeding, or in the manner of taking testimony, shall invalidate any order, decision, rule or regulation made or approved or confirmed by the Department. The Director, or any officer or employee of the Department authorized by the Director shall have power to administer oaths to such persons. The books, papers, records and memoranda of the Department, or parts thereof, may be

proved in any hearing, investigation, or legal proceeding by a reproduced copy thereof or by a computer print-out of Department records, under the certificate of the Director. If reproduced copies of the Department's books, papers, records or memoranda are offered as proof, the Director must certify that those copies are true and exact copies of such records on file with the Department. If computer print-outs of records of the Department are offered as proof, the Director must certify that those computer print-outs are true and exact representations of records properly entered into standard electronic computing equipment, in the regular course of the Department's business, at or reasonably near the time of the occurrence of the facts recorded, from trustworthy and reliable information. Such reproduced copy shall, without further proof, be admitted into evidence before the Department or in any legal proceeding.

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

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

Sec. 916. Production of Witnesses and Records. (a) Subpoenas. The Department or any officer or employee of the Department designated in writing by the Director, shall at its or his or her own instance, or on the written request of any other party to the proceeding, issue subpoenas requiring the attendance of and the giving of testimony by witnesses, and subpoenas duces tecum requiring the production of books, papers, records or memoranda. All subpoenas and subpoenas duces

tecum issued under this Act may be served by any person of full age.

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

(c) Judicial enforcement. Any Circuit Court of this State, upon the application of the Department or any officer or employee thereof, or upon the application of any other party to the proceeding may, in its discretion, compel the attendance of witnesses, the production of books, papers, records or memoranda and the giving of testimony before the Department or any officer or employee thereof conducting an investigation or holding a hearing not otherwise delegated to the Illinois Independent Tax Tribunal ~~authorized by this Act,~~ by an

attachment for contempt, or otherwise, in the same manner as production of evidence may be compelled before the Court.

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

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

Sec. 918. Place of Hearings.

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

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

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

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

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

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

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

Sec. 1202. Venue.

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

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

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

Sec. 1408. Except as otherwise provided in the Illinois Tax Tribunal Act, the ~~The~~ Illinois Administrative Procedure Act is hereby expressly adopted and shall apply to all administrative rules and procedures of the Department of Revenue under this Act, except that (1) paragraph (b) of Section 5-10 of the

Illinois Administrative Procedure Act does not apply to final orders, decisions and opinions of the Department, (2) subparagraph (a)2 of Section 5-10 of the Illinois Administrative Procedure Act does not apply to forms established by the Department for use under this Act, and (3) the provisions of Section 10-45 of the Illinois Administrative Procedure Act regarding proposals for decision are excluded and not applicable to the Department under this Act.

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

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

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

Sec. 12b. The Illinois Administrative Procedure Act is hereby expressly adopted and shall apply to all administrative rules and procedures of the Department of Revenue under this Act, except that (1) paragraph (b) of Section 5-10 of the Illinois Administrative Procedure Act does not apply to final orders, decisions and opinions of the Department, (2) subparagraph (a)2 of Section 5-10 of the Illinois Administrative Procedure Act does not apply to forms established by the Department for use under this Act, and (3) the provisions of Section 10-45 of the Illinois Administrative Procedure Act regarding proposals for decision are excluded and not applicable to the Department under this Act to the extent

Section 10-45 applies to hearings not otherwise delegated to the Illinois Independent Tax Tribunal.

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

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

Sec. 20. As soon as practicable after a claim for credit or refund is filed, the Department shall examine the same and determine the amount of credit or refund to which the claimant or the claimant's legal representative, in the event that the claimant shall have died or become a person under legal disability, is entitled and shall, by its Notice of Tentative Determination of Claim, notify the claimant or his or her legal representative of such determination, which determination shall be prima facie correct. Proof of such determination by the Department may be made at any hearing before the Department or in any legal proceeding by a reproduced copy of the Department's record relating thereto, in the name of the Department under the certificate of the Director of Revenue. Such reproduced copy shall, without further proof, be admitted into evidence before the Department or in any legal proceeding and shall be prima facie proof of the correctness of the Department's determination, as shown therein. If such claimant, or the legal representative of a deceased claimant or a claimant who is a person under legal disability shall, within 60 days after the Department's Notice of Tentative Determination of Claim, file a protest thereto and request a

hearing thereon, the Department shall give notice to such claimant, or the legal representative of a deceased claimant, or a claimant who is a person under legal disability of the time and place fixed for such hearing, and shall hold a hearing in conformity with the provisions of this Act. On and after July 1, 2013, protests concerning matters that are subject to the jurisdiction of the Illinois Independent Tax Tribunal shall be filed with the Tax Tribunal in accordance with the Illinois Independent Tax Tribunal Act of 2012, and hearings concerning those matters shall be held before the Tribunal in accordance with that Act. With respect to protests filed with the Department prior to July 1, 2013 that would otherwise be subject to the jurisdiction of the Illinois Independent Tax Tribunal, the taxpayer may elect to be subject to the provisions of the Illinois Independent Tax Tribunal Act of 2012 at any time on or after July 1, 2013, but not later than 30 days after the date on which the protest was filed. If made, the election shall be irrevocable. The Department, ~~and pursuant thereto~~ shall issue its Final Determination of the amount, if any, found to be due as a result of a such hearing before the Department or the Tribunal, to such claimant, or the legal representative of a deceased claimant or a claimant who is a person under legal disability.

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

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

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

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

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

Sec. 11. Every serviceman required or authorized to collect taxes hereunder and every user who is subject to the tax imposed by this Act shall keep such records, receipts, invoices and other pertinent books, documents, memoranda and papers as the Department shall require, in such form as the Department shall require. The Department may adopt rules that establish requirements, including record forms and formats, for records

required to be kept and maintained by taxpayers. For purposes of this Section, "records" means all data maintained by the taxpayer, including data on paper, microfilm, microfiche or any type of machine-sensible data compilation. For the purpose of administering and enforcing the provisions hereof, the Department, or any officer or employee of the Department designated, in writing, by the Director thereof, may hold investigations and hearings concerning any matters covered herein and not otherwise delegated to the Illinois Independent Tax Tribunal and may examine any relevant books, papers, records, documents or memoranda of any serviceman or any taxable purchaser for use hereunder, and may require the attendance of such person or any officer or employee of such person, or of any person having knowledge of the facts, and may take testimony and require proof for its information.

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

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

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

shall be prima facie correct. Proof of such determination by the Department may be made at any hearing before the Department or the Illinois Independent Tax Tribunal, as applicable, or in any legal proceeding by a reproduced copy of the Department's record relating thereto, in the name of the Department under the certificate of the Director of Revenue. Such reproduced copy shall, without further proof, be admitted into evidence before the Department or in any legal proceeding and shall be prima facie proof of the correctness of the Department's determination, as shown therein. If such claimant, or the legal representative of a deceased claimant or a claimant who is a person under legal disability, shall, within 60 days after the Department's Notice of Tentative Determination of Claim, file a protest thereto and request a hearing thereon, the Department shall give notice to such claimant, or the legal representative of a deceased claimant or claimant who is a person under legal disability, of the time and place fixed for such hearing, and shall hold a hearing in conformity with the provisions of this Act, and pursuant thereto shall issue its Final Determination of the amount, if any, found to be due as a result of such hearing, to such claimant, or the legal representative of a deceased or incompetent claimant.

If a protest to the Department's Notice of Tentative Determination of Claim is not filed within 60 days and a request for a hearing thereon is not made as provided herein, the Notice shall thereupon become and operate as a Final

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

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

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

Sec. 20a. The Illinois Administrative Procedure Act is hereby expressly adopted and shall apply to all administrative rules and procedures of the Department of Revenue under this Act, except that (1) paragraph (b) of Section 5-10 of the Illinois Administrative Procedure Act does not apply to final orders, decisions and opinions of the Department, (2) subparagraph (a)2 of Section 5-10 of the Illinois Administrative Procedure Act does not apply to forms established by the Department for use under this Act, and (3) the provisions of Section 10-45 of the Illinois Administrative Procedure Act regarding proposals for decision are excluded and

not applicable to the Department under this Act to the extent Section 10-45 applies to hearings not otherwise delegated to the Illinois Independent Tax Tribunal.

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

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

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

Sec. 11. Every supplier required or authorized to collect taxes hereunder and every serviceman making sales of service in this State on or after the effective date hereof shall keep such records, receipts, invoices and other pertinent books, documents, memoranda and papers as the Department shall require, in such form as the Department shall require. The Department may adopt rules that establish requirements, including record forms and formats, for records required to be kept and maintained by taxpayers. For purposes of this Section, "records" means all data maintained by the taxpayer, including data on paper, microfilm, microfiche or any type of machine-sensible data compilation. For the purpose of administering and enforcing the provisions hereof, the Department, or any officer or employee of the Department designated, in writing, by the Director thereof, may hold investigations and hearings not otherwise delegated to the Illinois Independent Tax Tribunal concerning any matters

covered herein and may examine any books, papers, records, documents or memoranda of any supplier or serviceman bearing upon the sales of services or the sales of tangible personal property to servicemen, and may require the attendance of such person or any officer or employee of such person, or of any person having knowledge of the facts, and may take testimony and require proof for its information.

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

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

Sec. 18. As soon as practicable after a claim for credit or refund is filed, the Department shall examine the same and determine the amount of credit or refund to which the claimant or the claimant's legal representative, in the event that the claimant shall have died or become a person under legal disability, is entitled and shall, by its Notice of Tentative Determination of Claim, notify the claimant or his or her legal representative of such determination, which determination shall be prima facie correct. Proof of such determination by the Department may be made at any hearing before the Department or the Illinois Independent Tax Tribunal, as applicable, or in any legal proceeding by a reproduced copy of the Department's record relating thereto, in the name of the Department under the certificate of the Director of Revenue. Such reproduced copy shall, without further proof, be admitted into evidence before the Department or in any legal proceeding and shall be

prima facie proof of the correctness of the Department's determination, as shown therein. If such claimant, or the legal representative of a deceased claimant or a claimant who is under legal disability shall, within 60 days after the Department's Notice of Tentative Determination of Claim, file a protest thereto and request a hearing thereon, the Department shall give notice to such claimant, or the legal representative of a deceased claimant or a claimant who is under legal disability, of the time and place fixed for such hearing, and shall hold a hearing in conformity with the provisions of this Act, and pursuant thereto shall issue its Final Determination of the amount, if any, found to be due as a result of such hearing, to such claimant, or the legal representative of a deceased claimant or a claimant who is under legal disability.

If a protest to the Department's Notice of Tentative Determination of Claim is not filed within 60 days and a request for a hearing thereon is not made as provided herein, the Notice shall thereupon become and operate as a Final Determination; and, if the Department's Notice of Tentative Determination, upon becoming a Final Determination, indicates no amount due to the claimant, or, upon issuance of a credit or refund for the amount, if any, found by the Department to be due, the claim in all its aspects shall be closed and no longer open to protest, hearing, judicial review, or by any other proceeding or action whatever, either before the Department or in any court of this State. Claims for credit or refund

hereunder must be filed with and initially determined by the Department, the remedy herein provided being exclusive; and no court shall have jurisdiction to determine the merits of any claim except upon review as provided in this Act.

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

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

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

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

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

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

Sec. 4. As soon as practicable after any return is filed, the Department shall examine such return and shall, if necessary, correct such return according to its best judgment and information. If the correction of a return results in an amount of tax that is understated on the taxpayer's return due to a mathematical error, the Department shall notify the taxpayer that the amount of tax in excess of that shown on the return is due and has been assessed. The term "mathematical error" means arithmetic errors or incorrect computations on the return or supporting schedules. No such notice of additional tax due shall be issued on and after each July 1 and January 1 covering gross receipts received during any month or period of time more than 3 years prior to such July 1 and January 1, respectively. Such notice of additional tax due shall not be considered a notice of tax liability nor shall the taxpayer have any right of protest. In the event that the return is corrected for any reason other than a mathematical error, any return so corrected by the Department shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown therein. In correcting transaction by transaction reporting returns provided for in Section 3 of this Act, it shall be permissible for the Department to show a single corrected return figure for any given period of a calendar month instead of having to correct each transaction by transaction return form individually and

having to show a corrected return figure for each of such transaction by transaction return forms. In making a correction of transaction by transaction, monthly or quarterly returns covering a period of 6 months or more, it shall be permissible for the Department to show a single corrected return figure for any given 6-month period.

