

1 AN ACT concerning taxes.

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

4 Section 5. The Taxpayers' Bill of Rights Act is amended
5 by changing Section 5 and adding Sections 5.5 and 5.6 as
6 follows:

7 (20 ILCS 2520/5) (from Ch. 120, par. 2305)

8 Sec. 5. Taxpayer's suits. Taxpayers have the right to
9 sue the Department of Revenue if the ~~sueh~~ Department
10 negligently intentionally--or-reeklessly disregards tax laws
11 or regulations in collecting taxes. The maximum recovery for
12 damages in such a suit shall be \$100,000. If a taxpayer's
13 suit is determined by the court to be frivolous the court may
14 impose a penalty on the taxpayer not to exceed \$10,000 to be
15 collected as a tax.

16 (Source: P.A. 86-176; 86-189.)

17 (20 ILCS 2520/5.5 new)

18 Sec. 5.5. Burden of proof.

19 (a) Notwithstanding any other law to the contrary, in the
20 case of a taxpayer receiving a protestable notice, a bill, a
21 claim denial, or a reduction of refund regarding any tax,
22 until proven otherwise by the Department in the appropriate
23 proceeding, the taxpayer's position shall be presumed to be
24 the correct one and the burden of proof shall be on the
25 Department to prove otherwise.

26 (b) The provisions of subsection (a) apply only if (i)
27 the taxpayer asserts a reasonable dispute with respect to the
28 issue and (ii) the taxpayer has fully cooperated with the
29 Department with respect to the issue, including providing,
30 within a reasonable period of time, access to and inspection

1 of all witnesses, information, and documents within the
2 control of the taxpayer, as reasonably requested by the
3 Department.

4 (c) The Department shall adopt rules to implement the
5 provisions of this Section.

6 (20 ILCS 2520/5.6 new)

7 Sec. 5.6. Privileged communications; accountant and
8 client. In any non-criminal proceeding before the
9 Department, the taxpayer shall be entitled to the same common
10 law protections of confidentiality with respect to tax advice
11 furnished by a certified public accountant or a public
12 accountant licensed under the Illinois Public Accounting Act
13 as the taxpayer would have if the accountant were an
14 attorney.

15 Section 10. The Illinois Income Tax Act is amended by
16 changing Sections 902, 904, and 917 and adding Section 917.5
17 as follows:

18 (35 ILCS 5/902) (from Ch. 120, par. 9-902)

19 Sec. 902. Notice and Demand. (a) In general. Except as
20 provided in subsection (b) the Director shall, as soon as
21 practicable after an amount payable under this Act is deemed
22 assessed (as provided in Section 903), give notice to each
23 person liable for any unpaid portion of such assessment,
24 stating the amount unpaid and demanding payment thereof. In
25 the case of tax deemed assessed with the filing of a return,
26 the Director shall give notice no later than 3 years after
27 the date the return was filed. Upon receipt of any notice
28 and demand there shall be paid at the place and time stated
29 in such notice the amount stated in such notice. Such notice
30 shall be left at the dwelling or usual place of business of
31 such person or shall be sent by mail to the person's last

1 known address.

2 (b) Judicial review. In the case of a deficiency deemed
3 assessed under Section 903 (a) (2) after the filing of a
4 protest, notice and demand shall not be made with respect to
5 such assessment until all proceedings in court for the review
6 of such assessment have terminated or the time for the taking
7 thereof has expired without such proceedings being
8 instituted.

9 (c) Action for recovery of taxes. At any time that the
10 Department might commence proceedings for a levy under
11 Section 1109, regardless of whether a notice of lien was
12 filed under the provisions of Section 1103, it may bring an
13 action in any court of competent jurisdiction within or
14 without this State in the name of the people of this State to
15 recover the amount of any taxes, penalties and interest due
16 and unpaid under this Act. ~~In such action, the certificate of~~
17 ~~the Department showing the amount of the delinquency shall be~~
18 ~~prima facie evidence of the correctness of such amount, its~~
19 ~~assessment and of the compliance by the Department with all~~
20 ~~the provisions of this Act.~~

21 (d) Sales or transfers outside the usual course of
22 business-Report-Payment of Tax - Rights and duties of
23 purchaser or transferee - penalty. If any taxpayer, outside
24 the usual course of his business, sells or transfers the
25 major part of any one or more of (A) the stock of goods which
26 he is engaged in the business of selling, or (B) the
27 furniture or fixtures, or (C) the machinery and equipment, or
28 (D) the real property, of any business that is subject to the
29 provisions of this Act, the purchaser or transferee of such
30 assets shall, no later than 10 days after the sale or
31 transfer, file a notice of sale or transfer of business
32 assets with the Chicago office of the Department disclosing
33 the name and address of the seller or transferor, the name
34 and address of the purchaser or transferee, the date of the

1 sale or transfer, a copy of the sales contract and financing
2 agreements which shall include a description of the property
3 sold or transferred, the amount of the purchase price or a
4 statement of other consideration for the sale or transfer,
5 and the terms for payment of the purchase price, and such
6 other information as the Department may reasonably require.
7 If the purchaser or transferee fails to file the above
8 described notice of sale with the Department within the
9 prescribed time, the purchaser or transferee shall be
10 personally liable to the Department for the amount owed
11 hereunder by the seller or transferor but unpaid, up to the
12 amount of the reasonable value of the property acquired by
13 the purchaser or transferee. The purchaser or transferee
14 shall pay the Department the amount of tax, penalties, and
15 interest owed by the seller or transferor under this Act, to
16 the extent they have not been paid by the seller or
17 transferor. The seller or transferor, or the purchaser or
18 transferee, at least 10 days before the date of the sale or
19 transfer, may notify the Department of the intended sale or
20 transfer and request the Department to make a determination
21 as to whether the seller or transferor owes any tax, penalty
22 or interest due under this Act. The Department shall take
23 such steps as may be appropriate to comply with such request.

24 Any order issued by the Department pursuant to this
25 Section to withhold from the purchase price shall be issued
26 within 10 days after the Department receives notification of
27 a sale as provided in this Section. The purchaser or
28 transferee shall withhold such portion of the purchase price
29 as may be directed by the Department, but not to exceed a
30 minimum amount varying by type of business, as determined by
31 the Department pursuant to regulations, plus twice the
32 outstanding unpaid liabilities and twice the average
33 liability of preceding filings times the number of unfiled
34 returns which were not filed when due, to cover the amount of

1 all tax, penalty, and interest due and unpaid by the seller
2 or transferor under this Act or, if the payment of money or
3 property is not involved, shall withhold the performance of
4 the condition that constitutes the consideration for the sale
5 or transfer. Within 60 days after issuance of the initial
6 order to withhold, the Department shall provide written
7 notice to the purchaser or transferee of the actual amount of
8 all taxes, penalties and interest then due and whether or not
9 additional amounts may become due as a result of unpaid taxes
10 required to be withheld by an employer, returns which were
11 not filed when due, pending assessments and audits not
12 completed. The purchaser or transferee shall continue to
13 withhold the amount directed to be withheld by the initial
14 order or such lesser amount as is specified by the final
15 withholding order or to withhold the performance of the
16 condition which constitutes the consideration for the sale or
17 transfer until the purchaser or transferee receives from the
18 Department a certificate showing that no unpaid tax, penalty
19 or interest is due from the seller or transferor under this
20 Act.

21 The purchaser or transferee is relieved of any duty to
22 continue to withhold from the purchase price and of any
23 liability for tax, penalty, or interest due hereunder from
24 the seller or transferor if the Department fails to notify
25 the purchaser or transferee in the manner provided herein of
26 the amount to be withheld within 10 days after the sale or
27 transfer has been reported to the Department or within 60
28 days after issuance of the initial order to withhold, as the
29 case may be. The Department shall have the right to determine
30 amounts claimed on an estimated basis to allow for periods
31 for which returns were not filed when due, pending
32 assessments and audits not completed, however the purchaser
33 or transferee shall be personally liable only for the actual
34 amount due when determined.

1 If the seller or transferor has failed to pay the tax,
 2 penalty, and interest due from him hereunder and the
 3 Department makes timely claim therefor against the purchaser
 4 or transferee as hereinabove provided, then the purchaser or
 5 transferee shall pay to the Department the amount so withheld
 6 from the purchase price. If the purchaser or transferee
 7 fails to comply with the requirements of this Section, the
 8 purchaser or transferee shall be personally liable to the
 9 Department for the amount owed hereunder by the seller or
 10 transferor up to the amount of the reasonable value of the
 11 property acquired by the purchaser or transferee.

12 Any person who shall acquire any property or rights
 13 thereto which, at the time of such acquisition, is subject to
 14 a valid lien in favor of the Department, shall be personally
 15 liable to the Department for a sum equal to the amount of
 16 taxes, penalties and interests, secured by such lien, but not
 17 to exceed the reasonable value of such property acquired by
 18 him.

19 (Source: P.A. 86-923; 86-953.)

20 (35 ILCS 5/904) (from Ch. 120, par. 9-904)

21 Sec. 904. Deficiencies and Overpayments.

22 (a) Examination of return. As soon as practicable after
 23 a return is filed, the Department shall examine it to
 24 determine the correct amount of tax. If the Department finds
 25 that the amount of tax shown on the return is less than the
 26 correct amount, it shall issue a notice of deficiency to the
 27 taxpayer which shall set forth the amount of tax and
 28 penalties proposed to be assessed. If the Department finds
 29 that the tax paid is more than the correct amount, it shall
 30 credit or refund the overpayment as provided by Section 909.
 31 ~~The findings of the Department under this subsection shall be~~
 32 ~~prima facie correct and shall be prima facie evidence of the~~
 33 ~~correctness of the amount of tax and penalties due.~~

1 (b) No return filed. If the taxpayer fails to file a
2 tax return, the Department shall determine the amount of tax
3 due according to its best judgment and information, ~~which~~
4 ~~amount--so--fixed--by--the--Department--shall--be--prima--facie~~
5 ~~correct--and--shall--be--prima--facie--evidence--of--the--correctness~~
6 ~~of--the--amount--of--tax--due.~~ The Department shall issue a notice
7 of deficiency to the taxpayer which shall set forth the
8 amount of tax and penalties proposed to be assessed.

9 (c) Notice of deficiency. A notice of deficiency issued
10 under this Act shall set forth the adjustments giving rise to
11 the proposed assessment and the reasons therefor. In the case
12 of a joint return, the notice of deficiency may be a single
13 joint notice except that if the Department is notified by
14 either spouse that separate residences have been established,
15 it shall issue joint notices to each spouse.

16 (d) Assessment when no protest. Upon the expiration of
17 60 days after the date on which it was issued (150 days if
18 the taxpayer is outside the United States), a notice of
19 deficiency shall constitute an assessment of the amount of
20 tax and penalties specified therein, except only for such
21 amounts as to which the taxpayer shall have filed a protest
22 with the Department, as provided in Section 908.

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

24 (35 ILCS 5/917) (from Ch. 120, par. 9-917)

25 Sec. 917. Confidentiality and information sharing.

26 (a) Confidentiality. Except as provided in this Section,
27 all information received by the Department from returns filed
28 under this Act, or from any investigation conducted under the
29 provisions of this Act, shall be confidential, except for
30 official purposes within the Department or pursuant to
31 official procedures for collection of any State tax or
32 pursuant to an investigation or audit by the Illinois State
33 Scholarship Commission of a delinquent student loan or

1 monetary award or enforcement of any civil or criminal
2 penalty or sanction imposed by this Act or by another statute
3 imposing a State tax, and any person who divulges any such
4 information in any manner, except for such purposes and
5 pursuant to order of the Director or in accordance with a
6 proper judicial order, shall be guilty of a Class A
7 misdemeanor. However, the provisions of this paragraph are
8 not applicable to information furnished to a licensed
9 attorney representing the taxpayer where an appeal or a
10 protest has been filed on behalf of the taxpayer. In
11 addition, the provisions of this paragraph are not applicable
12 in a non-criminal proceeding before the Department to
13 information furnished to a certified public accountant or a
14 public accountant licensed to practice in this State under
15 the Illinois Public Accounting Act.

16 (b) Public information. Nothing contained in this Act
17 shall prevent the Director from publishing or making
18 available to the public the names and addresses of persons
19 filing returns under this Act, or from publishing or making
20 available reasonable statistics concerning the operation of
21 the tax wherein the contents of returns are grouped into
22 aggregates in such a way that the information contained in
23 any individual return shall not be disclosed.

24 (c) Governmental agencies. The Director may make
25 available to the Secretary of the Treasury of the United
26 States or his delegate, or the proper officer or his delegate
27 of any other state imposing a tax upon or measured by income,
28 for exclusively official purposes, information received by
29 the Department in the administration of this Act, but such
30 permission shall be granted only if the United States or such
31 other state, as the case may be, grants the Department
32 substantially similar privileges. The Director may exchange
33 information with the Illinois Department of Public Aid and
34 the Department of Human Services (acting as successor to the

1 Department of Public Aid under the Department of Human
2 Services Act) for the purpose of verifying sources and
3 amounts of income and for other purposes directly connected
4 with the administration of this Act and the Illinois Public
5 Aid Code. The Director may exchange information with the
6 Director of the Department of Employment Security for the
7 purpose of verifying sources and amounts of income and for
8 other purposes directly connected with the administration of
9 this Act and Acts administered by the Department of
10 Employment Security. The Director may make available to the
11 Illinois Industrial Commission information regarding
12 employers for the purpose of verifying the insurance coverage
13 required under the Workers' Compensation Act and Workers'
14 Occupational Diseases Act.

15 The Director may make available to any State agency,
16 including the Illinois Supreme Court, which licenses persons
17 to engage in any occupation, information that a person
18 licensed by such agency has failed to file returns under this
19 Act or pay the tax, penalty and interest shown therein, or
20 has failed to pay any final assessment of tax, penalty or
21 interest due under this Act. The Director may also make
22 available to the Secretary of State information that a
23 corporation which has been issued a certificate of
24 incorporation by the Secretary of State has failed to file
25 returns under this Act or pay the tax, penalty and interest
26 shown therein, or has failed to pay any final assessment of
27 tax, penalty or interest due under this Act. An assessment is
28 final when all proceedings in court for review of such
29 assessment have terminated or the time for the taking thereof
30 has expired without such proceedings being instituted. For
31 taxable years ending on or after December 31, 1987, the
32 Director may make available to the Director or principal
33 officer of any Department of the State of Illinois,
34 information that a person employed by such Department has

1 failed to file returns under this Act or pay the tax, penalty
2 and interest shown therein. For purposes of this paragraph,
3 the word "Department" shall have the same meaning as provided
4 in Section 3 of the State Employees Group Insurance Act of
5 1971.

6 (d) The Director shall make available for public
7 inspection in the Department's principal office and for
8 publication, at cost, administrative decisions issued on or
9 after January 1, 1995. These decisions are to be made
10 available in a manner so that the following taxpayer
11 information is not disclosed:

12 (1) The names, addresses, and identification
13 numbers of the taxpayer, related entities, and employees.

14 (2) At the sole discretion of the Director, trade
15 secrets or other confidential information identified as
16 such by the taxpayer, no later than 30 days after receipt
17 of an administrative decision, by such means as the
18 Department shall provide by rule.

19 The Director shall determine the appropriate extent of
20 the deletions allowed in paragraph (2). In the event the
21 taxpayer does not submit deletions, the Director shall make
22 only the deletions specified in paragraph (1).

23 The Director shall make available for public inspection
24 and publication an administrative decision within 180 days
25 after the issuance of the administrative decision. The term
26 "administrative decision" has the same meaning as defined in
27 Section 3-101 of Article III of the Code of Civil Procedure.
28 Costs collected under this Section shall be paid into the Tax
29 Compliance and Administration Fund.

30 (e) Nothing contained in this Act shall prevent the
31 Director from divulging information to any person pursuant to
32 a request or authorization made by the taxpayer, by an
33 authorized representative of the taxpayer, or, in the case of
34 information related to a joint return, by the spouse filing

1 the joint return with the taxpayer.

2 (Source: P.A. 89-507, eff. 7-1-97; 90-491, eff. 1-1-98.)

3 (35 ILCS 5/917.5 new)

4 Sec. 917.5. Civil damages; disclosure of information.

5 (a) If any officer or employee of the Department, in
6 violation of Section 917, knowingly or negligently divulges
7 information received by the Department from returns filed by
8 a taxpayer under this Act or from any investigation conducted
9 with respect to a taxpayer under the provisions of this Act,
10 the taxpayer may bring a civil action for damages against the
11 Department in the Court of Claims.

12 (b) If any person who is not an officer or employee of
13 the Department, in violation of Section 917, knowingly or
14 negligently divulges information from returns filed by a
15 taxpayer under this Act or from any investigation conducted
16 with respect to a taxpayer under the provision of this Act,
17 the taxpayer may bring a civil action for damages against
18 that person in the circuit court of the county where the
19 taxpayer has his or her residence or commercial domicile, or
20 Cook County if the taxpayer does not have his or her
21 residence or commercial domicile in this State.

22 (c) No liability shall arise under this Section if the
23 disclosure of information was a result of a good faith, but
24 erroneous, interpretation of Section 917.

25 (d) In any action brought under subsection (a) or (b),
26 upon a finding of liability on the part of the defendant, the
27 defendant shall be liable to the plaintiff (i) in an amount
28 equal to the greater of (A) \$1,000 for each act of
29 unauthorized disclosure of information or (B) the amount of
30 damages, up to \$100,000, in the case of willful disclosure or
31 a disclosure that is the result of gross negligence and (ii)
32 costs and reasonable attorney's fees.

1 Section 15. The Use Tax Act is amended by changing
2 Sections 19 and 20 as follows:

3 (35 ILCS 105/19) (from Ch. 120, par. 439.19)

4 Sec. 19. If it shall appear that an amount of tax or
5 penalty or interest has been paid in error hereunder to the
6 Department by a purchaser, as distinguished from the
7 retailer, whether such amount be paid through a mistake of
8 fact or an error of law, such purchaser may file a claim for
9 credit or refund with the Department in accordance with
10 Sections 6, 6a, 6b, and 6c of the Retailers' Occupation Tax
11 Act. If it shall appear that an amount of tax or penalty or
12 interest has been paid in error to the Department hereunder
13 by a retailer who is required or authorized to collect and
14 remit the use tax, whether such amount be paid through a
15 mistake of fact or an error of law, such retailer may file a
16 claim for credit or refund with the Department in accordance
17 with Sections 6, 6a, 6b, and 6c of the Retailers' Occupation
18 Tax Act, provided that no credit or refund shall be allowed
19 for any amount paid by any such retailer unless it shall
20 appear that he bore the burden of such amount and did not
21 shift the burden thereof to anyone else (as in the case of a
22 duplicated tax payment which the retailer made to the
23 Department and did not collect from anyone else), or unless
24 it shall appear that he or she or his or her legal
25 representative has unconditionally repaid such amount to his
26 vendee (1) who bore the burden thereof and has not shifted
27 such burden directly or indirectly in any manner whatsoever;
28 (2) who, if he has shifted such burden, has repaid
29 unconditionally such amount to his or her own vendee, and (3)
30 who is not entitled to receive any reimbursement therefor
31 from any other source than from his vendor, nor to be
32 relieved of such burden in any other manner whatsoever. If it
33 shall appear that an amount of tax has been paid in error

1 hereunder by the purchaser to a retailer, who retained such
2 tax as reimbursement for his or her tax liability on the same
3 sale under the Retailers' Occupation Tax Act, and who
4 remitted the amount involved to the Department under the
5 Retailers' Occupation Tax Act, whether such amount be paid
6 through a mistake of fact or an error of law, the procedure
7 for recovering such tax shall be that prescribed in Sections
8 6, 6a, 6b and 6c of the Retailers' Occupation Tax Act.

9 Any credit or refund that is allowed under this Section
10 shall bear interest at the rate and in the manner specified
11 in the Uniform Penalty and Interest Act.

12 Any claim filed hereunder shall be filed upon a form
13 prescribed and furnished by the Department. The claim shall
14 be signed by the claimant (or by the claimant's legal
15 representative if the claimant shall have died or become a
16 person under legal disability), or by a duly authorized agent
17 of the claimant or his or her legal representative.

18 A claim for credit or refund shall be considered to have
19 been filed with the Department on the date upon which it is
20 received by the Department. Upon receipt of any claim for
21 credit or refund filed under this Act, any officer or
22 employee of the Department, authorized in writing by the
23 Director of Revenue to acknowledge receipt of such claims on
24 behalf of the Department, shall execute on behalf of the
25 Department, and shall deliver or mail to the claimant or his
26 duly authorized agent, a written receipt, acknowledging that
27 the claim has been filed with the Department, describing the
28 claim in sufficient detail to identify it and stating the
29 date upon which the claim was received by the Department.
30 Such written receipt shall be prima facie evidence that the
31 Department received the claim described in such receipt and
32 shall be prima facie evidence of the date when such claim was
33 received by the Department. ~~In the absence of such a written~~
34 ~~receipt, the records of the Department as to when the claim~~

1 was-received-by-the-Department, or-as-to-whether-or-not-the
2 claim-was-received-at-all-by-the-Department, shall-be-deemed
3 to-be-prima-facie-correct-upon-these-questions-in-the-event
4 of-any-dispute-between-the-claimant-(or-his-or-her-legal
5 representative)-and-the-Department-concerning-these
6 questions.