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

Proof of such correction by the Department may be made at any hearing before the Department or the Illinois Independent Tax Tribunal or in any legal proceeding by a reproduced copy or computer print-out of the Department's record relating thereto in the name of the Department under the certificate of the Director of Revenue. If reproduced copies of the Department's records are offered as proof of such correction, the Director must certify that those copies are true and exact copies of records on file with the Department. If computer print-outs of the Department's records are offered as proof of such correction, the Director must certify that those computer print-outs are true and exact representations of records properly entered into standard electronic computing equipment, in the regular course of the Department's business, at or reasonably near the time of the occurrence of the facts recorded, from trustworthy and reliable information. Such certified reproduced copy or certified computer print-out

shall without further proof, be admitted into evidence before the Department or in any legal proceeding and shall be prima facie proof of the correctness of the amount of tax due, as shown therein.

If the tax computed upon the basis of the gross receipts as fixed by the Department is greater than the amount of tax due under the return or returns as filed, the Department shall (or if the tax or any part thereof that is admitted to be due by a return or returns, whether filed on time or not, is not paid, the Department may) issue the taxpayer a notice of tax liability for the amount of tax claimed by the Department to be due, together with a penalty in an amount determined in accordance with Section 3-3 of the Uniform Penalty and Interest Act. Provided, that if the incorrectness of any return or returns as determined by the Department is due to negligence or fraud, said penalty shall be in an amount determined in accordance with Section 3-5 or Section 3-6 of the Uniform Penalty and Interest Act, as the case may be. If the notice of tax liability is not based on a correction of the taxpayer's return or returns, but is based on the taxpayer's failure to pay all or a part of the tax admitted by his return or returns (whether filed on time or not) to be due, such notice of tax liability shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown therein.

Proof of such notice of tax liability by the Department may

be made at any hearing before the Department or the Illinois Independent Tax Tribunal or in any legal proceeding by a reproduced copy of the Department's record relating thereto in the name of the Department under the certificate of the Director of Revenue. Such reproduced copy shall without further proof, be admitted into evidence before the Department or in any legal proceeding and shall be prima facie proof of the correctness of the amount of tax due, as shown therein.

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

Except in case of a fraudulent return, or in the case of an amended return (where a notice of tax liability may be issued on or after each January 1 and July 1 for an amended return filed not more than 3 years prior to such January 1 or July 1, respectively), no notice of tax liability shall be issued on and after each January 1 and July 1 covering gross receipts received during any month or period of time more than 3 years prior to such January 1 and July 1, respectively. If, before the expiration of the time prescribed in this Section for the issuance of a notice of tax liability, both the Department and the taxpayer have consented in writing to its issuance after such time, such notice may be issued at any time prior to the expiration of the period agreed upon. The period so agreed upon

may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. The foregoing limitations upon the issuance of a notice of tax liability shall not apply to the issuance of a notice of tax liability with respect to any period of time prior thereto in cases where the Department has, within the period of limitation then provided, notified the person making the return of a notice of tax liability even though such return, with which the tax that was shown by such return to be due was paid when the return was filed, had not been corrected by the Department in the manner required herein prior to the issuance of such notice, but in no case shall the amount of any such notice of tax liability for any period otherwise barred by this Act exceed for such period the amount shown in the notice of tax liability theretofore issued.

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

this Act, the person allegedly liable therefor is not a resident of this State.

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

If such person or legal representative shall within 60 days after such notice of tax liability file a protest to said notice of tax liability with the Department and request a hearing thereon, the Department shall give notice to such person or legal representative of the time and place fixed for such hearing and shall hold a hearing in conformity with the provisions of this Act, and pursuant thereto shall issue to such person or legal representative a final assessment for the amount found to be due as a result of such hearing. On or after July 1, 2013, protests concerning matters that are subject to the jurisdiction of the Illinois Independent Tax Tribunal shall be filed with the Illinois Independent Tax Tribunal in accordance with the Illinois Independent Tax Tribunal Act of 2012, and hearings concerning those matters shall be held before the Tribunal in accordance with that Act. The Tribunal shall give notice to such person of the time and place fixed for such hearing and shall hold a hearing. With respect to protests filed with the Department prior to July 1, 2013 that would otherwise be subject to the jurisdiction of the Illinois

Independent Tax Tribunal, the taxpayer may elect to be subject to the provisions of the Illinois Independent Tax Tribunal Act of 2012 at any time on or after July 1, 2013, but not later than 30 days after the date on which the protest was filed. If made, the election shall be irrevocable.

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

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

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

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

Sec. 5. In case any person engaged in the business of

selling tangible personal property at retail fails to file a return when and as herein required, but thereafter, prior to the Department's issuance of a notice of tax liability under this Section, files a return and pays the tax, he shall also pay a penalty in an amount determined in accordance with Section 3-3 of the Uniform Penalty and Interest Act.

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

In case any person engaged in the business of selling tangible personal property at retail fails to file a return when and as herein required, but thereafter, prior to the Department's issuance of a notice of tax liability under this Section, files a return but fails to pay the entire tax, a penalty in an amount determined in accordance with Section 3-3 of the Uniform Penalty and Interest Act shall be added thereto.

In case any person engaged in the business of selling tangible personal property at retail fails to file a return, the Department shall determine the amount of tax due from him according to its best judgment and information, which amount so fixed by the Department shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown in such determination. In making any such

determination of tax due, it shall be permissible for the Department to show a figure that represents the tax due for any given period of 6 months instead of showing the amount of tax due for each month separately. Proof of such determination by the Department may be made at any hearing before the Department or in any legal proceeding by a reproduced copy or computer print-out of the Department's record relating thereto in the name of the Department under the certificate of the Director of Revenue. If reproduced copies of the Department's records are offered as proof of such determination, the Director must certify that those copies are true and exact copies of records on file with the Department. If computer print-outs of the Department's records are offered as proof of such determination, the Director must certify that those computer print-outs are true and exact representations of records properly entered into standard electronic computing equipment, in the regular course of the Department's business, at or reasonably near the time of the occurrence of the facts recorded, from trustworthy and reliable information. Such certified reproduced copy or certified computer print-out shall, without further proof, be admitted into evidence before the Department or in any legal proceeding and shall be prima facie proof of the correctness of the amount of tax due, as shown therein. The Department shall issue the taxpayer a notice of tax liability for the amount of tax claimed by the Department to be due, together with a penalty of 30% thereof.

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

The taxpayer or the taxpayer's legal representative may ~~If such person or the legal representative of such person files,~~ within 60 days after such notice, file a protest to such notice of tax liability with the Department and request ~~requests~~ a hearing thereon. The ~~the~~ Department shall give notice to such person or the legal representative of such person of the time and place fixed for such hearing, and shall hold a hearing in conformity with the provisions of this Act, and pursuant thereto shall issue a final assessment to such person or to the legal representative of such person for the amount found to be due as a result of such hearing. On and after July 1, 2013, protests concerning matters that are under the jurisdiction of the Illinois Independent Tax Tribunal shall be filed with the Illinois Independent Tax Tribunal in accordance with the Illinois Independent Tax Tribunal Act of 2012, and hearings concerning those matters shall be held before the Tribunal in accordance with that Act. With respect to protests filed with the Illinois Independent Tax Tribunal, the Tribunal shall give notice to that person or the legal representative of that

person of the time and place fixed for a hearing, and shall hold a hearing in conformity with the provisions of this Act and the Illinois Independent Tax Tribunal Act; and pursuant thereto the Department shall issue a final assessment to such person or to the legal representative of such person for the amount found to be due as a result of the hearing. With respect to protests filed with the Department prior to July 1, 2013 that would otherwise be subject to the jurisdiction of the Illinois Independent Tax Tribunal, the taxpayer may elect to be subject to the provisions of the Illinois Independent Tax Tribunal Act of 2012 at any time on or after July 1, 2013, but not later than 30 days after the date on which the protest was filed. If made, the election shall be irrevocable.

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

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

hearing or rehearing, the Department shall issue a revised final assessment to such person or his legal representative for the amount found to be due as a result of such hearing or rehearing.

Except in case of failure to file a return, or with the consent of the person to whom the notice of tax liability is to be issued, no notice of tax liability shall be issued on and after each July 1 and January 1 covering gross receipts received during any month or period of time more than 3 years prior to such July 1 and January 1, respectively, except that if a return is not filed at the required time, a notice of tax liability may be issued not later than 3 years after the time the return is filed. The foregoing limitations upon the issuance of a notice of tax liability shall not apply to the issuance of any such notice with respect to any period of time prior thereto in cases where the Department has, within the period of limitation then provided, notified a person of the amount of tax computed even though the Department had not determined the amount of tax due from such person in the manner required herein prior to the issuance of such notice, but in no case shall the amount of any such notice of tax liability for any period otherwise barred by this Act exceed for such period the amount shown in the notice theretofore issued.

If, when a tax or penalty under this Act becomes due and payable, the person alleged to be liable therefor is out of the State, the notice of tax liability may be issued within the

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

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

In case of failure to pay the tax, or any portion thereof, or any penalty provided for in this Act, or interest, when due, the Department may bring suit to recover the amount of such tax, or portion thereof, or penalty or interest; or, if the taxpayer has died or become a person under legal disability, may file a claim therefor against his estate; provided that no such suit with respect to any tax, or portion thereof, or penalty, or interest shall be instituted more than 6 years after the date any proceedings in court for review thereof have terminated or the time for the taking thereof has expired without such proceedings being instituted, except with the

consent of the person from whom such tax or penalty or interest is due; nor, except with such consent, shall such suit be instituted more than 6 years after the date any return is filed with the Department in cases where the return constitutes the basis for the suit for unpaid tax, or portion thereof, or penalty provided for in this Act, or interest: Provided that the time limitation period on the Department's right to bring any such suit shall not run during any period of time in which the order of any court has the effect of enjoining or restraining the Department from bringing such suit.

After the expiration of the period within which the person assessed may file an action for judicial review under the Administrative Review Law or the Illinois Independent Tax Tribunal Act, as applicable, without such an action being filed, a certified copy of the final assessment or revised final assessment of the Department may be filed with the Circuit Court of the county in which the taxpayer has his principal place of business, or of Sangamon County in those cases in which the taxpayer does not have his principal place of business in this State. The certified copy of the final assessment or revised final assessment shall be accompanied by a certification which recites facts that are sufficient to show that the Department complied with the jurisdictional requirements of the Act in arriving at its final assessment or its revised final assessment and that the taxpayer had his opportunity for an administrative hearing and for judicial

review, whether he availed himself or herself of either or both of these opportunities or not. If the court is satisfied that the Department complied with the jurisdictional requirements of the Act in arriving at its final assessment or its revised final assessment and that the taxpayer had his opportunity for an administrative hearing and for judicial review, whether he availed himself of either or both of these opportunities or not, the court shall render judgment in favor of the Department and against the taxpayer for the amount shown to be due by the final assessment or the revised final assessment, plus any interest which may be due, and such judgment shall be entered in the judgment docket of the court. Such judgment shall bear the rate of interest as set by the Uniform Penalty and Interest Act, but otherwise shall have the same effect as other judgments. The judgment may be enforced, and all laws applicable to sales for the enforcement of a judgment shall be applicable to sales made under such judgments. The Department shall file the certified copy of its assessment, as herein provided, with the Circuit Court within 6 years after such assessment becomes final except when the taxpayer consents in writing to an extension of such filing period, and except that the time limitation period on the Department's right to file the certified copy of its assessment with the Circuit Court shall not run during any period of time in which the order of any court has the effect of enjoining or restraining the Department from filing such certified copy of its assessment

with the Circuit Court.

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

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

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

In addition to any penalty provided for in this Act, any

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

In addition to any other remedy provided by this Act, and regardless of whether the Department is making or intends to make use of such other remedy, where a corporation or limited liability company registered under this Act violates the provisions of this Act or of any rule or regulation promulgated thereunder, the Department may give notice to the Attorney General of the identity of such a corporation or limited liability company and of the violations committed by such a corporation or limited liability company, for such action as is not already provided for by this Act and as the Attorney General may deem appropriate.