7 In case the Department determines that the claimant is
8 entitled to a refund, such refund shall be made only from
9 such appropriation as may be available for that purpose. If
10 it appears unlikely that the amount appropriated would permit
11 everyone having a claim allowed during the period covered by
12 such appropriation to elect to receive a cash refund, the
13 Department, by rule or regulation, shall provide for the
14 payment of refunds in hardship cases and shall define what
15 types of cases qualify as hardship cases.

16 If a retailer who has failed to pay use tax on gross
17 receipts from retail sales is required by the Department to
18 pay such tax, such retailer, without filing any formal claim
19 with the Department, shall be allowed to take credit against
20 such use tax liability to the extent, if any, to which such
21 retailer has paid an amount equivalent to retailers'
22 occupation tax or has paid use tax in error to his or her
23 vendor or vendors of the same tangible personal property
24 which such retailer bought for resale and did not first use
25 before selling it, and no penalty or interest shall be
26 charged to such retailer on the amount of such credit.
27 However, when such credit is allowed to the retailer by the
28 Department, the vendor is precluded from refunding any of
29 that tax to the retailer and filing a claim for credit or
30 refund with respect thereto with the Department. The
31 provisions of this amendatory Act shall be applied
32 retroactively, regardless of the date of the transaction.

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

1 (35 ILCS 105/20) (from Ch. 120, par. 439.20)

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

33 If a protest to the Department's Notice of Tentative
34 Determination of Claim is not filed within 60 days and a

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

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

17 Section 20. The Service Use Tax Act is amended by
18 changing Sections 17 and 18 as follows:

19 (35 ILCS 110/17) (from Ch. 120, par. 439.47)

20 Sec. 17. If it shall appear that an amount of tax or
21 penalty or interest has been paid in error hereunder to the
22 Department by a purchaser, as distinguished from the
23 serviceman, whether such amount be paid through a mistake of
24 fact or an error of law, such purchaser may file a claim for
25 credit or refund with the Department. If it shall appear that
26 an amount of tax or penalty or interest has been paid in
27 error to the Department hereunder by a serviceman who is
28 required or authorized to collect and remit the Service Use
29 Tax, whether such amount be paid through a mistake of fact or
30 an error of law, such serviceman may file a claim for credit
31 or refund with the Department, provided that no credit shall
32 be allowed or refund made for any amount paid by any such

1 serviceman unless it shall appear that he bore the burden of
2 such amount and did not shift the burden thereof to anyone
3 else (as in the case of a duplicated tax payment which the
4 serviceman made to the Department and did not collect from
5 anyone else), or unless it shall appear that he or his legal
6 representative has unconditionally repaid such amount to his
7 vendee (1) who bore the burden thereof and has not shifted
8 such burden directly or indirectly in any manner whatsoever;
9 (2) who, if he has shifted such burden, has repaid
10 unconditionally such amount to his own vendee, and (3) who is
11 not entitled to receive any reimbursement therefor from any
12 other source than from his vendor, nor to be relieved of such
13 burden in any other manner whatsoever. If it shall appear
14 that an amount of tax has been paid in error hereunder by the
15 purchaser to a serviceman, who retained such tax as
16 reimbursement for his tax liability on the same sale of
17 service under the Service Occupation Tax Act, and who paid
18 such tax as required by the Service Occupation Tax Act,
19 whether such amount be paid through a mistake of fact or an
20 error of law, the procedure for recovering such tax shall be
21 that prescribed in Sections 17, 18, 19 and 20 of the Service
22 Occupation Tax Act.

23 Any credit or refund that is allowed under this Section
24 shall bear interest at the rate and in the manner specified
25 in the Uniform Penalty and Interest Act.

26 Any claim filed hereunder shall be filed upon a form
27 prescribed and furnished by the Department. The claim shall
28 be signed by the claimant (or by the claimant's legal
29 representative if the claimant shall have died or become a
30 person under legal disability), or by a duly authorized agent
31 of the claimant or his or her legal representative.

32 A claim for credit or refund shall be considered to have
33 been filed with the Department on the date upon which it is
34 received by the Department. Upon receipt of any claim for

1 credit or refund filed under this Act, any officer or
 2 employee of the Department, authorized in writing by the
 3 Director of Revenue to acknowledge receipt of such claims on
 4 behalf of the Department, shall execute on behalf of the
 5 Department, and shall deliver or mail to the claimant or his
 6 duly authorized agent, a written receipt, acknowledging that
 7 the claim has been filed with the Department, describing the
 8 claim in sufficient detail to identify it and stating the
 9 date upon which the claim was received by the Department.
 10 Such written receipt shall be prima facie evidence that the
 11 Department received the claim described in such receipt and
 12 shall be prima facie evidence of the date when such claim was
 13 received by the Department. ~~In-the-absence-of-such-a-written~~
 14 ~~receipt,-the-records-of-the-Department-as-to-when--the--claim~~
 15 ~~was--received--by-the-Department,-or-as-to-whether-or-not-the~~
 16 ~~claim-was-received-at-all-by-the-Department,-shall-be--deemed~~
 17 ~~to--be--prima-facie-correct-upon-these-questions-in-the-event~~
 18 ~~of-any-dispute-between-the-claimant--(or--his--or--her--legal~~
 19 ~~representative)---and---the---Department---concerning---these~~
 20 ~~questions-~~

21 In case the Department determines that the claimant is
 22 entitled to a refund, such refund shall be made only from
 23 such appropriation as may be available for that purpose. If
 24 it appears unlikely that the amount appropriated would permit
 25 everyone having a claim allowed during the period covered by
 26 such appropriation to elect to receive a cash refund, the
 27 Department, by rule or regulation, shall provide for the
 28 payment of refunds in hardship cases and shall define what
 29 types of cases qualify as hardship cases.

30 (Source: P.A. 87-205.)

31 (35 ILCS 110/18) (from Ch. 120, par. 439.48)

32 Sec. 18. As soon as practicable after a claim for credit
 33 or refund is filed, the Department shall examine the same and

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

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

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

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

14 Section 25. The Service Occupation Tax Act is amended by
15 changing Sections 17 and 18 as follows:

16 (35 ILCS 115/17) (from Ch. 120, par. 439.117)

17 Sec. 17. If it shall appear that an amount of tax or
18 penalty or interest has been paid in error hereunder directly
19 to the Department by a serviceman, whether such amount be
20 paid through a mistake of fact or an error of law, such
21 serviceman may file a claim for credit or refund with the
22 Department. If it shall appear that an amount of tax or
23 penalty or interest has been paid in error to the Department
24 hereunder by a supplier who is required or authorized to
25 collect and remit the Service Occupation Tax, whether such
26 amount be paid through a mistake of fact or an error of law,
27 such supplier may file a claim for credit or refund with the
28 Department, provided that no credit shall be allowed nor any
29 refund made for any amount paid by any such supplier unless
30 it shall appear that he bore the burden of such amount and
31 did not shift the burden thereof to anyone else (as in the
32 case of a duplicated tax payment which the supplier made to

1 the Department and did not collect from anyone else), or
2 unless it shall appear that he or his legal representative
3 has unconditionally repaid such amount to his vendee (1) who
4 bore the burden thereof and has not shifted such burden
5 directly or indirectly in any manner whatsoever; (2) who, if
6 he has shifted such burden, has repaid unconditionally such
7 amount to his own vendee, and (3) who is not entitled to
8 receive any reimbursement therefor from any other source than
9 from his supplier, nor to be relieved of such burden in any
10 other manner whatsoever.

11 Any credit or refund that is allowed under this Section
12 shall bear interest at the rate and in the manner specified
13 in the Uniform Penalty and Interest Act.

14 Any claim filed hereunder shall be filed upon a form
15 prescribed and furnished by the Department. The claim shall
16 be signed by the claimant (or by the claimant's legal
17 representative if the claimant shall have died or become a
18 person under legal disability), or by a duly authorized agent
19 of the claimant or his or her legal representative.

20 A claim for credit or refund shall be considered to have
21 been filed with the Department on the date upon which it is
22 received by the Department. Upon receipt of any claim for
23 credit or refund filed under this Act, any officer or
24 employee of the Department, authorized in writing by the
25 Director of Revenue to acknowledge receipt of such claims on
26 behalf of the Department, shall execute on behalf of the
27 Department, and shall deliver or mail to the claimant or his
28 or her duly authorized agent, a written receipt,
29 acknowledging that the claim has been filed with the
30 Department, describing the claim in sufficient detail to
31 identify it and stating the date upon which the claim was
32 received by the Department. Such written receipt shall be
33 prima facie evidence that the Department received the claim
34 described in such receipt and shall be prima facie evidence

1 of the date when such claim was received by the Department.
 2 ~~In--the-absence-of-such-a-written-receipt, the records of the~~
 3 ~~Department--as--to--when--the--claim--was--received--by--the~~
 4 ~~Department, or as to whether or not the claim was received at~~
 5 ~~all--by--the--Department, shall--be--deemed--to--be--prima--facie~~
 6 ~~correct upon these questions in--the--event--of--any--dispute~~
 7 ~~between--the--claimant--(or his legal representative) and the~~
 8 ~~Department concerning these questions.~~

9 In case the Department determines that the claimant is
 10 entitled to a refund, such refund shall be made only from
 11 such appropriation as may be available for that purpose. If
 12 it appears unlikely that the amount appropriated would permit
 13 everyone having a claim allowed during the period covered by
 14 such appropriation to elect to receive a cash refund, the
 15 Department, by rule or regulation, shall provide for the
 16 payment of refunds in hardship cases and shall define what
 17 types of cases qualify as hardship cases.

18 (Source: P.A. 87-205.)

19 (35 ILCS 115/18) (from Ch. 120, par. 439.118)

20 Sec. 18. As soon as practicable after a claim for credit
 21 or refund is filed, the Department shall examine the same and
 22 determine the amount of credit or refund to which the
 23 claimant or the claimant's legal representative, in the event
 24 that the claimant shall have died or become a person under
 25 legal disability, is entitled and shall, by its Notice of
 26 Tentative Determination of Claim, notify the claimant or his
 27 or her legal representative of such determination, ~~which~~
 28 ~~determination--shall--be--prima--facie--correct.~~ Proof of such
 29 determination by the Department may be made at any hearing
 30 before the Department or in any legal proceeding by a
 31 reproduced copy of the Department's record relating thereto,
 32 in the name of the Department under the certificate of the
 33 Director of Revenue. Such reproduced copy shall, without

1 further proof, be admitted into evidence before the
2 Department or in any legal proceeding and--shall--be--prima
3 facie---proof---of---the---correctness--of--the--Department's
4 determination, as shown therein. If such claimant, or the
5 legal representative of a deceased claimant or a claimant who
6 is under legal disability shall, within 60 days after the
7 Department's Notice of Tentative Determination of Claim, file
8 a protest thereto and request a hearing thereon, the
9 Department shall give notice to such claimant, or the legal
10 representative of a deceased claimant or a claimant who is
11 under legal disability, of the time and place fixed for such
12 hearing, and shall hold a hearing in conformity with the
13 provisions of this Act, and pursuant thereto shall issue its
14 Final Determination of the amount, if any, found to be due as
15 a result of such hearing, to such claimant, or the legal
16 representative of a deceased claimant or a claimant who is
17 under legal disability.