If the Department determines that an amount of tax or penalty or interest was incorrectly assessed, whether as the result of a mistake of fact or an error of law, the Department

shall waive the amount of tax or penalty or interest that accrued due to the incorrect assessment.

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

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

Sec. 5a. The Department shall have a lien for the tax herein imposed or any portion thereof, or for any penalty provided for in this Act, or for any amount of interest which may be due as provided for in Section 5 of this Act, upon all the real and personal property of any person to whom a final assessment or revised final assessment has been issued as provided in this Act, or whenever a return is filed without payment of the tax or penalty shown therein to be due, including all such property of such persons acquired after receipt of such assessment or filing of such return. The taxpayer is liable for the filing fee incurred by the Department for filing the lien and the filing fee incurred by the Department to file the release of that lien. The filing fees shall be paid to the Department in addition to payment of the tax, penalty, and interest included in the amount of the lien.

However, where the lien arises because of the issuance of a final assessment or revised final assessment by the Department, such lien shall not attach and the notice hereinafter referred to in this Section shall not be filed until all proceedings in court for review of such final assessment or revised final

assessment have terminated or the time for the taking thereof has expired without such proceedings being instituted.

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

The lien created by the issuance of a final assessment shall terminate unless a notice of lien is filed, as provided in Section 5b hereof, within 3 years from the date all proceedings in court for the review of such final assessment have terminated or the time for the taking thereof has expired without such proceedings being instituted, or (in the case of a revised final assessment issued pursuant to a rehearing or departmental review) within 3 years from the date all proceedings in court for the review of such revised final assessment have terminated or the time for the taking thereof has expired without such proceedings being instituted; and where the lien results from the filing of a return without payment of the tax or penalty shown therein to be due, the lien shall terminate unless a notice of lien is filed, as provided in Section 5b hereof, within 3 years from the date when such return is filed with the Department: Provided that the time limitation period on the Department's right to file a notice of lien shall not run during any period of time in which the order of any court has the effect of enjoining or restraining the

Department from filing such notice of lien.

If the Department finds that a taxpayer is about to depart from the State, or to conceal himself or his property, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect such tax unless such proceedings are brought without delay, or if the Department finds that the collection of the amount due from any taxpayer will be jeopardized by delay, the Department shall give the taxpayer notice of such findings and shall make demand for immediate return and payment of such tax, whereupon such tax shall become immediately due and payable. If the taxpayer, within 5 days after such notice (or within such extension of time as the Department may grant), does not comply with such notice or show to the Department that the findings in such notice are erroneous, the Department may file a notice of jeopardy assessment lien in the office of the recorder of the county in which any property of the taxpayer may be located and shall notify the taxpayer of such filing. Such jeopardy assessment lien shall have the same scope and effect as the statutory lien hereinbefore provided for in this Section.

If the taxpayer believes that he does not owe some or all of the tax for which the jeopardy assessment lien against him has been filed, or that no jeopardy to the revenue in fact exists, he may protest within 20 days after being notified by the Department of the filing of such jeopardy assessment lien and request a hearing, whereupon the Department shall hold a

hearing in conformity with the provisions of this Act and, pursuant thereto, shall notify the taxpayer of its findings as to whether or not such jeopardy assessment lien will be released. If not, and if the taxpayer is aggrieved by this decision, he may file an action for judicial review of such final determination of the Department in accordance with Section 12 of this Act and the Administrative Review Law.

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

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

irrevocable.

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

The Department shall also release its jeopardy assessment lien against the taxpayer whenever the tax and penalty covered by such lien, plus any interest which may be due, are paid and the taxpayer has paid the Department in cash or by guaranteed remittance an amount representing the filing fee for the lien and the filing fee for the release of that lien. The Department shall file that release of lien with the recorder of the county where that lien was filed.

Nothing in this Section shall be construed to give the Department a preference over the rights of any bona fide purchaser, holder of a security interest, mechanics lienholder, mortgagee, or judgment lien creditor arising prior to the filing of a regular notice of lien or a notice of

jeopardy assessment lien in the office of the recorder in the county in which the property subject to the lien is located: Provided, however, that the word "bona fide", as used in this Section shall not include any mortgage of real or personal property or any other credit transaction that results in the mortgagee or the holder of the security acting as trustee for unsecured creditors of the taxpayer mentioned in the notice of lien who executed such chattel or real property mortgage or the document evidencing such credit transaction. Such lien shall be inferior to the lien of general taxes, special assessments and special taxes heretofore or hereafter levied by any political subdivision of this State.

In case title to land to be affected by the notice of lien or notice of jeopardy assessment lien is registered under the provisions of "An Act concerning land titles", approved May 1, 1897, as amended, such notice shall be filed in the office of the Registrar of Titles of the county within which the property subject to the lien is situated and shall be entered upon the register of titles as a memorial or charge upon each folium of the register of titles affected by such notice, and the Department shall not have a preference over the rights of any bona fide purchaser, mortgagee, judgment creditor or other lien holder arising prior to the registration of such notice: Provided, however, that the word "bona fide" shall not include any mortgage of real or personal property or any other credit transaction that results in the mortgagee or the holder of the

security acting as trustee for unsecured creditors of the taxpayer mentioned in the notice of lien who executed such chattel or real property mortgage or the document evidencing such credit transaction.

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

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

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

Sec. 8. For the purpose of administering and enforcing the provisions of this Act, the Department, or any officer or employee of the Department designated, in writing, by the Director thereof, may hold investigations and hearings not otherwise delegated to the Illinois Independent Tax Tribunal concerning any matters covered by this Act and may examine any books, papers, records or memoranda bearing upon the sales of tangible personal property or services of any such person, and may require the attendance of such person or any officer or employee of such person, or of any person having knowledge of such business, and may take testimony and require proof for its information. In the conduct of any investigation or hearing, neither the Department nor any officer or employee thereof shall be bound by the technical rules of evidence, and no informality in any proceeding, or in the manner of taking

testimony, shall invalidate any order, decision, rule or regulation made or approved or confirmed by the Department. The Director of Revenue, or any officer or employee of the Department authorized by the Director thereof, shall have power to administer oaths to such persons. The books, papers, records and memoranda of the Department, or parts thereof, may be proved in any hearing, investigation, or legal proceeding by a reproduced copy thereof under the certificate of the Director of Revenue. Such reproduced copy shall, without further proof, be admitted into evidence before the Department or in any legal proceeding.

(Source: Laws 1965, p. 200.)

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

Sec. 9. No person shall be excused from testifying or from producing any books, papers, records or memoranda in any investigation or upon any hearing not otherwise delegated to the Illinois Independent Tax Tribunal, when ordered to do so by the department or any officer or employee thereof, upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to a criminal penalty, but no person shall be prosecuted or subjected to any criminal penalty for, or on account of, any transaction made or thing concerning which he may testify or produce evidence, documentary or otherwise, before the department or an officer or employee thereof; provided, that

such immunity shall extend only to a natural person who, in obedience to a subpoena, gives testimony under oath or produces evidence, documentary or otherwise, under oath. No person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

(Source: Laws 1933, p. 924.)

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

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

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

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

Sec. 12. The Department is authorized to make, promulgate

and enforce such reasonable rules and regulations relating to the administration and enforcement of the provisions of this Act as may be deemed expedient.

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

All hearings provided for in this Act with respect to or concerning a taxpayer having his or her principal place of business in this State other than in Cook County shall be held at the Department's office nearest to the location of the taxpayer's principal place of business: Provided that if the taxpayer has his or her principal place of business in Cook County, such hearing shall be held in Cook County; and provided, further, that if the taxpayer does not have his or her principal place of business in this State, such hearing shall be held in Sangamon County.

The Circuit Court of the County wherein the taxpayer has his or her principal place of business, or of Sangamon County in those cases where the taxpayer does not have his or her

principal place of business in this State, shall have power to review all final administrative decisions of the Department in administering the provisions of this Act: Provided that if the administrative proceeding which is to be reviewed judicially is a claim for refund proceeding commenced in accordance with Section 6 of this Act and Section 2a of "An Act in relation to the payment and disposition of moneys received by officers and employees of the State of Illinois by virtue of their office or employment", approved June 9, 1911, as amended, the Circuit Court having jurisdiction of the action for judicial review under this Section and under the Administrative Review Law, as amended, shall be the same court that entered the temporary restraining order or preliminary injunction which is provided for in Section 2a of "An Act in relation to the payment and disposition of moneys received by officers and employees of the State of Illinois by virtue of their office or employment", and which enables such claim proceeding to be processed and disposed of as a claim for refund proceeding rather than as a claim for credit proceeding.

The provisions of the Administrative Review Law, and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of the Department hereunder, except with respect to protests and hearings held before the Illinois Independent Tax Tribunal. The provisions of the Illinois Independent Tax Tribunal Act, and the rules adopted pursuant thereto, shall

apply to and govern all proceedings for the judicial review of administrative decisions of the Department that are subject to the jurisdiction of the Illinois Independent Tax Tribunal. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

Except with respect to decisions that are subject to the jurisdiction of the Illinois Independent Tax Tribunal, any ~~Any~~ person filing an action under the Administrative Review Law to review a final assessment or revised final assessment issued by the Department under this Act shall, within 20 days after filing the complaint, file a bond with good and sufficient surety or sureties residing in this State or licensed to do business in this State or, instead of the bond, obtain an order from the court imposing a lien upon the plaintiff's property as hereinafter provided. If the person filing the complaint fails to comply with this bonding requirement within 20 days after filing the complaint, the Department shall file a motion to dismiss and the court shall dismiss the action unless the person filing the action complies with the bonding requirement set out in this provision within 30 days after the filing of the Department's motion to dismiss. Upon dismissal of any complaint for failure to comply with the jurisdictional prerequisites herein set forth, the court is empowered to and shall enter judgment against the taxpayer and in favor of the Department in the amount of the final assessment or revised final assessment, together with any interest which may have

accrued since the Department issued the final assessment or revised final assessment, and for costs, which judgment is enforceable as other judgments for the payment of money. The lien provided for in this Section shall not be applicable to the real property of a corporate surety duly licensed to do business in this State. The amount of such bond shall be fixed and approved by the court, but shall not be less than the amount of the tax and penalty claimed to be due by the Department in its final assessment or revised final assessment to the person filing such bond, plus the amount of interest due from such person to the Department at the time when the Department issued its final assessment to such person. Such bond shall be executed to the Department of Revenue and shall be conditioned on the taxpayer's payment within 30 days after termination of the proceedings for judicial review of the amount of tax and penalty and interest found by the court to be due in such proceedings for judicial review. Such bond, when filed and approved, shall, from such time until 2 years after termination of the proceedings for judicial review in which the bond is filed, be a lien against the real estate situated in the county in which the bond is filed, of the person filing such bond, and of the surety or sureties on such bond, until the condition of the bond has been complied with or until the bond has been canceled as hereinafter provided. If the person filing any such bond fails to keep the condition thereof, such bond shall thereupon be forfeited, and the Department may

institute an action upon such bond in its own name for the entire amount of the bond and costs. Such action upon the bond shall be in addition to any other remedy provided for herein. If the person filing such bond complies with the condition thereof, or if, in the proceedings for judicial review in which such bond is filed, the court determines that no amount of tax or penalty or interest is due, such bond shall be canceled.

If the court finds in a particular case that the plaintiff cannot procure and furnish a satisfactory surety or sureties for the kind of bond required herein, the court may relieve the plaintiff of the obligation of filing such bond, if, upon the timely application for a lien in lieu thereof and accompanying proof therein submitted, the court is satisfied that any such lien imposed would operate to secure the assessment in the manner and to the degree as would a bond. Upon a finding that such lien applied for would secure the assessment at issue, the court shall enter an order, in lieu of such bond, subjecting the plaintiff's real and personal property (including subsequently acquired property), situated in the county in which such order is entered, to a lien in favor of the Department. Such lien shall be for the amount of the tax and penalty claimed to be due by the Department in its final assessment or revised final assessment, plus the amount of interest due from such person to the Department at the time when the Department issued its final assessment to such person, and shall continue in full force and effect until the

termination of the proceedings for judicial review, or until the plaintiff pays, to the Department, the tax and penalty and interest to secure which the lien is given, whichever happens first. In the exercise of its discretion, the court may impose a lien regardless of the ratio of the taxpayer's assets to the final assessment or revised final assessment plus the amount of the interest and penalty. Nothing in this Section shall be construed to give the Department a preference over the rights of any bona fide purchaser, mortgagee, judgment creditor or other lien holder arising prior to the entry of the order creating such lien in favor of the Department: Provided, however, that the word "bona fide", as used in this Section, shall not include any mortgage of real or personal property or any other credit transaction that results in the mortgagee or the holder of the security acting as trustee for unsecured creditors of the taxpayer mentioned in the order for lien who executed such chattel or real property mortgage or the document evidencing such credit transaction. Such lien shall be inferior to the lien of general taxes, special assessments and special taxes heretofore or hereafter levied by any political subdivision of this State. Such lien shall not be effective against any purchaser with respect to any item in a retailer's stock in trade purchased from the retailer in the usual course of such retailer's business, and such lien shall not be enforced against the household effects, wearing apparel, or the books, tools or implements of a trade or profession kept for

use by any person. Such lien shall not be effective against real property whose title is registered under the provisions of "An Act concerning land titles", approved May 1, 1897, as amended, until the provisions of Section 85 of that Act are complied with.

Service upon the Director of Revenue or the Assistant Director of Revenue of the Department of Revenue of summons issued in an action to review a final administrative decision of the Department shall be service upon the Department. The Department shall certify the record of its proceedings if the taxpayer pays to it the sum of 75¢ per page of testimony taken before the Department and 25¢ per page of all other matters contained in such record, except that these charges may be waived where the Department is satisfied that the aggrieved party is a poor person who cannot afford to pay such charges. If payment for such record is not made by the taxpayer within 30 days after notice from the Department or the Attorney General of the cost thereof, the court in which the proceeding is pending, on motion of the Department, shall dismiss the complaint and (where the administrative decision as to which the action for judicial review was filed is a final assessment or revised final assessment) shall enter judgment against the taxpayer and in favor of the Department for the amount of tax and penalty shown by the Department's final assessment or revised final assessment to be due, plus interest as provided for in Section 5 of this Act from the date when the liability

upon which such interest accrued became delinquent until the entry of the judgment in the action for judicial review under the Administrative Review Law, and also for costs.

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

The changes made by this amendatory Act of 1995 apply to all actions pending on and after the effective date of this amendatory Act of 1995 to review a final assessment or revised final assessment issued by the Department.

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

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

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

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

No stamp or imprint may be affixed to, or made upon, any package of cigarettes unless that package complies with all requirements of the federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1331 and following, for the placement of labels, warnings, or any other information upon a package of cigarettes that is sold within the United States. Under the authority of Section 6, the Department shall revoke the license of any distributor that is determined to have violated this paragraph. A person may not affix a stamp on a package of cigarettes, cigarette papers, wrappers, or tubes if that individual package has been marked for export outside the United States with a label or notice in compliance with Section 290.185 of Title 27 of the Code of Federal Regulations. It is not a defense to a proceeding for violation of this paragraph that the label or

notice has been removed, mutilated, obliterated, or altered in any manner.

Only distributors licensed under this Act and transporters, as defined in Section 9c of this Act, may possess unstamped original packages of cigarettes. Prior to shipment to a secondary distributor or an Illinois retailer, a stamp shall be applied to each original package of cigarettes sold to the secondary distributor or retailer. A distributor may apply tax stamps only to original packages of cigarettes purchased or obtained directly from an in-state maker, manufacturer, or fabricator licensed as a distributor under Section 4 of this Act or an out-of-state maker, manufacturer, or fabricator holding a permit under Section 4b of this Act. A licensed distributor may ship or otherwise cause to be delivered unstamped original packages of cigarettes in, into, or from this State. A licensed distributor may transport unstamped original packages of cigarettes to a facility, wherever located, owned or controlled by such distributor; however, a distributor may not transport unstamped original packages of cigarettes to a facility where retail sales of cigarettes take place or to a facility where a secondary distributor makes sales for resale. Any licensed distributor that ships or otherwise causes to be delivered unstamped original packages of cigarettes into, within, or from this State shall ensure that the invoice or equivalent documentation and the bill of lading or freight bill for the shipment identifies the true name and

address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity by brand style of the cigarettes so transported, provided that this Section shall not be construed as to impose any requirement or liability upon any common or contract carrier.

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

Prior to December 1, 1985, the Department shall allow a distributor 21 days in which to make final payment of the amount to be paid for such stamps, by allowing the distributor to make payment for the stamps at the time of purchasing them with a draft which shall be in such form as the Department prescribes, and which shall be payable within 21 days thereafter: Provided that such distributor has filed with the Department, and has received the Department's approval of, a

bond, which is in addition to the bond required under Section 4 of this Act, payable to the Department in an amount equal to 80% of such distributor's average monthly tax liability to the Department under this Act during the preceding calendar year or \$500,000, whichever is less. The Bond shall be joint and several and shall be in the form of a surety company bond in such form as the Department prescribes, or it may be in the form of a bank certificate of deposit or bank letter of credit. The bond shall be conditioned upon the distributor's payment of amount of any 21-day draft which the Department accepts from that distributor for the delivery of stamps to that distributor under this Act. The distributor's failure to pay any such draft, when due, shall also make such distributor automatically liable to the Department for a penalty equal to 25% of the amount of such draft.

On and after December 1, 1985 and until July 1, 2003, the Department shall allow a distributor 30 days in which to make final payment of the amount to be paid for such stamps, by allowing the distributor to make payment for the stamps at the time of purchasing them with a draft which shall be in such form as the Department prescribes, and which shall be payable within 30 days thereafter, and beginning on January 1, 2003 and thereafter, the draft shall be payable by means of electronic funds transfer: Provided that such distributor has filed with the Department, and has received the Department's approval of, a bond, which is in addition to the bond required under Section

4 of this Act, payable to the Department in an amount equal to 150% of such distributor's average monthly tax liability to the Department under this Act during the preceding calendar year or \$750,000, whichever is less, except that as to bonds filed on or after January 1, 1987, such additional bond shall be in an amount equal to 100% of such distributor's average monthly tax liability under this Act during the preceding calendar year or \$750,000, whichever is less. The bond shall be joint and several and shall be in the form of a surety company bond in such form as the Department prescribes, or it may be in the form of a bank certificate of deposit or bank letter of credit. The bond shall be conditioned upon the distributor's payment of the amount of any 30-day draft which the Department accepts from that distributor for the delivery of stamps to that distributor under this Act. The distributor's failure to pay any such draft, when due, shall also make such distributor automatically liable to the Department for a penalty equal to 25% of the amount of such draft.

Every prior continuous compliance taxpayer shall be exempt from all requirements under this Section concerning the furnishing of such bond, as defined in this Section, as a condition precedent to his being authorized to engage in the business licensed under this Act. This exemption shall continue for each such taxpayer until such time as he may be determined by the Department to be delinquent in the filing of any returns, or is determined by the Department (either through the

Department's issuance of a final assessment which has become final under the Act, or by the taxpayer's filing of a return which admits tax to be due that is not paid) to be delinquent or deficient in the paying of any tax under this Act, at which time that taxpayer shall become subject to the bond requirements of this Section and, as a condition of being allowed to continue to engage in the business licensed under this Act, shall be required to furnish bond to the Department in such form as provided in this Section. Such taxpayer shall furnish such bond for a period of 2 years, after which, if the taxpayer has not been delinquent in the filing of any returns, or delinquent or deficient in the paying of any tax under this Act, the Department may reinstate such person as a prior continuance compliance taxpayer. Any taxpayer who fails to pay an admitted or established liability under this Act may also be required to post bond or other acceptable security with the Department guaranteeing the payment of such admitted or established liability.

Except as otherwise provided in this Section, any ~~Any~~ person aggrieved by any decision of the Department under this Section may, within the time allowed by law, protest and request a hearing, whereupon the Department shall give notice and shall hold a hearing in conformity with the provisions of this Act and then issue its final administrative decision in the matter to such person. On and after July 1, 2013, protests concerning matters that are subject to the jurisdiction of the

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

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

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

(2) Such taxpayer has ceased to collect receipts on which he is required to remit tax to the Department, has filed a final tax return, and has paid to the Department an amount sufficient to discharge his remaining tax liability as determined by the Department under this Act. The Department shall make a final determination of the taxpayer's outstanding

tax liability as expeditiously as possible after his final tax return has been filed. If the Department cannot make such final determination within 45 days after receiving the final tax return, within such period it shall so notify the taxpayer, stating its reasons therefor.

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

Illinois cigarette manufacturers who place their cigarettes in original packages which are contained inside a sealed transparent wrapper, and similar out-of-State cigarette manufacturers who elect to qualify and are accepted by the Department as distributors under Section 4b(a) of this Act, shall pay the taxes imposed by this Act by remitting the amount thereof to the Department by the 5th day of each month covering

cigarettes shipped or otherwise delivered in Illinois to purchasers during the preceding calendar month. Such manufacturers of cigarettes in original packages which are contained inside a sealed transparent wrapper, before delivering such cigarettes or causing such cigarettes to be delivered in this State to purchasers, shall evidence their obligation to remit the taxes due with respect to such cigarettes by imprinting language to be prescribed by the Department on each original package of such cigarettes underneath the sealed transparent outside wrapper of such original package, in such place thereon and in such manner as the Department may designate. Such imprinted language shall acknowledge the manufacturer's payment of or liability for the tax imposed by this Act with respect to the distribution of such cigarettes.

A distributor shall not affix, or cause to be affixed, any stamp or imprint to a package of cigarettes, as provided for in this Section, if the tobacco product manufacturer, as defined in Section 10 of the Tobacco Product Manufacturers' Escrow Act, that made or sold the cigarettes has failed to become a participating manufacturer, as defined in subdivision (a)(1) of Section 15 of the Tobacco Product Manufacturers' Escrow Act, or has failed to create a qualified escrow fund for any cigarettes manufactured by the tobacco product manufacturer and sold in this State or otherwise failed to bring itself into compliance with subdivision (a)(2) of Section 15 of the Tobacco

Product Manufacturers' Escrow Act.

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

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

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

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

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

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

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

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

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

Service upon the Director of Revenue or Assistant Director of Revenue of summons issued in any action to review a final administrative decision shall be service upon the Department. The Department shall certify the record of its proceedings if the distributor, secondary distributor, or manufacturer with authority to maintain manufacturer representatives pays to it the sum of 75¢ per page of testimony taken before the Department and 25¢ per page of all other matters contained in such record, except that these charges may be waived where the Department is satisfied that the aggrieved party is a poor person who cannot afford to pay such charges. Before the delivery of such record to the person applying for it, payment of these charges must be made, and if the record is not paid for within 30 days after notice that such record is available, the complaint may be dismissed by the court upon motion of the Department.

No stay order shall be entered by the Circuit Court unless

the distributor, secondary distributor, or manufacturer with authority to maintain manufacturer representatives files with the court a bond in an amount fixed and approved by the court, to indemnify the State against all loss and injury which may be sustained by it on account of the review proceedings and to secure all costs which may be occasioned by such proceedings.

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

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

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

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

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

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

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

Sec. 9a. Examination and correction of returns.

(1) As soon as practicable after any return is filed, the Department shall examine such return and shall correct such return according to its best judgment and information, which return so corrected by the Department shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown therein. Instead of requiring

the distributor to file an amended return, the Department may simply notify the distributor of the correction or corrections it has made. Proof of such correction by the Department may be made at any hearing before the Department or in any legal proceeding by a reproduced copy of the Department's record relating thereto in the name of the Department under the certificate of the Director of Revenue. Such reproduced copy shall, without further proof, be admitted into evidence before the Department or in any legal proceeding and shall be prima facie proof of the correctness of the amount of tax due, as shown therein. If the Department finds that any amount of tax is due from the distributor, the Department shall issue the distributor a notice of tax liability for the amount of tax claimed by the Department to be due, together with a penalty in an amount determined in accordance with Sections 3-3, 3-5 and 3-6 of the Uniform Penalty and Interest Act. If, in administering the provisions of this Act, comparison of a return or returns of a distributor with the books, records and inventories of such distributor discloses a deficiency which cannot be allocated by the Department to a particular month or months, the Department shall issue the distributor a notice of tax liability for the amount of tax claimed by the Department to be due for a given period, but without any obligation upon the Department to allocate such deficiency to any particular month or months, together with a penalty in an amount determined in accordance with Sections 3-3, 3-5 and 3-6 of the

Uniform Penalty and Interest Act, under which circumstances the aforesaid notice of tax liability shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown therein; and proof of such correctness may be made in accordance with, and the admissibility of a reproduced copy of such notice of tax liability shall be governed by, all the provisions of this Act applicable to corrected returns. If any distributor filing any return dies or becomes a person under legal disability at any time before the Department issues its notice of tax liability, such notice shall be issued to the administrator, executor or other legal representative, as such, of such distributor.