18 If a protest to the Department's Notice of Tentative
19 Determination of Claim is not filed within 60 days and a
20 request for a hearing thereon is not made as provided herein,
21 the Notice shall thereupon become and operate as a Final
22 Determination; and, if the Department's Notice of Tentative
23 Determination, upon becoming a Final Determination, indicates
24 no amount due to the claimant, or, upon issuance of a credit
25 or refund for the amount, if any, found by the Department to
26 be due, the claim in all its aspects shall be closed and no
27 longer open to protest, hearing, judicial review, or by any
28 other proceeding or action whatever, either before the
29 Department or in any court of this State. Claims for credit
30 or refund hereunder must be filed with and initially
31 determined by the Department, the remedy herein provided
32 being exclusive; and no court shall have jurisdiction to
33 determine the merits of any claim except upon review as
34 provided in this Act.

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

2 Section 30. The Retailer's Occupation Tax Act is amended
3 by changing Sections 4, 5, 6a, and 6b as follows:

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

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

1 transaction by transaction, monthly or quarterly returns
2 covering a period of 6 months or more, it shall be
3 permissible for the Department to show a single corrected
4 return figure for any given 6-month period.

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

8 Proof of such correction by the Department may be made at
9 any hearing before the Department or in any legal proceeding
10 by a reproduced copy or computer print-out of the
11 Department's record relating thereto in the name of the
12 Department under the certificate of the Director of Revenue.
13 If reproduced copies of the Department's records are offered
14 as proof of such correction, the Director must certify that
15 those copies are true and exact copies of records on file
16 with the Department. If computer print-outs of the
17 Department's records are offered as proof of such correction,
18 the Director must certify that those computer print-outs are
19 true and exact representations of records properly entered
20 into standard electronic computing equipment, in the regular
21 course of the Department's business, at or reasonably near
22 the time of the occurrence of the facts recorded, from
23 trustworthy and reliable information. Such certified
24 reproduced copy or certified computer print-out shall without
25 further proof, be admitted into evidence before the
26 Department or in any legal proceeding ~~and--shall--be--prima~~
27 ~~faeie--proof--of--the--correctness--of--the--amount--of--tax--due--as~~
28 ~~shown--therein.~~

29 If the tax computed upon the basis of the gross receipts
30 as fixed by the Department is greater than the amount of tax
31 due under the return or returns as filed, the Department
32 shall (or if the tax or any part thereof that is admitted to
33 be due by a return or returns, whether filed on time or not,
34 is not paid, the Department may) issue the taxpayer a notice

1 of tax liability for the amount of tax claimed by the
2 Department to be due, together with a penalty in an amount
3 determined in accordance with Section 3-3 of the Uniform
4 Penalty and Interest Act. Provided, that if the incorrectness
5 of any return or returns as determined by the Department is
6 due to negligence or fraud, said penalty shall be in an
7 amount determined in accordance with Section 3-5 or Section
8 3-6 of the Uniform Penalty and Interest Act, as the case may
9 be. ~~If--the--notice--of--tax--liability--is--not--based--on--a~~
10 ~~correction-of-the-taxpayer's-return-or-returns,--but--is--based~~
11 ~~on--the--taxpayer's--failure--to-pay-all-or-a-part-of-the-tax~~
12 ~~admitted-by-his-return-or-returns--(whether-filed-on--time--or~~
13 ~~not)--to--be--due,--such-notice-of-tax-liability-shall-be-prima~~
14 ~~facie-correct-and--shall--be--prima--facie--evidence--of--the~~
15 ~~correctness-of-the-amount-of-tax-due,--as-shown-therein.~~

16 Proof of such notice of tax liability by the Department
17 may be made at any hearing before the Department or in any
18 legal proceeding by a reproduced copy of the Department's
19 record relating thereto in the name of the Department under
20 the certificate of the Director of Revenue. ~~Such-reproduced~~
21 ~~copy-shall-without-further-proof,--be-admitted--into--evidence~~
22 ~~before-the-Department-or-in-any-legal-proceeding-and-shall-be~~
23 ~~prima--facie--proof--of--the-correctness-of-the-amount-of-tax~~
24 ~~due,--as-shown-therein.~~

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

30 Except in case of a fraudulent return, or in the case of
31 an amended return (where a notice of tax liability may be
32 issued on or after each January 1 and July 1 for an amended
33 return filed not more than 3 years prior to such January 1 or
34 July 1, respectively), no notice of tax liability shall be

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

25 If, when a tax or penalty under this Act becomes due and
26 payable, the person alleged to be liable therefor is out of
27 the State, the notice of tax liability may be issued within
28 the times herein limited after his coming into or return to
29 the State; and if, after the tax or penalty under this Act
30 becomes due and payable, the person alleged to be liable
31 therefor departs from and remains out of the State, the time
32 of his or her absence is no part of the time limited for the
33 issuance of the notice of tax liability; but the foregoing
34 provisions concerning absence from the State shall not apply

1 to any case in which, at the time when a tax or penalty
2 becomes due under this Act, the person allegedly liable
3 therefor is not a resident of this State.

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

9 If such person or legal representative shall within 60
10 days after such notice of tax liability file a protest to
11 said notice of tax liability and request a hearing thereon,
12 the Department shall give notice to such person or legal
13 representative of the time and place fixed for such hearing
14 and shall hold a hearing in conformity with the provisions of
15 this Act, and pursuant thereto shall issue to such person or
16 legal representative a final assessment for the amount found
17 to be due as a result of such hearing.

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

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

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

2 (35 ILCS 120/5) (from Ch. 120, par. 444)

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

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

16 In case any person engaged in the business of selling
17 tangible personal property at retail fails to file a return
18 when and as herein required, but thereafter, prior to the
19 Department's issuance of a notice of tax liability under this
20 Section, files a return but fails to pay the entire tax, a
21 penalty in an amount determined in accordance with Section
22 3-3 of the Uniform Penalty and Interest Act shall be added
23 thereto.

24 In case any person engaged in the business of selling
25 tangible personal property at retail fails to file a return,
26 the Department shall determine the amount of tax due from him
27 according to its best judgment and information, ~~which amount~~
28 ~~so fixed by the Department shall be prima facie correct and~~
29 ~~shall be prima facie evidence of the correctness of the~~
30 ~~amount of tax due, as shown in such determination.~~ In making
31 any such determination of tax due, it shall be permissible
32 for the Department to show a figure that represents the tax
33 due for any given period of 6 months instead of showing the

1 amount of tax due for each month separately. Proof of such
2 determination by the Department may be made at any hearing
3 before the Department or in any legal proceeding by a
4 reproduced copy or computer print-out of the Department's
5 record relating thereto in the name of the Department under
6 the certificate of the Director of Revenue. If reproduced
7 copies of the Department's records are offered as proof of
8 such determination, the Director must certify that those
9 copies are true and exact copies of records on file with the
10 Department. If computer print-outs of the Department's
11 records are offered as proof of such determination, the
12 Director must certify that those computer print-outs are true
13 and exact representations of records properly entered into
14 standard electronic computing equipment, in the regular
15 course of the Department's business, at or reasonably near
16 the time of the occurrence of the facts recorded, from
17 trustworthy and reliable information. Such certified
18 reproduced copy or certified computer print-out shall,
19 without further proof, be admitted into evidence before the
20 Department or in any legal proceeding ~~and shall be prima~~
21 ~~facie proof of the correctness of the amount of tax due, as~~
22 ~~shown therein.~~ The Department shall issue the taxpayer a
23 notice of tax liability for the amount of tax claimed by the
24 Department to be due, together with a penalty of 30% thereof.

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

32 If such person or the legal representative of such person
33 files, within 60 days after such notice, a protest to such
34 notice of tax liability and requests a hearing thereon, the

1 Department shall give notice to such person or the legal
2 representative of such person of the time and place fixed for
3 such hearing, and shall hold a hearing in conformity with the
4 provisions of this Act, and pursuant thereto shall issue a
5 final assessment to such person or to the legal
6 representative of such person for the amount found to be due
7 as a result of such hearing.

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

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

25 Except in case of failure to file a return, or with the
26 consent of the person to whom the notice of tax liability is
27 to be issued, no notice of tax liability shall be issued on
28 and after each July 1 and January 1 covering gross receipts
29 received during any month or period of time more than 3 years
30 prior to such July 1 and January 1, respectively, except that
31 if a return is not filed at the required time, a notice of
32 tax liability may be issued not later than 3 years after the
33 time the return is filed. The foregoing limitations upon the
34 issuance of a notice of tax liability shall not apply to the

1 issuance of any such notice with respect to any period of
2 time prior thereto in cases where the Department has, within
3 the period of limitation then provided, notified a person of
4 the amount of tax computed even though the Department had not
5 determined the amount of tax due from such person in the
6 manner required herein prior to the issuance of such notice,
7 but in no case shall the amount of any such notice of tax
8 liability for any period otherwise barred by this Act exceed
9 for such period the amount shown in the notice theretofore
10 issued.

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

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

29 In case of failure to pay the tax, or any portion
30 thereof, or any penalty provided for in this Act, or
31 interest, when due, the Department may bring suit to recover
32 the amount of such tax, or portion thereof, or penalty or
33 interest; or, if the taxpayer has died or become a person
34 under legal disability, may file a claim therefor against his

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

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

1 requirements of the Act in arriving at its final assessment
2 or its revised final assessment and that the taxpayer had his
3 opportunity for an administrative hearing and for judicial
4 review, whether he availed himself of either or both of these
5 opportunities or not, the court shall render judgment in
6 favor of the Department and against the taxpayer for the
7 amount shown to be due by the final assessment or the revised
8 final assessment, plus any interest which may be due, and
9 such judgment shall be entered in the judgment docket of the
10 court. Such judgment shall bear the rate of interest as set
11 by the Uniform Penalty and Interest Act, but otherwise shall
12 have the same effect as other judgments. The judgment may be
13 enforced, and all laws applicable to sales for the
14 enforcement of a judgment shall be applicable to sales made
15 under such judgments. The Department shall file the certified
16 copy of its assessment, as herein provided, with the Circuit
17 Court within 2 years after such assessment becomes final
18 except when the taxpayer consents in writing to an extension
19 of such filing period, and except that the time limitation
20 period on the Department's right to file the certified copy
21 of its assessment with the Circuit Court shall not run during
22 any period of time in which the order of any court has the
23 effect of enjoining or restraining the Department from filing
24 such certified copy of its assessment with the Circuit Court.