(2) Except as otherwise provided in this Section, if ~~if~~, within 60 days after such notice of tax liability, the distributor or his or her legal representative files a protest to such notice of tax liability and requests a hearing thereon, the Department shall give notice to such distributor or legal representative of the time and place fixed for such hearing, and shall hold a hearing in conformity with the provisions of this Act, and pursuant thereto shall issue a final assessment to such distributor or legal representative for the amount found to be due as a result of such hearing. On or after July 1, 2013, protests concerning matters that are subject to the jurisdiction of the Illinois Independent Tax Tribunal shall be filed in accordance with the Illinois Independent Tax Tribunal Act of 2012, and hearings concerning those matters shall be

held before the Tribunal in accordance with that Act. With respect to protests filed with the Department prior to July 1, 2013 that would otherwise be subject to the jurisdiction of the Illinois Independent Tax Tribunal, the taxpayer may elect to be subject to the provisions of the Illinois Independent Tax Tribunal Act at any time on or after July 1, 2013, but not later than 30 days after the date on which the protest was filed. If made, the election shall be irrevocable. If a protest to the notice of tax liability and a request for a hearing thereon is not filed within the time allowed by law ~~60 days after such notice of tax liability,~~ such notice of tax liability shall become final without the necessity of a final assessment being issued and shall be deemed to be a final assessment.

(3) In case of failure to pay the tax, or any portion thereof, or any penalty provided for in this Act, when due, the Department may bring suit to recover the amount of such tax, or portion thereof, or penalty; or, if the taxpayer dies or becomes incompetent, by filing claim therefor against his estate; provided that no such action with respect to any tax, or portion thereof, or penalty, shall be instituted more than 2 years after the cause of action accrues, except with the consent of the person from whom such tax or penalty is due.

After the expiration of the period within which the person assessed may file an action for judicial review under the Administrative Review Law without such an action being filed, a

certified copy of the final assessment or revised final assessment of the Department may be filed with the Circuit Court of the county in which the taxpayer has his or her principal place of business, or of Sangamon County in those cases in which the taxpayer does not have his principal place of business in this State. The certified copy of the final assessment or revised final assessment shall be accompanied by a certification which recites facts that are sufficient to show that the Department complied with the jurisdictional requirements of the Law in arriving at its final assessment or its revised final assessment and that the taxpayer had his or her opportunity for an administrative hearing and for judicial review, whether he availed himself or herself of either or both of these opportunities or not. If the court is satisfied that the Department complied with the jurisdictional requirements of the Law in arriving at its final assessment or its revised final assessment and that the taxpayer had his or her opportunity for an administrative hearing and for judicial review, whether he or she availed himself or herself of either or both of these opportunities or not, the court shall enter judgment in favor of the Department and against the taxpayer for the amount shown to be due by the final assessment or the revised final assessment, and such judgment shall be filed of record in the court. Such judgment shall bear the rate of interest set in the Uniform Penalty and Interest Act, but otherwise shall have the same effect as other judgments. The

judgment may be enforced, and all laws applicable to sales for the enforcement of a judgment shall be applicable to sales made under such judgments. The Department shall file the certified copy of its assessment, as herein provided, with the Circuit Court within 2 years after such assessment becomes final except when the taxpayer consents in writing to an extension of such filing period.

If, when the cause of action for a proceeding in court accrues against a person, he or she is out of the State, the action may be commenced within the times herein limited, after his or her coming into or return to the State; and if, after the cause of action accrues, he or she departs from and remains out of the State, the time of his or her absence is no part of the time limited for the commencement of the action; but the foregoing provisions concerning absence from the State shall not apply to any case in which, at the time the cause of action accrues, the party against whom the cause of action accrues is not a resident of this State. The time within which a court action is to be commenced by the Department hereunder shall not run while the taxpayer is a debtor in any proceeding under the Federal Bankruptcy Act nor thereafter until 90 days after the Department is notified by such debtor of being discharged in bankruptcy.

No claim shall be filed against the estate of any deceased person or a person under legal disability for any tax or penalty or part of either except in the manner prescribed and

within the time limited by the Probate Act of 1975, as amended.

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

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

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

All of the provisions of Sections 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i and 5j of the Retailers' Occupation Tax Act, which are not inconsistent with this Act, and Section 3-7 of the Uniform Penalty and Interest Act shall apply, as far as practicable, to the subject matter of this Act to the same extent as if such provisions were included herein. References in such incorporated Sections of the "Retailers' Occupation Tax Act" to retailers, to sellers or to persons engaged in the business of selling tangible personal property shall mean distributors when used in this Act.

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

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

Sec. 9b. Failure to file return; penalty; protest. In case

any person who is required to file a return under this Act fails to file such return, the Department shall determine the amount of tax due from him according to its best judgment and information, which amount so fixed by the Department shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown in such determination. Proof of such determination by the Department may be made at any hearing before the Department or in any legal proceeding by a reproduced copy of the Department's record relating thereto in the name of the Department under the certificate of the Director of Revenue. Such reproduced copy shall, without further proof, be admitted into evidence before the Department or in any legal proceeding and shall be prima facie proof of the correctness of the amount of tax due, as shown therein. The Department shall issue such person a notice of tax liability for the amount of tax claimed by the Department to be due, together with a penalty in an amount determined in accordance with Sections 3-3, 3-5 and 3-6 of the Uniform Penalty and Interest Act. If such person or the legal representative of such person, within 60 days after such notice, files a protest to such notice of tax liability and requests a hearing thereon, the Department shall give notice to such person or the legal representative of such person of the time and place fixed for such hearing and shall hold a hearing in conformity with the provisions of this Act, and pursuant thereto shall issue a final assessment to such person or to the

legal representative of such person for the amount found to be due as a result of such hearing. Hearings to protest a notice of tax liability issued pursuant to this Section that are conducted as a result of a protest filed with the Illinois Independent Tax Tribunal on or after July 1, 2013 shall be conducted pursuant to the Illinois Independent Tax Tribunal Act. If a protest to the notice of tax liability and a request for a hearing thereon is not filed within 60 days after such notice of tax liability, such notice of tax liability shall become final without the necessity of a final assessment being issued and shall be deemed to be a final assessment.

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

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

Sec. 10. The Department, or any officer or employee designated in writing by the Director thereof, for the purpose of administering and enforcing the provisions of this Act, may hold investigations and, except as otherwise provided in the Illinois Independent Tax Tribunal Act of 2012, may hold hearings concerning any matters covered by this Act, and may examine books, papers, records or memoranda bearing upon the sale or other disposition of cigarettes by a distributor, secondary distributor, manufacturer with authority to maintain manufacturer representatives under Section 4f of this Act, or manufacturer representative, and may issue subpoenas requiring the attendance of a distributor, secondary distributor,

manufacturer with authority to maintain manufacturer representatives under Section 4f of this Act, or manufacturer representative, or any officer or employee of a distributor, secondary distributor, manufacturer with authority to maintain manufacturer representatives under Section 4f of this Act, or any person having knowledge of the facts, and may take testimony and require proof, and may issue subpoenas duces tecum to compel the production of relevant books, papers, records and memoranda, for the information of the Department.

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

In the conduct of any investigation or hearing provided for by this Act, neither the Department, nor any officer or employee thereof, shall be bound by the technical rules of evidence, and no informality in the proceedings nor in the manner of taking testimony shall invalidate any rule, order, decision or regulation made, approved or confirmed by the Department.

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

The books, papers, records and memoranda of the Department,

or parts thereof, may be proved in any hearing, investigation or legal proceeding by a reproduced copy thereof under the certificate of the Director of Revenue. Such reproduced copy shall, without further proof, be admitted into evidence before the Department or in any legal proceeding.

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

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

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

Sec. 3. Stamp payment. The tax hereby imposed shall be collected by a distributor maintaining a place of business in this State or a distributor authorized by the Department pursuant to Section 7 hereof to collect the tax, and the amount of the tax shall be added to the price of the cigarettes sold by such distributor. Collection of the tax shall be evidenced by a stamp or stamps affixed to each original package of cigarettes or by an authorized substitute for such stamp imprinted on each original package of such cigarettes underneath the sealed transparent outside wrapper of such original package, except as hereinafter provided. Each distributor who is required or authorized to collect the tax herein imposed, before delivering or causing to be delivered any original packages of cigarettes in this State to any purchaser, shall firmly affix a proper stamp or stamps to each

such package, or (in the case of manufacturers of cigarettes in original packages which are contained inside a sealed transparent wrapper) shall imprint the required language on the original package of cigarettes beneath such outside wrapper as hereinafter provided. Such stamp or stamps need not be affixed to the original package of any cigarettes with respect to which the distributor is required to affix a like stamp or stamps by virtue of the Cigarette Tax Act, however, and no tax imprint need be placed underneath the sealed transparent wrapper of an original package of cigarettes with respect to which the distributor is required or authorized to employ a like tax imprint by virtue of the Cigarette Tax Act.

No stamp or imprint may be affixed to, or made upon, any package of cigarettes unless that package complies with all requirements of the federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1331 and following, for the placement of labels, warnings, or any other information upon a package of cigarettes that is sold within the United States. Under the authority of Section 6, the Department shall revoke the license of any distributor that is determined to have violated this paragraph. A person may not affix a stamp on a package of cigarettes, cigarette papers, wrappers, or tubes if that individual package has been marked for export outside the United States with a label or notice in compliance with Section 290.185 of Title 27 of the Code of Federal Regulations. It is not a defense to a proceeding for violation of this paragraph that the label or

notice has been removed, mutilated, obliterated, or altered in any manner.

Only distributors licensed under this Act and transporters, as defined in Section 9c of the Cigarette Tax Act, may possess unstamped original packages of cigarettes. Prior to shipment to an Illinois retailer or secondary distributor, a stamp shall be applied to each original package of cigarettes sold to the retailer or secondary distributor. A distributor may apply a tax stamp only to an original package of cigarettes purchased or obtained directly from an in-state maker, manufacturer, or fabricator licensed as a distributor under Section 4 of this Act or an out-of-state maker, manufacturer, or fabricator holding a permit under Section 7 of this Act. A licensed distributor may ship or otherwise cause to be delivered unstamped original packages of cigarettes in, into, or from this State. A licensed distributor may transport unstamped original packages of cigarettes to a facility, wherever located, owned or controlled by such distributor; however, a distributor may not transport unstamped original packages of cigarettes to a facility where retail sales of cigarettes take place or to a facility where a secondary distributor makes sales for resale. Any licensed distributor that ships or otherwise causes to be delivered unstamped original packages of cigarettes into, within, or from this State shall ensure that the invoice or equivalent documentation and the bill of lading or freight bill for the shipment

identifies the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity by brand style of the cigarettes so transported, provided that this Section shall not be construed as to impose any requirement or liability upon any common or contract carrier.

Distributors making sales of cigarettes to secondary distributors shall add the amount of the tax to the price of the cigarettes sold by the distributors. Secondary distributors making sales of cigarettes to retailers shall include the amount of the tax in the price of the cigarettes sold to retailers. The amount of tax shall not be less than the amount of taxes imposed by the State and all local jurisdictions. The amount of local taxes shall be calculated based on the location of the retailer's place of business shown on the retailer's certificate of registration or sub-registration issued to the retailer pursuant to Section 2a of the Retailers' Occupation Tax Act. The original packages of cigarettes sold by the retailer shall bear all the required stamps, or other indicia, for the taxes included in the price of cigarettes.