25 If, when the cause of action for a proceeding in court
26 accrues against a person, he or she is out of the State, the
27 action may be commenced within the times herein limited,
28 after his or her coming into or return to the State; and if,
29 after the cause of action accrues, he or she departs from and
30 remains out of the State, the time of his or her absence is
31 no part of the time limited for the commencement of the
32 action; but the foregoing provisions concerning absence from
33 the State shall not apply to any case in which, at the time
34 the cause of action accrues, the party against whom the cause

1 of action accrues is not a resident of this State. The time
2 within which a court action is to be commenced by the
3 Department hereunder shall not run from the date the taxpayer
4 files a petition in bankruptcy under the Federal Bankruptcy
5 Act until 30 days after notice of termination or expiration
6 of the automatic stay imposed by the Federal Bankruptcy Act.

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

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

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

29 In addition to any other remedy provided by this Act, and
30 regardless of whether the Department is making or intends to
31 make use of such other remedy, where a corporation or limited
32 liability company registered under this Act violates the
33 provisions of this Act or of any rule or regulation
34 promulgated thereunder, the Department may give notice to the

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

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

11 (Source: P.A. 87-193; 87-205; 87-895; 88-480.)

12 (35 ILCS 120/6a) (from Ch. 120, par. 445a)

13 Sec. 6a. Claims for credit or refund shall be prepared
14 and filed upon forms provided by the Department. Each claim
15 shall state: (1) The name and principal business address of
16 the claimant; (2) the period covered by the claim; (3) the
17 total amount of credit or refund claimed, giving in detail
18 the net amount of taxable receipts reported each month or
19 other return period used by the claimant as the basis for
20 filing returns in the period covered by the claim; (4) the
21 total amount of tax paid for each return period; (5) receipts
22 upon which tax liability is admitted for each return period;
23 (6) the amount of receipts on which credit or refund is
24 claimed for each return period; (7) the tax due for each
25 return period as corrected; (8) the amount of credit or
26 refund claimed for each return period; (9) reason or reasons
27 why the amount, for which the claim is filed, is alleged to
28 have been paid in error; (10) a list of the evidence
29 (documentary or otherwise) which the claimant has available
30 to establish his compliance with Section 6 as to bearing the
31 burden of the tax for which he seeks credit or refund; (11)
32 payments or parts thereof (if any) included in the claim and
33 paid by the claimant under protest; (12) sufficient

1 information to identify any suit which involves this Act, and
 2 to which the claimant is a party, and (13) such other
 3 information as the Department may reasonably require. Where
 4 the claimant is a corporation or limited liability company,
 5 the claim filed on behalf of such corporation or limited
 6 liability company shall be signed by the president,
 7 vice-president, secretary or treasurer, by the properly
 8 accredited agent of such corporation, or by a manager,
 9 member, or properly accredited agent of the limited liability
 10 company.

11 A claim for credit or refund shall be considered to have
 12 been filed with the Department on the date upon which it is
 13 received by the Department. Upon receipt of any claim for
 14 credit or refund filed under this Act, any officer or
 15 employee of the Department, authorized in writing by the
 16 Director of Revenue to acknowledge receipt of such claims on
 17 behalf of the Department, shall execute on behalf of the
 18 Department, and shall deliver or mail to the claimant or his
 19 duly authorized agent, a written receipt, acknowledging that
 20 the claim has been filed with the Department, describing the
 21 claim in sufficient detail to identify it and stating the
 22 date upon which the claim was received by the Department.
 23 Such written receipt shall be prima facie evidence that the
 24 Department received the claim described in such receipt and
 25 shall be prima facie evidence of the date when such claim was
 26 received by the Department. ~~In-the-absence-of-such-a-written~~
 27 ~~receipt,-the-records-of-the-Department-as-to-when-the-claim~~
 28 ~~was-received-by-the-Department,-or-as-to-whether-or-not-the~~
 29 ~~claim-was-received-at-all-by-the-Department,-shall-be-deemed~~
 30 ~~to-be-prima-facie-correct-upon-these-questions-in-the-event~~
 31 ~~of-any-dispute-between-the-claimant-(or-his-legal~~
 32 ~~representative)-and-the-Department-concerning-these~~
 33 ~~questions.~~

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

1 (35 ILCS 120/6b) (from Ch. 120, par. 445b)

2 Sec. 6b. As soon as practicable after a claim for credit
3 or refund is filed, the Department shall examine the same and
4 determine the amount of credit or refund to which the
5 claimant or the taxpayer's legal representative, in the event
6 that the taxpayer has died or become incompetent, is entitled
7 and shall, by its Notice of Tentative Determination of Claim,
8 notify the claimant or his legal representative of such
9 determination,~~which determination shall be prima facie~~
10 ~~correct~~. Proof of such determination by the Department may be
11 made at any hearing before the Department or in any legal
12 proceeding by a reproduced copy of the Department's record
13 relating thereto, in the name of the Department under the
14 certificate of the Director of Revenue. Such reproduced copy
15 shall, without further proof, be admitted into evidence
16 before the Department or in any legal proceeding ~~and shall be~~
17 ~~prima facie proof of the correctness of the Department's~~
18 ~~determination, as shown therein~~. If such claimant, or the
19 legal representative of a deceased or incompetent taxpayer,
20 within 60 days after the Department's Notice of Tentative
21 Determination of Claim, files a protest thereto and requests
22 a hearing thereon, the Department shall give notice to such
23 claimant, or the legal representative of a deceased taxpayer,
24 or a taxpayer who is under legal disability of the time and
25 place fixed for such hearing, and shall hold a hearing in
26 conformity with the provisions of this Act, and pursuant
27 thereto shall issue its Final Determination of the amount, if
28 any, found to be due as a result of such hearing, to such
29 claimant, or the legal representative of a deceased taxpayer,
30 or a taxpayer who is under legal disability. The Department's
31 Final Determination may be reviewed by the proper Circuit
32 Court, in the same manner, within the same time, upon the
33 same terms and conditions and to the same extent, as provided
34 by Section 12 of this Act.

1 In any case in which there has been an erroneous refund
 2 of tax payable under this Act, a notice of tax liability may
 3 be issued at any time within 3 years from the making of that
 4 refund, or within 5 years from the making of that refund if
 5 it appears that any part of the refund was induced by fraud
 6 or the misrepresentation of a material fact. The amount of
 7 any proposed assessment set forth in the notice shall be
 8 limited to the amount of the erroneous refund.

9 (Source: P.A. 87-876; 87-879; 88-45.)

10 Section 35. The Cigarette Tax Act is amended by changing
 11 Sections 9a and 9b as follows:

12 (35 ILCS 130/9a) (from Ch. 120, par. 453.9a)

13 Sec. 9a. (1) As soon as practicable after any return is
 14 filed, the Department shall examine such return and shall
 15 correct such return according to its best judgment and
 16 information, ~~which return so corrected by the Department~~
 17 ~~shall be prima facie correct and shall be prima facie~~
 18 ~~evidence of the correctness of the amount of tax due, as~~
 19 ~~shown therein.~~ Instead of requiring the distributor to file
 20 an amended return, the Department may simply notify the
 21 distributor of the correction or corrections it has made.
 22 Proof of such correction by the Department may be made at any
 23 hearing before the Department or in any legal proceeding by a
 24 reproduced copy of the Department's record relating thereto
 25 in the name of the Department under the certificate of the
 26 Director of Revenue. Such reproduced copy shall, without
 27 further proof, be admitted into evidence before the
 28 Department or in any legal proceeding ~~and shall be prima~~
 29 ~~facie proof of the correctness of the amount of tax due, as~~
 30 ~~shown therein.~~ If the Department finds that any amount of tax
 31 is due from the distributor, the Department shall issue the
 32 distributor a notice of tax liability for the amount of tax

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

27 (2) If, within 20 days after such notice of tax
28 liability, the distributor or his or her legal representative
29 files a protest to such notice of tax liability and requests
30 a hearing thereon, the Department shall give notice to such
31 distributor or legal representative of the time and place
32 fixed for such hearing, and shall hold a hearing in
33 conformity with the provisions of this Act, and pursuant
34 thereto shall issue a final assessment to such distributor or

1 legal representative for the amount found to be due as a
2 result of such hearing. If a protest to the notice of tax
3 liability and a request for a hearing thereon is not filed
4 within 20 days after such notice of tax liability, such
5 notice of tax liability shall become final without the
6 necessity of a final assessment being issued and shall be
7 deemed to be a final assessment.

8 (3) In case of failure to pay the tax, or any portion
9 thereof, or any penalty provided for in this Act, when due,
10 the Department may bring suit to recover the amount of such
11 tax, or portion thereof, or penalty; or, if the taxpayer dies
12 or becomes incompetent, by filing claim therefor against his
13 estate; provided that no such action with respect to any tax,
14 or portion thereof, or penalty, shall be instituted more than
15 2 years after the cause of action accrues, except with the
16 consent of the person from whom such tax or penalty is due.

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

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

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

1 such debtor of being discharged in bankruptcy.

2 No claim shall be filed against the estate of any
3 deceased person or a person under legal disability for any
4 tax or penalty or part of either except in the manner
5 prescribed and within the time limited by the Probate Act of
6 1975, as amended.

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

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

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

19 All of the provisions of Sections 5a, 5b, 5c, 5d, 5e, 5f,
20 5g, 5i and 5j of the Retailers' Occupation Tax Act, which are
21 not inconsistent with this Act, and Section 3-7 of the
22 Uniform Penalty and Interest Act shall apply, as far as
23 practicable, to the subject matter of this Act to the same
24 extent as if such provisions were included herein. References
25 in such incorporated Sections of the "Retailers' Occupation
26 Tax Act" to retailers, to sellers or to persons engaged in
27 the business of selling tangible personal property shall mean
28 distributors when used in this Act.

29 (Source: P.A. 87-205.)