Stamps, when required hereunder, shall be purchased from the Department, or any person authorized by the Department, by distributors. On and after July 1, 2003, payment for such stamps must be made by means of electronic funds transfer. The Department may refuse to sell stamps to any person who does not

comply with the provisions of this Act. Beginning on June 6, 2002 and through June 30, 2002, persons holding valid licenses as distributors may purchase cigarette tax stamps up to an amount equal to 115% of the distributor's average monthly cigarette tax stamp purchases over the 12 calendar months prior to June 6, 2002.

Prior to December 1, 1985, the Department shall allow a distributor 21 days in which to make final payment of the amount to be paid for such stamps, by allowing the distributor to make payment for the stamps at the time of purchasing them with a draft which shall be in such form as the Department prescribes, and which shall be payable within 21 days thereafter: Provided that such distributor has filed with the Department, and has received the Department's approval of, a bond, which is in addition to the bond required under Section 4 of this Act, payable to the Department in an amount equal to 80% of such distributor's average monthly tax liability to the Department under this Act during the preceding calendar year or \$500,000, whichever is less. The bond shall be joint and several and shall be in the form of a surety company bond in such form as the Department prescribes, or it may be in the form of a bank certificate of deposit or bank letter of credit. The bond shall be conditioned upon the distributor's payment of the amount of any 21-day draft which the Department accepts from that distributor for the delivery of stamps to that distributor under this Act. The distributor's failure to pay

any such draft, when due, shall also make such distributor automatically liable to the Department for a penalty equal to 25% of the amount of such draft.

On and after December 1, 1985 and until July 1, 2003, the Department shall allow a distributor 30 days in which to make final payment of the amount to be paid for such stamps, by allowing the distributor to make payment for the stamps at the time of purchasing them with a draft which shall be in such form as the Department prescribes, and which shall be payable within 30 days thereafter, and beginning on January 1, 2003 and thereafter, the draft shall be payable by means of electronic funds transfer: Provided that such distributor has filed with the Department, and has received the Department's approval of, a bond, which is in addition to the bond required under Section 4 of this Act, payable to the Department in an amount equal to 150% of such distributor's average monthly tax liability to the Department under this Act during the preceding calendar year or \$750,000, whichever is less, except that as to bonds filed on or after January 1, 1987, such additional bond shall be in an amount equal to 100% of such distributor's average monthly tax liability under this Act during the preceding calendar year or \$750,000, whichever is less. The bond shall be joint and several and shall be in the form of a surety company bond in such form as the Department prescribes, or it may be in the form of a bank certificate of deposit or bank letter of credit. The bond shall be conditioned upon the distributor's payment of

the amount of any 30-day draft which the Department accepts from that distributor for the delivery of stamps to that distributor under this Act. The distributor's failure to pay any such draft, when due, shall also make such distributor automatically liable to the Department for a penalty equal to 25% of the amount of such draft.

Every prior continuous compliance taxpayer shall be exempt from all requirements under this Section concerning the furnishing of such bond, as defined in this Section, as a condition precedent to his being authorized to engage in the business licensed under this Act. This exemption shall continue for each such taxpayer until such time as he may be determined by the Department to be delinquent in the filing of any returns, or is determined by the Department (either through the Department's issuance of a final assessment which has become final under the Act, or by the taxpayer's filing of a return which admits tax to be due that is not paid) to be delinquent or deficient in the paying of any tax under this Act, at which time that taxpayer shall become subject to the bond requirements of this Section and, as a condition of being allowed to continue to engage in the business licensed under this Act, shall be required to furnish bond to the Department in such form as provided in this Section. Such taxpayer shall furnish such bond for a period of 2 years, after which, if the taxpayer has not been delinquent in the filing of any returns, or delinquent or deficient in the paying of any tax under this

Act, the Department may reinstate such person as a prior continuance compliance taxpayer. Any taxpayer who fails to pay an admitted or established liability under this Act may also be required to post bond or other acceptable security with the Department guaranteeing the payment of such admitted or established liability.

Except as otherwise provided in this Section, any ~~Any~~ person aggrieved by any decision of the Department under this Section may, within the time allowed by law, protest and request a hearing before the Department, whereupon the Department shall give notice and shall hold a hearing in conformity with the provisions of this Act and then issue its final administrative decision in the matter to such person. Effective July 1, 2013, protests concerning matters that are subject to the jurisdiction of the Illinois Independent Tax Tribunal shall be filed in accordance with the Illinois Independent Tax Tribunal Act of 2012, and hearings concerning those matters shall be held before the Tribunal in accordance with that Act. With respect to protests filed with the Department prior to July 1, 2013 that would otherwise be subject to the jurisdiction of the Illinois Independent Tax Tribunal, the person filing the protest may elect to be subject to the provisions of the Illinois Independent Tax Tribunal Act of 2012 at any time on or after July 1, 2013, but not later than 30 days after the date on which the protest was filed. If made, the election shall be irrevocable. In the absence of such a

protest filed within the time allowed by law, the Department's decision shall become final without any further determination being made or notice given.

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

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

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

At the time of purchasing such stamps from the Department when purchase is required by this Act, or at the time when the tax which he has collected is remitted by a distributor to the Department without the purchase of stamps from the Department when that method of remitting the tax that has been collected

is required or authorized by this Act, the distributor shall be allowed a discount during any year commencing July 1 and ending the following June 30 in accordance with the schedule set out hereinbelow, from the amount to be paid by him to the Department for such stamps, or to be paid by him to the Department on the basis of monthly remittances (as the case may be), to cover the cost, to such distributor, of collecting the tax herein imposed by affixing such stamps to the original packages of cigarettes sold by such distributor or by placing tax imprints underneath the sealed transparent wrapper of original packages of cigarettes sold by such distributor (as the case may be): (1) Prior to December 1, 1985, a discount equal to 1-2/3% of the amount of the tax up to and including the first \$700,000 paid hereunder by such distributor to the Department during any such year; 1-1/3% of the next \$700,000 of tax or any part thereof, paid hereunder by such distributor to the Department during any such year; 1% of the next \$700,000 of tax, or any part thereof, paid hereunder by such distributor to the Department during any such year; and 2/3 of 1% of the amount of any additional tax paid hereunder by such distributor to the Department during any such year or (2) On and after December 1, 1985, a discount equal to 1.75% of the amount of the tax payable under this Act up to and including the first \$3,000,000 paid hereunder by such distributor to the Department during any such year and 1.5% of the amount of any additional tax paid hereunder by such distributor to the Department during

any such year.

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

Cigarette manufacturers who are distributors under Section 7(a) of this Act, and who place their cigarettes in original packages which are contained inside a sealed transparent wrapper, shall be required to remit the tax which they are required to collect under this Act to the Department by remitting the amount thereof to the Department by the 5th day of each month, covering cigarettes shipped or otherwise delivered to points in Illinois to purchasers during the preceding calendar month, but a distributor need not remit to the Department the tax so collected by him from purchasers under this Act to the extent to which such distributor is required to remit the tax imposed by the Cigarette Tax Act to the Department with respect to the same cigarettes. All taxes upon cigarettes under this Act are a direct tax upon the retail consumer and shall conclusively be presumed to be precollected for the purpose of convenience and facility only. Cigarette manufacturers that are distributors licensed under Section 7(a) of this Act and who place their cigarettes in original packages which are contained inside a sealed transparent wrapper, before delivering such cigarettes or causing such cigarettes to be delivered in this State to purchasers, shall

evidence their obligation to collect and remit the tax due with respect to such cigarettes by imprinting language to be prescribed by the Department on each original package of such cigarettes underneath the sealed transparent outside wrapper of such original package, in such place thereon and in such manner as the Department may prescribe; provided (as stated hereinbefore) that this requirement does not apply when such distributor is required or authorized by the Cigarette Tax Act to place the tax imprint provided for in the last paragraph of Section 3 of that Act underneath the sealed transparent wrapper of such original package of cigarettes. Such imprinted language shall acknowledge the manufacturer's collection and payment of or liability for the tax imposed by this Act with respect to such cigarettes.

The Department shall adopt the design or designs of the tax stamps and shall procure the printing of such stamps in such amounts and denominations as it deems necessary to provide for the affixation of the proper amount of tax stamps to each original package of cigarettes.

Where tax stamps are required, the Department may authorize distributors to affix revenue tax stamps by imprinting tax meter stamps upon original packages of cigarettes. The Department shall adopt rules and regulations relating to the imprinting of such tax meter stamps as will result in payment of the proper taxes as herein imposed. No distributor may affix revenue tax stamps to original packages of cigarettes by

imprinting meter stamps thereon unless such distributor has first obtained permission from the Department to employ this method of affixation. The Department shall regulate the use of tax meters and may, to assure the proper collection of the taxes imposed by this Act, revoke or suspend the privilege, theretofore granted by the Department to any distributor, to imprint tax meter stamps upon original packages of cigarettes.

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

A distributor shall not affix, or cause to be affixed, any stamp or imprint to a package of cigarettes, as provided for in this Section, if the tobacco product manufacturer, as defined in Section 10 of the Tobacco Product Manufacturers' Escrow Act, that made or sold the cigarettes has failed to become a participating manufacturer, as defined in subdivision (a)(1) of Section 15 of the Tobacco Product Manufacturers' Escrow Act, or has failed to create a qualified escrow fund for any cigarettes manufactured by the tobacco product manufacturer and sold in this State or otherwise failed to bring itself into compliance with subdivision (a)(2) of Section 15 of the Tobacco Product Manufacturers' Escrow Act.

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

Sec. 13. Examination and correction of return. As soon as practicable after any return is filed, the Department shall examine such return and shall correct such return according to its best judgment and information, which return so corrected by the Department shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown therein. Proof of such correction by the Department may be made at any hearing before the Department or in any legal proceeding by a reproduced copy of the Department's record relating thereto in the name of the Department under the certificate of the Director of Revenue. Such reproduced copy shall, without further proof, be admitted into evidence before the Department or in any legal proceeding and shall be prima facie proof of the correctness of the amount of tax due, as shown therein. If the tax as fixed by the Department is greater than the amount of the tax due under the return as filed, the Department shall issue the person filing such return a notice of tax liability for the amount of tax claimed by the Department to be due, together with a penalty in an amount determined in accordance with Sections 3-3, 3-5 and 3-6 of the Uniform Penalty and Interest Act. If, in administering the provisions of this Act, comparison of a return or returns of a distributor with the books, records and inventories of such distributor discloses a deficiency which cannot be allocated by the Department to a particular month or months, the Department shall issue the distributor a notice of tax liability for the

amount of tax claimed by the Department to be due for a given period, but without any obligation upon the Department to allocate such deficiency to any particular month or months, together with a penalty in an amount determined in accordance with Sections 3-3, 3-5 and 3-6 of the Uniform Penalty and Interest Act, under which circumstances the aforesaid notice of tax liability shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown therein; and proof of such correctness may be made in accordance with, and the admissibility of a reproduced copy of such notice of tax liability shall be governed by, all the provisions of this Act applicable to corrected returns.

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

Except as otherwise provided in this Section, if ~~if~~ within 60 days after such notice of tax liability, the person to whom such notice is issued or his legal representative files a protest to such notice of tax liability and requests a hearing thereon, the Department shall give notice to such person or legal representative of the time and place fixed for such hearing, and shall hold a hearing in conformity with the provisions of this Act, and pursuant thereto shall issue a final assessment to such person or legal representative for the

amount found to be due as a result of such hearing. Effective July 1, 2013, protests concerning matters that are subject to the jurisdiction of the Illinois Independent Tax Tribunal shall be filed with the Tribunal in accordance with the Illinois Independent Tax Tribunal Act of 2012, and hearings concerning those matters shall be held before the Tribunal in accordance with that Act. With respect to protests filed with the Department prior to July 1, 2013 that would otherwise be subject to the jurisdiction of the Illinois Independent Tax Tribunal, the person filing the protest may elect to be subject to the provisions of the Illinois Independent Tax Tribunal Act of 2012 at any time on or after July 1, 2013, but not later than 30 days after the date on which the protest was filed. If made, the election shall be irrevocable. If a protest to the notice of tax liability and a request for a hearing thereon is not filed within the time allowed by law ~~60 days after such notice of tax liability,~~ such notice of tax liability shall become final without the necessity of a final assessment being issued and shall be deemed to be a final assessment.