30 (35 ILCS 130/9b) (from Ch. 120, par. 453.9b)

31 Sec. 9b. In case any person who is required to file a
32 return under this Act fails to file such return, the
33 Department shall determine the amount of tax due from him

1 according to its best judgment and information, which amount
2 so fixed by the Department shall be prima facie correct and
3 shall be prima facie evidence of the correctness of the
4 amount of tax due, as shown in such determination. Proof of
5 such determination by the Department may be made at any
6 hearing before the Department or in any legal proceeding by a
7 reproduced copy of the Department's record relating thereto
8 in the name of the Department under the certificate of the
9 Director of Revenue. Such reproduced copy shall, without
10 further proof, be admitted into evidence before the
11 Department or in any legal proceeding and shall be prima
12 facie proof of the correctness of the amount of tax due, as
13 shown therein. The Department shall issue such person a
14 notice of tax liability for the amount of tax claimed by the
15 Department to be due, together with a penalty in an amount
16 determined in accordance with Sections 3-3, 3-5 and 3-6 of
17 the Uniform Penalty and Interest Act. If such person or the
18 legal representative of such person, within 20 days after
19 such notice, files a protest to such notice of tax liability
20 and requests a hearing thereon, the Department shall give
21 notice to such person or the legal representative of such
22 person of the time and place fixed for such hearing and shall
23 hold a hearing in conformity with the provisions of this Act,
24 and pursuant thereto shall issue a final assessment to such
25 person or to the legal representative of such person for the
26 amount found to be due as a result of such hearing. If a
27 protest to the notice of tax liability and a request for a
28 hearing thereon is not filed within 20 days after such notice
29 of tax liability, such notice of tax liability shall become
30 final without the necessity of a final assessment being
31 issued and shall be deemed to be a final assessment.
32 (Source: P.A. 87-205.)

33 Section 40. The Cigarette Use Tax Act is amended by

1 changing Sections 13 and 13a as follows:

2 (35 ILCS 135/13) (from Ch. 120, par. 453.43)

3 Sec. 13. As soon as practicable after any return is
4 filed, the Department shall examine such return and shall
5 correct such return according to its best judgment and
6 information, ~~which return so corrected by the Department~~
7 ~~shall be prima facie correct and shall be prima facie~~
8 ~~evidence of the correctness of the amount of tax due, as~~
9 ~~shown therein.~~ Proof of such correction by the Department may
10 be made at any hearing before the Department or in any legal
11 proceeding by a reproduced copy of the Department's record
12 relating thereto in the name of the Department under the
13 certificate of the Director of Revenue. Such reproduced copy
14 shall, without further proof, be admitted into evidence
15 before the Department or in any legal proceeding ~~and shall be~~
16 ~~prima facie proof of the correctness of the amount of tax~~
17 ~~due, as shown therein.~~ If the tax as fixed by the Department
18 is greater than the amount of the tax due under the return as
19 filed, the Department shall issue the person filing such
20 return a notice of tax liability for the amount of tax
21 claimed by the Department to be due, together with a penalty
22 in an amount determined in accordance with Sections 3-3, 3-5
23 and 3-6 of the Uniform Penalty and Interest Act. If, in
24 administering the provisions of this Act, comparison of a
25 return or returns of a distributor with the books, records
26 and inventories of such distributor discloses a deficiency
27 which cannot be allocated by the Department to a particular
28 month or months, the Department shall issue the distributor a
29 notice of tax liability for the amount of tax claimed by the
30 Department to be due for a given period, but without any
31 obligation upon the Department to allocate such deficiency to
32 any particular month or months, together with a penalty in an
33 amount determined in accordance with Sections 3-3, 3-5 and

1 3-6 of the Uniform Penalty and Interest Act, ~~under which~~
2 ~~circumstances the aforesaid notice of tax liability shall be~~
3 ~~prima facie correct and shall be prima facie evidence of the~~
4 ~~correctness of the amount of tax due, as shown therein;~~ and
5 proof of such correctness may be made in accordance with, and
6 the admissibility of a reproduced copy of such notice of tax
7 liability shall be governed by, all the provisions of this
8 Act applicable to corrected returns.

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

14 If within 20 days after such notice of tax liability, the
15 person to whom such notice is issued or his legal
16 representative files a protest to such notice of tax
17 liability and requests a hearing thereon, the Department
18 shall give notice to such person or legal representative of
19 the time and place fixed for such hearing, and shall hold a
20 hearing in conformity with the provisions of this Act, and
21 pursuant thereto shall issue a final assessment to such
22 person or legal representative for the amount found to be due
23 as a result of such hearing. If a protest to the notice of
24 tax liability and a request for a hearing thereon is not
25 filed within 20 days after such notice of tax liability, such
26 notice of tax liability shall become final without the
27 necessity of a final assessment being issued and shall be
28 deemed to be a final assessment.

29 (Source: P.A. 87-205.)

30 (35 ILCS 135/13a) (from Ch. 120, par. 453.43a)

31 Sec. 13a. In case any person who is required to file a
32 return under this Act fails to file such return, the
33 Department shall determine the amount of tax due from him

1 according to its best judgment and information, which amount
2 ~~so fixed by the Department shall be prima facie correct and~~
3 ~~shall be prima facie evidence of the correctness of the~~
4 ~~amount of tax due, as shown in such determination.~~ Proof of
5 such determination by the Department may be made at any
6 hearing before the Department or in any legal proceeding by a
7 reproduced copy of the Department's record relating thereto
8 in the name of the Department under the certificate of the
9 Director of Revenue. Such reproduced copy shall, without
10 further proof, be admitted into evidence before the
11 Department or in any legal proceeding ~~and shall be prima~~
12 ~~facie proof of the correctness of the amount of tax due, as~~
13 ~~shown therein.~~ The Department shall issue such person a
14 notice of tax liability for the amount of tax claimed by the
15 Department to be due, together with a penalty in an amount
16 determined in accordance with Sections 3-3, 3-5 and 3-6 of
17 the Uniform Penalty and Interest Act. If such person or the
18 legal representative of such person, within 20 days after
19 such notice, files a protest to such notice of tax liability
20 and requests a hearing thereon, the Department shall give
21 notice to such person or the legal representative of such
22 person of the time and place fixed for such hearing, and
23 shall hold a hearing in conformity with the provisions of
24 this Act, and pursuant thereto shall issue a final assessment
25 to such person or to the legal representative of such person
26 for the amount found to be due as a result of such hearing.
27 If a protest to the notice of tax liability and a request for
28 a hearing thereon is not filed within 20 days after such
29 notice of tax liability, such notice of tax liability shall
30 become final without the necessity of a final assessment
31 being issued and shall be deemed to be a final assessment.
32 (Source: P.A. 87-205.)

33 Section 43. The Hotel Operators' Occupation Tax Act is

1 amended by changing Section 6 as follows:

2 (35 ILCS 145/6) (from Ch. 120, par. 481b.36)

3 (Text of Section before amendment by P.A. 91-935)

4 Sec. 6. Except as provided hereinafter in this Section,
5 on or before the last day of each calendar month, every
6 person engaged in the business of renting, leasing or letting
7 rooms in a hotel in this State during the preceding calendar
8 month shall file a return with the Department, stating:

9 1. The name of the operator;

10 2. His residence address and the address of his
11 principal place of business and the address of the
12 principal place of business (if that is a different
13 address) from which he engages in the business of
14 renting, leasing or letting rooms in a hotel in this
15 State;

16 3. Total amount of rental receipts received by him
17 during the preceding calendar month from renting, leasing
18 or letting rooms during such preceding calendar month;

19 4. Total amount of rental receipts received by him
20 during the preceding calendar month from renting, leasing
21 or letting rooms to permanent residents during such
22 preceding calendar month;

23 5. Total amount of other exclusions from gross
24 rental receipts allowed by this Act;

25 6. Gross rental receipts which were received by him
26 during the preceding calendar month and upon the basis of
27 which the tax is imposed;

28 7. The amount of tax due;

29 8. Such other reasonable information as the
30 Department may require.

31 If the operator's average monthly tax liability to the
32 Department does not exceed \$200, the Department may authorize
33 his returns to be filed on a quarter annual basis, with the

1 return for January, February and March of a given year being
2 due by April 30 of such year; with the return for April, May
3 and June of a given year being due by July 31 of such year;
4 with the return for July, August and September of a given
5 year being due by October 31 of such year, and with the
6 return for October, November and December of a given year
7 being due by January 31 of the following year.

8 If the operator's average monthly tax liability to the
9 Department does not exceed \$50, the Department may authorize
10 his returns to be filed on an annual basis, with the return
11 for a given year being due by January 31 of the following
12 year.

13 Such quarter annual and annual returns, as to form and
14 substance, shall be subject to the same requirements as
15 monthly returns.

16 Notwithstanding any other provision in this Act
17 concerning the time within which an operator may file his
18 return, in the case of any operator who ceases to engage in a
19 kind of business which makes him responsible for filing
20 returns under this Act, such operator shall file a final
21 return under this Act with the Department not more than 1
22 month after discontinuing such business.

23 Where the same person has more than 1 business registered
24 with the Department under separate registrations under this
25 Act, such person shall not file each return that is due as a
26 single return covering all such registered businesses, but
27 shall file separate returns for each such registered
28 business.

29 In his return, the operator shall determine the value of
30 any consideration other than money received by him in
31 connection with the renting, leasing or letting of rooms in
32 the course of his business and he shall include such value in
33 his return. Such determination shall be subject to review
34 and revision by the Department in the manner hereinafter

1 provided for the correction of returns.

2 Where the operator is a corporation, the return filed on
3 behalf of such corporation shall be signed by the president,
4 vice-president, secretary or treasurer or by the properly
5 accredited agent of such corporation.

6 The person filing the return herein provided for shall,
7 at the time of filing such return, pay to the Department the
8 amount of tax herein imposed. The operator filing the return
9 under this Section shall, at the time of filing such return,
10 pay to the Department the amount of tax imposed by this Act
11 less a discount of 2.1% or \$25 per calendar year, whichever
12 is greater, which is allowed to reimburse the operator for
13 the expenses incurred in keeping records, preparing and
14 filing returns, remitting the tax and supplying data to the
15 Department on request.

16 There shall be deposited in the Build Illinois Fund in
17 the State Treasury for each State fiscal year 40% of the
18 amount of total net proceeds from the tax imposed by
19 subsection (a) of Section 3. Of the remaining 60%,
20 \$5,000,000 shall be deposited in the Illinois Sports
21 Facilities Fund and credited to the Subsidy Account each
22 fiscal year by making monthly deposits in the amount of 1/8
23 of \$5,000,000 plus cumulative deficiencies in such deposits
24 for prior months, and an additional \$8,000,000 shall be
25 deposited in the Illinois Sports Facilities Fund and credited
26 to the Advance Account each fiscal year by making monthly
27 deposits in the amount of 1/8 of \$8,000,000 plus any
28 cumulative deficiencies in such deposits for prior months.

29 (The deposits of the additional \$8,000,000 during each fiscal
30 year shall be treated as advances of funds to the Illinois
31 Sports Facilities Authority for its corporate purposes to the
32 extent paid to the Authority or its trustee and shall be
33 repaid into the General Revenue Fund in the State Treasury by
34 the State Treasurer on behalf of the Authority solely from

1 collections of the tax imposed by the Authority pursuant to
2 Section 19 of the Illinois Sports Facilities Act, as
3 amended.)

4 Of the remaining 60% of the amount of total net proceeds
5 from the tax imposed by subsection (a) of Section 3 after all
6 required deposits in the Illinois Sports Facilities Fund, the
7 amount equal to 8% of the net revenue realized from the Hotel
8 Operators' Occupation Tax Act plus an amount equal to 8% of
9 the net revenue realized from any tax imposed under Section
10 4.05 of the Chicago World's Fair-1992 Authority during the
11 preceding month shall be deposited in the Local Tourism Fund
12 each month for purposes authorized by Section 605-705 of the
13 Department of Commerce and Community Affairs Law (20 ILCS
14 605/605-705) in the Local Tourism Fund, and beginning August
15 1, 1999, the amount equal to 6% of the net revenue realized
16 from the Hotel Operators' Occupation Tax Act during the
17 preceding month shall be deposited into the International
18 Tourism Fund for the purposes authorized in Section 605-725
19 of the Department of Commerce and Community Affairs Law 46-6d
20 of the Civil-Administrative-Code-of-Illinois. "Net revenue
21 realized for a month" means the revenue collected by the
22 State under that Act during the previous month less the
23 amount paid out during that same month as refunds to
24 taxpayers for overpayment of liability under that Act.

25 After making all these deposits, all other proceeds of
26 the tax imposed under subsection (a) of Section 3 shall be
27 deposited in the General Revenue Fund in the State Treasury.
28 All moneys received by the Department from the additional tax
29 imposed under subsection (b) of Section 3 shall be deposited
30 into the Build Illinois Fund in the State Treasury.

31 The Department may, upon separate written notice to a
32 taxpayer, require the taxpayer to prepare and file with the
33 Department on a form prescribed by the Department within not
34 less than 60 days after receipt of the notice an annual

1 information return for the tax year specified in the notice.
2 Such annual return to the Department shall include a
3 statement of gross receipts as shown by the operator's last
4 State income tax return. If the total receipts of the
5 business as reported in the State income tax return do not
6 agree with the gross receipts reported to the Department for
7 the same period, the operator shall attach to his annual
8 information return a schedule showing a reconciliation of the
9 amounts and the reasons for the difference. The operator's
10 annual information return to the Department shall also
11 disclose pay roll information of the operator's business
12 during the year covered by such return and any additional
13 reasonable information which the Department deems would be
14 helpful in determining the accuracy of the monthly, quarterly
15 or annual tax returns by such operator as hereinbefore
16 provided for in this Section.

17 Notwithstanding any provision to the contrary, in the
18 case of a dispute between a taxpayer and the Department under
19 this Act, the taxpayer's position shall be presumed to be the
20 correct one and the burden of proof shall be on the
21 Department to prove otherwise.

22 If the annual information return required by this Section
23 is not filed when and as required the taxpayer shall be
24 liable for a penalty in an amount determined in accordance
25 with Section 3-4 of the Uniform Penalty and Interest Act
26 until such return is filed as required, the penalty to be
27 assessed and collected in the same manner as any other
28 penalty provided for in this Act.

29 The chief executive officer, proprietor, owner or highest
30 ranking manager shall sign the annual return to certify the
31 accuracy of the information contained therein. Any person
32 who willfully signs the annual return containing false or
33 inaccurate information shall be guilty of perjury and
34 punished accordingly. The annual return form prescribed by

1 the Department shall include a warning that the person
2 signing the return may be liable for perjury.

3 The foregoing portion of this Section concerning the
4 filing of an annual information return shall not apply to an
5 operator who is not required to file an income tax return
6 with the United States Government.

7 (Source: P.A. 90-26, eff. 7-1-97; 91-239, eff. 1-1-00;
8 91-604, eff. 8-16-99; revised 10-27-99.)

9 (Text of Section after amendment by P.A. 91-935)

10 Sec. 6. Except as provided hereinafter in this Section,
11 on or before the last day of each calendar month, every
12 person engaged in the business of renting, leasing or letting
13 rooms in a hotel in this State during the preceding calendar
14 month shall file a return with the Department, stating:

- 15 1. The name of the operator;
- 16 2. His residence address and the address of his
17 principal place of business and the address of the
18 principal place of business (if that is a different
19 address) from which he engages in the business of
20 renting, leasing or letting rooms in a hotel in this
21 State;
- 22 3. Total amount of rental receipts received by him
23 during the preceding calendar month from renting, leasing
24 or letting rooms during such preceding calendar month;
- 25 4. Total amount of rental receipts received by him
26 during the preceding calendar month from renting, leasing
27 or letting rooms to permanent residents during such
28 preceding calendar month;
- 29 5. Total amount of other exclusions from gross
30 rental receipts allowed by this Act;
- 31 6. Gross rental receipts which were received by him
32 during the preceding calendar month and upon the basis of
33 which the tax is imposed;
- 34 7. The amount of tax due;

1 8. Such other reasonable information as the
2 Department may require.

3 If the operator's average monthly tax liability to the
4 Department does not exceed \$200, the Department may authorize
5 his returns to be filed on a quarter annual basis, with the
6 return for January, February and March of a given year being
7 due by April 30 of such year; with the return for April, May
8 and June of a given year being due by July 31 of such year;
9 with the return for July, August and September of a given
10 year being due by October 31 of such year, and with the
11 return for October, November and December of a given year
12 being due by January 31 of the following year.

13 If the operator's average monthly tax liability to the
14 Department does not exceed \$50, the Department may authorize
15 his returns to be filed on an annual basis, with the return
16 for a given year being due by January 31 of the following
17 year.

18 Such quarter annual and annual returns, as to form and
19 substance, shall be subject to the same requirements as
20 monthly returns.

21 Notwithstanding any other provision in this Act
22 concerning the time within which an operator may file his
23 return, in the case of any operator who ceases to engage in a
24 kind of business which makes him responsible for filing
25 returns under this Act, such operator shall file a final
26 return under this Act with the Department not more than 1
27 month after discontinuing such business.

28 Where the same person has more than 1 business registered
29 with the Department under separate registrations under this
30 Act, such person shall not file each return that is due as a
31 single return covering all such registered businesses, but
32 shall file separate returns for each such registered
33 business.

34 In his return, the operator shall determine the value of

1 any consideration other than money received by him in
2 connection with the renting, leasing or letting of rooms in
3 the course of his business and he shall include such value in
4 his return. Such determination shall be subject to review
5 and revision by the Department in the manner hereinafter
6 provided for the correction of returns.

7 Where the operator is a corporation, the return filed on
8 behalf of such corporation shall be signed by the president,
9 vice-president, secretary or treasurer or by the properly
10 accredited agent of such corporation.

11 The person filing the return herein provided for shall,
12 at the time of filing such return, pay to the Department the
13 amount of tax herein imposed. The operator filing the return
14 under this Section shall, at the time of filing such return,
15 pay to the Department the amount of tax imposed by this Act
16 less a discount of 2.1% or \$25 per calendar year, whichever
17 is greater, which is allowed to reimburse the operator for
18 the expenses incurred in keeping records, preparing and
19 filing returns, remitting the tax and supplying data to the
20 Department on request.

21 There shall be deposited in the Build Illinois Fund in
22 the State Treasury for each State fiscal year 40% of the
23 amount of total net proceeds from the tax imposed by
24 subsection (a) of Section 3. Of the remaining 60%,
25 \$5,000,000 shall be deposited in the Illinois Sports
26 Facilities Fund and credited to the Subsidy Account each
27 fiscal year by making monthly deposits in the amount of 1/8
28 of \$5,000,000 plus cumulative deficiencies in such deposits
29 for prior months, and an additional \$8,000,000 shall be
30 deposited in the Illinois Sports Facilities Fund and credited
31 to the Advance Account each fiscal year by making monthly
32 deposits in the amount of 1/8 of \$8,000,000 plus any
33 cumulative deficiencies in such deposits for prior months;
34 provided, that for fiscal years ending after June 30, 2001,

1 the amount to be so deposited into the Illinois Sports
2 Facilities Fund and credited to the Advance Account each
3 fiscal year shall be increased from \$8,000,000 to the then
4 applicable Advance Amount and the required monthly deposits
5 beginning with July 2001 shall be in the amount of 1/8 of the
6 then applicable Advance Amount plus any cumulative
7 deficiencies in those deposits for prior months. (The
8 deposits of the additional \$8,000,000 or the then applicable
9 Advance Amount, as applicable, during each fiscal year shall
10 be treated as advances of funds to the Illinois Sports
11 Facilities Authority for its corporate purposes to the extent
12 paid to the Authority or its trustee and shall be repaid into
13 the General Revenue Fund in the State Treasury by the State
14 Treasurer on behalf of the Authority pursuant to Section 19
15 of the Illinois Sports Facilities Authority Act, as amended.
16 If in any fiscal year the full amount of the then applicable
17 Advance Amount is not repaid into the General Revenue Fund,
18 then the deficiency shall be paid from the amount in the
19 Local Government Distributive Fund that would otherwise be
20 allocated to the City of Chicago under the State Revenue
21 Sharing Act.)

22 For purposes of the foregoing paragraph, the term
23 "Advance Amount" means, for fiscal year 2002, \$22,179,000,
24 and for subsequent fiscal years through fiscal year 2032,
25 105.615% of the Advance Amount for the immediately preceding
26 fiscal year, rounded up to the nearest \$1,000.

27 Of the remaining 60% of the amount of total net proceeds
28 from the tax imposed by subsection (a) of Section 3 after all
29 required deposits in the Illinois Sports Facilities Fund, the
30 amount equal to 8% of the net revenue realized from the Hotel
31 Operators' Occupation Tax Act plus an amount equal to 8% of
32 the net revenue realized from any tax imposed under Section
33 4.05 of the Chicago World's Fair-1992 Authority Act during
34 the preceding month shall be deposited in the Local Tourism

1 Fund each month for purposes authorized by Section 605-705 of
2 the Department of Commerce and Community Affairs Law (20 ILCS
3 605/605-705) in the Local Tourism Fund, and beginning August
4 1, 1999 the amount equal to 6% of the net revenue realized
5 from the Hotel Operators' Occupation Tax Act during the
6 preceding month shall be deposited into the International
7 Tourism Fund for the purposes authorized in Section 46.6d of
8 the Civil Administrative Code of Illinois. "Net revenue
9 realized for a month" means the revenue collected by the
10 State under that Act during the previous month less the
11 amount paid out during that same month as refunds to
12 taxpayers for overpayment of liability under that Act.