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

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

Sec. 13a. Failure to file return. In case any person who is required to file a return under this Act fails to file such return, the Department shall determine the amount of tax due from him according to its best judgment and information, which

amount so fixed by the Department shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown in such determination. Proof of such determination by the Department may be made at any hearing before the Department or in any legal proceeding by a reproduced copy of the Department's record relating thereto in the name of the Department under the certificate of the Director of Revenue. Such reproduced copy shall, without further proof, be admitted into evidence before the Department or in any legal proceeding and shall be prima facie proof of the correctness of the amount of tax due, as shown therein. The Department shall issue such person a notice of tax liability for the amount of tax claimed by the Department to be due, together with a penalty in an amount determined in accordance with Sections 3-3, 3-5 and 3-6 of the Uniform Penalty and Interest Act. Except as otherwise provided in this Section, if ~~if~~ such person or the legal representative of such person, within 60 days after such notice, files a protest to such notice of tax liability and requests a hearing thereon, the Department shall give notice to such person or the legal representative of such person of the time and place fixed for such hearing, and shall hold a hearing in conformity with the provisions of this Act, and pursuant thereto shall issue a final assessment to such person or to the legal representative of such person for the amount found to be due as a result of such hearing. Effective July 1, 2013, protests concerning

matters that are subject to the jurisdiction of the Illinois Independent Tax Tribunal shall be filed with the Tribunal in accordance with the Illinois Independent Tax Tribunal Act of 2012, and hearings concerning those matters shall be held before the Tribunal in accordance with that Act. With respect to protests filed with the Department prior to July 1, 2013 that would otherwise be subject to the jurisdiction of the Illinois Independent Tax Tribunal, the person filing the protest may elect to be subject to the provisions of the Illinois Independent Tax Tribunal Act of 2012 at any time on or after July 1, 2013, but not later than 30 days after the date on which the protest was filed. If made, the election shall be irrevocable. If a protest to the notice of tax liability and a request for a hearing thereon is not filed within the time allowed by law ~~60 days after such notice of tax liability~~, such notice of tax liability shall become final without the necessity of a final assessment being issued and shall be deemed to be a final assessment.

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

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

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

Whenever notice is required by this Act, such notice may be

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

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

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

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

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

The Circuit Court of the County wherein the hearing is held shall have power to review all final administrative decisions of the Department in administering this Act. The provisions of the Administrative Review Law, as amended, and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of the Department under this Act. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

Service upon the Director of Revenue or Assistant Director

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

No stay order shall be entered by the Circuit Court unless the plaintiff in the action for judicial review files with the court a bond in an amount fixed and approved by the court, to indemnify the State against all loss and injury which may be sustained by it on account of the review proceedings and to secure all costs which may be occasioned by such proceedings.

Whenever any proceeding provided by this Act is commenced before the Department, either by the Department or by a person subject to this Act, and such person thereafter dies or becomes a person under legal disability before such proceeding is concluded, the legal representative of the deceased or a person under legal disability shall notify the Department of such

death or legal disability. Such legal representative, as such, shall then be substituted by the Department for such person. If the legal representative fails to notify the Department of his or her appointment as such legal representative, the Department may, upon its own motion, substitute such legal representative in the proceeding pending before the Department for the person who died or became a person under legal disability.

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

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

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

Sec. 21a. The Illinois Administrative Procedure Act is hereby expressly adopted and shall apply to all administrative rules and procedures of the Department of Revenue under this Act, except that (1) paragraph (b) of Section 5-10 of the Illinois Administrative Procedure Act does not apply to final orders, decisions and opinions of the Department, (2) subparagraph (a)2 of Section 5-10 of the Illinois Administrative Procedure Act does not apply to forms established by the Department for use under this Act, and (3) the provisions of Section 10-45 of the Illinois Administrative Procedure Act regarding proposals for decision are excluded and

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

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

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

(35 ILCS 143/10-58)

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

(a) When any tobacco products or any vending devices are declared forfeited to the State by the Department, as provided in Section 10-55, and when all proceedings for the judicial review of the Department's decision have terminated, the Department shall, to the extent that its decision is sustained on review, sell the property for the best price obtainable and shall forthwith pay over the proceeds of the sale to the State Treasurer. If the value of the property to be sold at any one time is \$500 or more, however, the property shall be sold only to the highest and best bidder on terms and conditions, and on open competitive bidding after public advertisement, in a manner and for terms as the Department, by rule, may prescribe.

(b) If no complaint for review, as provided in Section 12 of the Retailers' Occupation Tax Act, has been filed within the time required by ~~the Administrative Review~~ Law, and if no stay

order has been entered under that Law, the Department shall proceed to destroy, maintain and use in an undercover capacity, or sell the property for the best price obtainable and shall forthwith pay over the proceeds of the sale to the State Treasurer. If the value of the property to be sold at any one time is \$500 or more, however, the property shall be sold only to the highest and best bidder on terms and conditions, and on open competitive bidding after public advertisement, in a manner and for terms as the Department, by rule, may prescribe.

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

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

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

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

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

Sec. 10. The Illinois Administrative Procedure Act is hereby expressly adopted and shall apply to all administrative rules and procedures of the Department of Revenue under this

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

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

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

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

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

the provisions of Section 10-45 of the Illinois Administrative Procedure Act regarding proposals for decision are excluded and not applicable to the Department under this Act to the extent Section 10-45 applies to hearings not otherwise subject to the Illinois Independent Tax Tribunal Act of 2012.

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

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

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

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

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

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

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

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

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

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

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

In case neither the owner nor the person in possession of such amusement device is known, the Department shall cause

publication of the time and place of such hearing to be made at least once in each week for 3 weeks successively in a newspaper of general circulation in the county where such hearing is to be held.

If, as the result of such hearing, the Department shall determine that the amusement device seized was, at the time of seizure, being displayed in a manner which violates this Act, the Department shall enter an order declaring such amusement device confiscated and forfeited to the State, and to be sold by the Department in the manner provided for hereinafter in this Section. The Department shall give notice of such order to the owner of such amusement device if he is known, and also to the person in whose possession the amusement device so taken was found, if such person is known and if such person in possession is not the owner of such amusement device. In case neither the owner nor the person in possession of such amusement device is known, the Department shall cause publication of such order to be made at least once in each week for 3 weeks successively in a newspaper of general circulation in the county where such hearing was held.

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

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

If no complaint for review, as provided in Section 10 of this Act, has been filed within the time required by law ~~the Administrative Review Law~~, and if such amusement device is not redeemed and reclaimed within the time and in the manner provided for in this Section, the Department shall proceed to sell said property for the best price obtainable and shall forthwith pay over the proceeds of such sale to the State Treasurer; provided, however, that if the value of the property to be sold at any one time shall be \$500.00 or more, such property shall be sold only to the highest and best bidder on

such terms and conditions and on open competitive bidding after public advertisement, in such manner and for such terms as the Department, by rule, may prescribe.

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

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

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

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

(a) Assessment. An assessment for a dealer not possessing valid stamps or other official indicia showing that the tax has been paid shall be considered a jeopardy assessment or collection, as provided by Section 1102 of the Illinois Income Tax Act. The Department shall determine and assess a tax and applicable penalties and interest according to the best judgment and information available to the Department, which amount so fixed by the Department shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown in such determination. When, according to the best judgment and information available to the Department with regard to all real and personal property and rights to property of the dealer, there is no reasonable expectation of collection of the amount of tax and penalty to be assessed, the Department may issue an assessment under this Section for the amount of tax without penalty.

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

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

After the expiration of the period within which the person assessed may file an action for judicial review ~~under the Administrative Review Law~~ without such action being filed, a certified copy of the final assessment or revised final assessment of the Department may be filed with the Circuit Court of the county in which the dealer resides, or of Cook County in the case of a dealer who does not reside in this State, or in the county where the violation of this Act took place. The certified copy of the final assessment or revised final assessment shall be accompanied by a certification which

recites facts that are sufficient to show that the Department complied with the jurisdictional requirements of the Act in arriving at its final assessment or its revised final assessment and that the dealer had this opportunity for an administrative hearing and for judicial review, whether he availed himself or herself of either or both of these opportunities or not. If the court is satisfied that the Department complied with the jurisdictional requirements of the Act in arriving at its final assessment or its revised final assessment and that the taxpayer had his opportunity for an administrative hearing and for judicial review, whether he availed himself of either or both of these opportunities or not, the court shall render judgment in favor of the Department and against the taxpayer for the amount shown to be due by the final assessment or the revised final assessment, plus any interest which may be due, and such judgment shall be entered in the judgment docket of the court. Such judgment shall bear the same rate of interest and shall have the same effect as other judgments. The judgment may be enforced, and all laws applicable to sales for the enforcement of a judgment shall be applicable to sales made under such judgments. The Department shall file the certified copy of its assessment, as herein provided, with the Circuit Court within 2 years after such assessment becomes final except when the taxpayer consents in writing to an extension of such filing period, and except that the time limitation period on the Department's right to file

the certified copy of its assessment with the Circuit Court shall not run during any period of time in which the order of any court has the effect of enjoining or restraining the Department from filing such certified copy of its assessment with the Circuit Court.

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

No claim shall be filed against the estate of any deceased person or any person under legal disability for any tax or penalty or part of either, or interest, except in the manner prescribed and within the time limited by the Probate Act of

1975, as amended.

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

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

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

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

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

Sec. 25. Administrative Procedure Act - Application. The

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

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

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

Sec. 26. Administrative Review. Except as otherwise provided in this Section, the ~~The~~ provisions of the Administrative Review Law, and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of the Department under this Act. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure. The provisions of Section 12 of the Retailers' Occupation Tax Act shall apply to dealers subject to this Act to the same

extent as if such provisions were included herein.

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

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

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

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

Sec. 8. For the purpose of administering and enforcing the provisions of this Act, the Department or any officer or employee of the Department designated, in writing, by the Director thereof, may hold investigations and, except for those matters reserved to the Illinois Independent Tax Tribunal, may hold hearings concerning any matters covered by this Act and may examine any books, papers, records or memoranda bearing upon the business transacted by any such taxpayer and may require the attendance of such taxpayer or any officer or employee of such taxpayer, or of any person having knowledge of such business, and may take testimony and require proof for its information. In the conduct of any investigation or hearing, neither the Department nor any officer or employee thereof shall be bound by the technical rules of evidence, and no

informality in any proceeding, or in the manner of taking testimony, shall invalidate any order, decision, rule or regulation made or approved or confirmed by the Department. The Director or any officer or employee thereof shall have power to administer oaths to any such persons. The books, papers, records, and memoranda of the Department, or parts thereof, may be proved in any hearing, investigation or legal proceeding by a reproduced copy thereof under the certificate of the Director. Such reproduced copy shall, without further proof, be admitted into evidence before the Department or in any legal proceeding.

(Source: Laws 1965, p. 198.)

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

Sec. 10. The Department or any officer or employee of the Department designated, in writing, by the Director thereof, shall at its or his or her own instance, or on the written request of any party to the proceeding, issue subpoenas requiring the attendance of and the giving of testimony by witnesses, and subpoenas duces tecum requiring the production of books, papers, records or memoranda. All subpoenas issued under this Act may be served by any person of full age. The fees of witnesses for attendance and travel shall be the same as the fees of witnesses before the circuit court of this State; such fees to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the

instance of the Department or any officer or employee thereof, such fees shall be paid in the same manner as other expenses of the Department, and when the witness is subpoenaed at the instance of any taxpayer to any such proceeding the Department may require that the cost of service of the subpoena and the fee of the witness be borne by the taxpayer at whose instance the witness is summoned. In such case, the Department, in its discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court.

Any circuit court of this State, upon the application of the Department or any officer or employee thereof may, in its discretion, compel the attendance of witnesses, the production of books, papers, records or memoranda and the giving of testimony before the Department or any officer or employee thereof conducting an investigation or holding a hearing authorized by this Act, by an attachment for contempt, or otherwise, in the same manner as production of evidence may be compelled before the court.

The Department or any officer or employee thereof, or any party in an investigation or hearing before the Department, may cause the depositions of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in courts of this State, and, to that end, compel the attendance of witnesses and the production

of books, papers, records or memoranda.

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

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

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

Sec. 12. The Circuit Court of the county wherein a hearing is held shall have power to review all final administrative decisions of the Department in administering the provisions of this Act: Provided that if the administrative proceeding which is to be reviewed judicially is a claim for refund proceeding commenced in accordance with Section 6 of this Act and Section 2a of "An Act in relation to the payment and disposition of moneys received by officers and employees of the State of Illinois by virtue of their office or employment", approved June 9, 1911, as amended, the Circuit Court having jurisdiction of the action for judicial review under this Section and under the Administrative Review Law, as amended, shall be the same court that entered the temporary restraining order or preliminary injunction which is provided for in Section 2a of "An Act in relation to the payment and disposition of moneys received by officers and employees of the State of Illinois by virtue of their office or employment", and which enables such

claim proceeding to be processed and disposed of as a claim for refund proceeding rather than as a claim for credit proceeding.

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

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

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

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

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

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

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

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

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

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

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

(Source: Laws 1965, p. 199.)

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

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

expedient.

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

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

Notwithstanding any other provision of law, all hearings held before the Illinois Independent Tax Tribunal shall be held in accordance with the Illinois Independent Tax Tribunal Act of 2012.

Except with respect to matters under the jurisdiction of the Illinois Independent Tax Tribunal, the ~~The~~ Circuit Court of the county wherein a hearing is held shall have power to review all final administrative decisions of the Department in administering this Act. If, however, the administrative proceeding which is to be reviewed judicially is a claim for refund proceeding commenced in accordance with Section 6 of

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

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

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

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

Whenever any proceeding provided by this Act is begun by the Department or by a person subject thereto and such person thereafter dies or becomes a person under legal disability before such proceeding is concluded, the legal representative of the deceased or the person under legal disability shall notify the Department of such death or legal disability. Such legal representative, as such, shall then be substituted by the Department for such person. Within 20 days after notice to the legal representative of the time fixed for that purpose, the proceeding may go forward in all respects and with like effect as though the person had not died or become a person under legal disability.

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

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

Sec. 12a. The Illinois Administrative Procedure Act is hereby expressly adopted and shall apply to all administrative

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

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

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

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

Sec. 8. For the purpose of administering and enforcing the provisions of this Act, the Department or any officer or employee of the Department designated, in writing, by the Director thereof, may hold investigations and, except for those matters reserved to the Illinois Independent Tax Tribunal, may hold hearings concerning any matters covered by this Act and may examine any books, papers, records or memoranda bearing upon the business transacted by any such taxpayer and may

require the attendance of such taxpayer or any officer or employee of such taxpayer, or of any person having knowledge of such business, and may take testimony and require proof for its information. In the conduct of any investigation or hearing, neither the Department nor any officer or employee thereof shall be bound by the technical rules of evidence, and no informality in any proceeding, or in the manner of taking testimony, shall invalidate any order, decision, rule or regulation made or approved or confirmed by the Department. The Director or any officer or employee thereof shall have power to administer oaths to any such persons. The books, papers, records and memoranda of the Department, or parts thereof, may be proved in any hearing, investigation, or legal proceeding by a reproduced copy thereof under the certificate of the Director. Such reproduced copy shall, without further proof, be admitted into evidence before the Department or in any legal proceeding.

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

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

Sec. 10. The Department or any officer or employee of the Department designated, in writing, by the Director thereof, shall at its or his own instance, or on the written request of any party to the proceeding, issue subpoenas requiring the attendance of and the giving of testimony by witnesses, and subpoenas duces tecum requiring the production of books,

papers, records or memoranda. All subpoenas issued under this Act may be served by any person of full age. The fees of witnesses for attendance and travel shall be the same as the fees of witnesses before the Circuit Court of this State; such fees are to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the Department or any officer or employee thereof, such fees shall be paid in the same manner as other expenses of the Department, and when the witness is subpoenaed at the instance of any taxpayer to any such proceeding the Department may require that the cost of service of the subpoena and the fee of the witness be borne by the taxpayer at whose instance the witness is summoned. In such case, the Department, in its discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court.

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

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

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

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

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

Sec. 12. Except as otherwise provided in this Section with respect to the Illinois Independent Tax Tribunal, the ~~The~~ Circuit Court of the county wherein a hearing is held shall have power to review all final administrative decisions of the Department in administering this Act. If, however, the administrative proceeding which is to be reviewed judicially is a claim for refund proceeding commenced in accordance with Section 6 of this Act and Section 2a of "An Act in relation to the payment and disposition of moneys received by officers and employees of the State of Illinois by virtue of their office or employment", approved June 9, 1911, as amended, the Circuit Court having jurisdiction of the action for judicial review under this Section and under the Administrative Review Law

shall be the same court that entered the injunctive order which is provided for in Section 2a of "An Act in relation to the payment and disposition of moneys received by officers and employees of the State of Illinois by virtue of their office or employment", and which enables such claim proceeding to be processed and disposed of as a claim for refund proceeding rather than as a claim for credit proceeding.

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

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

Service upon the Director or Assistant Director of the Department of Revenue of summons issued in any action to review a final administrative decision is service upon the Department. The Department shall certify the record of its proceedings if the taxpayer pays to it the sum of 75¢ per page of testimony taken before the Department and 25¢ per page of all other

matters contained in such record, except that these charges may be waived where the Department is satisfied that the aggrieved party is a poor person who cannot afford to pay such charges.

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

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

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

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

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

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

Sec. 12. For the purpose of administering and enforcing the

provisions of this Article, the Department or any officer or employee of the Department designated, in writing, by the Director thereof, may hold investigations and, except for matters otherwise reserved to the Illinois Independent Tax Tribunal, may hold hearings concerning any matters covered by this Article and may examine any books, papers, records or memoranda bearing upon the business transacted or purchased by any such retailer or taxpayer and may require the attendance of such retailer or taxpayer or any officer or employee of such, or of any person having knowledge of such business, and may take testimony and require proof of its information. In the conduct of any investigation or hearing, neither the Department nor any officer or employee thereof shall be bound by the technical rules of evidence, and no informality in any proceeding, or in the manner of taking testimony, shall invalidate any order, decision, rule or regulation made or approved or confirmed by the Department. The Director or any officer or employee thereof shall have power to administer oaths to any such persons. The books, papers, records and memoranda of the Department, or parts thereof, may be provided in any hearing, investigation or legal proceeding by a reproduced copy thereof under the certificate of the Director. Such reproduced copy shall, without further proof, be admitted into evidence before the Department or in any legal proceeding.

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

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

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

Except as otherwise provided in this Section with respect to the Illinois Independent Tax Tribunal, the ~~The~~ provisions of the Administrative Review Law, and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the

judicial review of final administrative decisions of the Department hereunder. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

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

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

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

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

Sec. 18. The Illinois Administrative Procedure Act is hereby expressly adopted and shall apply to all administrative rules and procedures of the Department of Revenue under this Article, except that: (1) paragraph (b) of Section 5-10 of the Illinois Administrative Procedure Act does not apply to final

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

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

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

(35 ILCS 635/27.10)

Sec. 27.10. Investigations and hearings. For the purpose of administering and enforcing the provisions of this Act, the Department or any officer or employee of the Department designated, in writing, by the Director thereof, may hold investigations and, except for matters otherwise reserved to the Illinois Independent Tax Tribunal, may hold hearings concerning any matters covered by this Act and may examine any books, papers, records, or memoranda bearing upon the business transacted by any such telecommunications retailer and may

require the attendance of such telecommunications retailer or any officer or employee of such telecommunications retailer, or of any person having knowledge of such business, and may take testimony and require proof for its information. In the conduct of any investigation or hearing, neither the Department nor any officer or employee thereof shall be bound by the technical rules of evidence, and no informality in any proceeding, or in the manner of taking testimony, shall invalidate any order, decision, rule, or regulation made, approved, or confirmed by the Department. The Director or any officer or employee thereof shall have power to administer oaths to any such persons. The books, papers, records, and memoranda of the Department, or parts thereof, may be proved in any hearing, investigation, or legal proceeding by a reproduced copy thereof under the certificate of the Director. Such reproduced copy shall without further proof, be admitted into evidence before the Department or in any legal proceeding.

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

(35 ILCS 635/27.30)

Sec. 27.30. Review under Administrative Review Law. The Circuit Court of the county wherein a hearing is held shall have power to review all final administrative decisions of the Department in administering the provisions of this Act: Provided that if the administrative proceeding that is to be reviewed judicially is a claim for refund proceeding commenced

in accordance with this Act and Section 2a of the State Officers and Employees Money Disposition Act, the Circuit Court having jurisdiction of the action for judicial review under this Section and under the Administrative Review Law shall be the same court that entered the temporary restraining order or preliminary injunction that is provided for in Section 2a of the State Officers and Employees Money Disposition Act and that enables such claim proceeding to be processed and disposed of as a claim for refund proceeding rather than as a claim for credit proceeding.

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

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

Service upon the Director or Assistant Director of the Department of Revenue of summons issued in any action to review a final administrative decision shall be service upon the Department. The Department shall certify the record of its

proceedings if the telecommunications retailer shall pay to it the sum of 75¢ per page of testimony taken before the Department and 25¢ per page of all other matters contained in such record, except that these charges may be waived where the Department is satisfied that the aggrieved party is a poor person who cannot afford to pay such charges.

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

(35 ILCS 635/27.40)

Sec. 27.40. Application of Illinois Administrative Procedure Act. The Illinois Administrative Procedure Act is hereby expressly adopted and shall apply to all administrative rules and procedures of the Department of Revenue under this Act, except that (i) paragraph (b) of Section 5-10 of the Administrative Procedure Act does not apply to final orders, decisions, and opinions of the Department, (ii) subparagraph (a)(ii) of Section 5-10 of the Administrative Procedure Act does not apply to forms established by the Department for use under this Act, and (iii) the provisions of Section 10-45 of the Administrative Procedure Act regarding proposals for decision are excluded and not applicable to the Department under this Act to the extent Section 10-45 applies to hearings not otherwise subject to the Illinois Independent Tax Tribunal Act.

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

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

(35 ILCS 640/2-14)

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

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

All hearings provided for in this Law with respect to a purchaser or to a delivering supplier having its principal address or principal place of business in any of the several counties of this State shall be held in the county wherein the purchaser or delivering supplier has its principal address or principal place of business. If the purchaser or delivering supplier does not have its principal address or principal place of business in this State, such hearings shall be held in Sangamon County. Except as otherwise provided in this Section

with respect to the Illinois Independent Tax Tribunal, the ~~The~~ Circuit Court of any county wherein a hearing is held shall have power to review all final administrative decisions of the Department in administering the provisions of this Law. If, however, the administrative proceeding which is to be reviewed judicially is a claim for refund proceeding commenced in accordance with this Law and Section 2a of the State Officers and Employees Money Disposition Act, the Circuit Court having jurisdiction of the action for judicial review under this Section and under the Administrative Review Law shall be the same court that entered the temporary restraining order or preliminary injunction which is provided for in Section 2a of the State Officers and Employees Money Disposition Act and which enables such claim proceeding to be processed and disposed of as a claim for refund proceeding rather than as a claim for credit proceeding.

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

The provisions of the Illinois Independent Tax Tribunal Act, and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final

administrative decisions of the Department that are subject to the jurisdiction of the Illinois Independent Tax Tribunal.

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

Whenever any proceeding provided by this Law has been begun by the Department or by a person subject thereto and such person thereafter dies or becomes a person under legal disability before the proceeding has been concluded, the legal representative of the deceased person or a person under legal disability shall notify the Department of such death or legal disability. The legal representative, as such, shall then be substituted by the Department in place of and for the person.

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

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

(35 ILCS 640/2-15)

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

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

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

(35 ILCS 735/3-12)

Sec. 3-12. Appeal options. The Department of Revenue shall include a statement of the appeal options available to the taxpayer, either by law or by departmental rule, for each penalty for late payment, penalty for failure to file a tax

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return on or before the due date for filing, and penalty for failure to file correct information returns. This Act is subject to the provisions of the Illinois Independent Tax Tribunal Act of 2012.

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

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

(30 ILCS 105/5.811 new)

Sec. 5.811. The Illinois Independent Tax Tribunal Fund.

(35 ILCS 1005/Act rep.)

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

Article 97. INSEVERABILITY

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

Article 99. EFFECTIVE DATE

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