13 After making all these deposits, all other proceeds of
14 the tax imposed under subsection (a) of Section 3 shall be
15 deposited in the General Revenue Fund in the State Treasury.
16 All moneys received by the Department from the additional tax
17 imposed under subsection (b) of Section 3 shall be deposited
18 into the Build Illinois Fund in the State Treasury.

19 The Department may, upon separate written notice to a
20 taxpayer, require the taxpayer to prepare and file with the
21 Department on a form prescribed by the Department within not
22 less than 60 days after receipt of the notice an annual
23 information return for the tax year specified in the notice.
24 Such annual return to the Department shall include a
25 statement of gross receipts as shown by the operator's last
26 State income tax return. If the total receipts of the
27 business as reported in the State income tax return do not
28 agree with the gross receipts reported to the Department for
29 the same period, the operator shall attach to his annual
30 information return a schedule showing a reconciliation of the
31 2 amounts and the reasons for the difference. The operator's
32 annual information return to the Department shall also
33 disclose pay roll information of the operator's business
34 during the year covered by such return and any additional

1 reasonable information which the Department deems would be
2 helpful in determining the accuracy of the monthly, quarterly
3 or annual tax returns by such operator as hereinbefore
4 provided for in this Section.

5 Notwithstanding any provision to the contrary, in the
6 case of a dispute between a taxpayer and the Department under
7 this Act, the taxpayer's position shall be presumed to be the
8 correct one and the burden of proof shall be on the
9 Department to prove otherwise.

10 If the annual information return required by this Section
11 is not filed when and as required the taxpayer shall be
12 liable for a penalty in an amount determined in accordance
13 with Section 3-4 of the Uniform Penalty and Interest Act
14 until such return is filed as required, the penalty to be
15 assessed and collected in the same manner as any other
16 penalty provided for in this Act.

17 The chief executive officer, proprietor, owner or highest
18 ranking manager shall sign the annual return to certify the
19 accuracy of the information contained therein. Any person
20 who willfully signs the annual return containing false or
21 inaccurate information shall be guilty of perjury and
22 punished accordingly. The annual return form prescribed by
23 the Department shall include a warning that the person
24 signing the return may be liable for perjury.

25 The foregoing portion of this Section concerning the
26 filing of an annual information return shall not apply to an
27 operator who is not required to file an income tax return
28 with the United States Government.

29 (Source: P.A. 90-26, eff. 7-1-97; 91-239, eff. 1-1-00;
30 91-604, eff. 8-16-99; 91-935, eff. 6-1-01.)

31 Section 45. The Motor Fuel Tax Act is amended by
32 changing Sections 5 and 5a as follows:

1 (35 ILCS 505/5) (from Ch. 120, par. 421)

2 Sec. 5. Except as hereinafter provided, a person holding
3 a valid unrevoked license to act as a distributor of motor
4 fuel shall, between the 1st and 20th days of each calendar
5 month, make return to the Department, showing an itemized
6 statement of the number of invoiced gallons of motor fuel of
7 the types specified in this Section which were purchased,
8 acquired or received during the preceding calendar month; the
9 amount of such motor fuel produced, refined, compounded,
10 manufactured, blended, sold, distributed, and used by the
11 licensed distributor during the preceding calendar month; the
12 amount of such motor fuel lost or destroyed during the
13 preceding calendar month; and the amount of such motor fuel
14 on hand at the close of business for such month. If a
15 distributor's only activities with respect to motor fuel are
16 either: (1) production of alcohol in quantities of less than
17 10,000 proof gallons per year or (2) blending alcohol in
18 quantities of less than 10,000 proof gallons per year which
19 such distributor has produced, he shall file returns on an
20 annual basis with the return for a given year being due by
21 January 20 of the following year. Distributors whose total
22 production of alcohol (whether blended or not) exceeds 10,000
23 proof gallons per year, based on production during the
24 preceding (calendar) year or as reasonably projected by the
25 Department if one calendar year's record of production cannot
26 be established, shall file returns between the 1st and 20th
27 days of each calendar month as hereinabove provided.

28 The types of motor fuel referred to in the preceding
29 paragraph are: (A) All products commonly or commercially
30 known or sold as gasoline (including casing-head and
31 absorption or natural gasoline), gasohol, motor benzol or
32 motor benzene regardless of their classification or uses; and
33 (B) all combustible gases which exist in a gaseous state at
34 60 degrees Fahrenheit and at 14.7 pounds per square inch

1 absolute including, but not limited to, liquefied petroleum
2 gases used for highway purposes; and (C) special fuel. Only
3 those quantities of combustible gases (example (B) above)
4 which are used or sold by the distributor to be used to
5 propel motor vehicles on the public highways, or which are
6 delivered into the bulk storage facilities of a bulk user, or
7 which are delivered into a storage tank that is located at a
8 facility that has withdrawal facilities which are readily
9 accessible to and are capable of dispensing combustible gases
10 into the fuel supply tanks of motor vehicles, shall be
11 subject to return. For the purposes of this Act, liquefied
12 petroleum gases shall mean and include any material having a
13 vapor pressure not exceeding that allowed for commercial
14 propane composed predominantly of the following hydrocarbons,
15 either by themselves or as mixtures: Propane, Propylene,
16 Butane (normal butane or iso-butane) and Butylene (including
17 isomers).

18 In case of a sale of special fuel to someone other than a
19 licensed distributor, or a licensed supplier, for a use other
20 than in motor vehicles, the distributor shall show in his
21 return the amount of invoiced gallons sold and the name and
22 address of the purchaser in addition to any other information
23 the Department may require.

24 All special fuel sold or used for non-highway purposes
25 must have a dye added in accordance with Section 4d of this
26 Law.

27 In case of a tax-free sale, as provided in Section 6, of
28 motor fuel which the distributor is required by this Section
29 to include in his return to the Department, the distributor
30 in his return shall show: (1) If the sale is made to another
31 licensed distributor the amount sold and the name, address
32 and license number of the purchasing distributor; (2) if the
33 sale is made to a person where delivery is made outside of
34 this State the name and address of such purchaser and the

1 point of delivery together with the date and amount
2 delivered; (3) if the sale is made to the Federal Government
3 or its instrumentalities the amount sold; (4) if the sale is
4 made to a municipal corporation owning and operating a local
5 transportation system for public service in this State the
6 name and address of such purchaser, and the amount sold, as
7 evidenced by official forms of exemption certificates
8 properly executed and furnished by such purchaser; (5) if the
9 sale is made to a privately owned public utility owning and
10 operating 2-axle vehicles designed and used for transporting
11 more than 7 passengers, which vehicles are used as common
12 carriers in general transportation of passengers, are not
13 devoted to any specialized purpose and are operated entirely
14 within the territorial limits of a single municipality or of
15 any group of contiguous municipalities or in a close radius
16 thereof, and the operations of which are subject to the
17 regulations of the Illinois Commerce Commission, then the
18 name and address of such purchaser and the amount sold as
19 evidenced by official forms of exemption certificates
20 properly executed and furnished by the purchaser; (6) if the
21 product sold is special fuel and if the sale is made to a
22 licensed supplier under conditions which qualify the sale for
23 tax exemption under Section 6 of this Act, the amount sold
24 and the name, address and license number of the purchaser;
25 and (7) if a sale of special fuel is made to someone other
26 than a licensed distributor, or a licensed supplier, for a
27 use other than in motor vehicles, by making a specific
28 notation thereof on the invoice or sales slip covering such
29 sales and obtaining such supporting documentation as may be
30 required by the Department.

31 All special fuel sold or used for non-highway purposes
32 must have a dye added in accordance with Section 4d of this
33 Law.

34 A person whose license to act as a distributor of motor

1 fuel has been revoked shall make a return to the Department
2 covering the period from the date of the last return to the
3 date of the revocation of the license, which return shall be
4 delivered to the Department not later than 10 days from the
5 date of the revocation or termination of the license of such
6 distributor; the return shall in all other respects be
7 subject to the same provisions and conditions as returns by
8 distributors licensed under the provisions of this Act.

9 The records, waybills and supporting documents kept by
10 railroads and other common carriers in the regular course of
11 business shall be prima facie evidence of the contents and
12 receipt of cars or tanks covered by those records, waybills
13 or supporting documents.

14 If the Department has reason to believe and does believe
15 that the amount shown on the return as purchased, acquired,
16 received, sold, used, lost or destroyed is incorrect, or that
17 an amount of motor fuel of the types required by the second
18 paragraph of this Section to be reported to the Department
19 has not been correctly reported the Department shall fix an
20 amount for such receipt, sales, use, loss or destruction
21 according to its best judgment and information, ~~which amount~~
22 ~~so fixed by the Department shall be prima facie correct.~~ All
23 returns shall be made on forms prepared and furnished by the
24 Department, and shall contain such other information as the
25 Department may reasonably require. The return must be
26 accompanied by appropriate computer-generated magnetic media
27 supporting schedule data in the format required by the
28 Department, unless, as provided by rule, the Department
29 grants an exception upon petition of a taxpayer. All licensed
30 distributors shall report all losses of motor fuel sustained
31 on account of fire, theft, spillage, spoilage, leakage, or
32 any other provable cause when filing the return for the
33 period during which the loss occurred. The mere making of the
34 report does not assure the allowance of the loss as a

1 reduction in tax liability. Losses of motor fuel as the
2 result of evaporation or shrinkage due to temperature
3 variations may not exceed one percent of the total gallons
4 in storage at the beginning of the month, plus the receipts
5 of gallonage during the month, minus the gallonage remaining
6 in storage at the end of the month. Any loss reported that
7 is in excess of one percent shall be subject to the tax
8 imposed by Section 2 of this Law.

9 (Source: P.A. 91-173, eff. 1-1-00.)

10 (35 ILCS 505/5a) (from Ch. 120, par. 421a)

11 Sec. 5a. A person holding a valid unrevoked license to
12 act as a supplier of special fuel shall, between the 1st and
13 20th days of each calendar month, make return to the
14 Department showing an itemized statement of the number of
15 invoiced gallons of special fuel acquired, received,
16 purchased, sold, or used during the preceding calendar month;
17 the amount of special fuel sold, distributed, and used by the
18 licensed supplier during the preceding calendar month; the
19 amount of special fuel lost or destroyed during the preceding
20 calendar month; and the amount of special fuel on hand at the
21 close of business for the preceding calendar month.

22 A person whose license to act as a supplier of special
23 fuel has been revoked shall make a return to the Department
24 covering the period from the date of the last return to the
25 date of the revocation of the license, which return shall be
26 delivered to the Department not later than 10 days from the
27 date of the revocation or termination of the license of such
28 supplier. The return shall in all other respects be subject
29 to the same provisions and conditions as returns by suppliers
30 licensed under this Act.

31 The records, waybills and supporting documents kept by
32 railroads and other common carriers in the regular course of
33 business shall be prima facie evidence of the contents and

1 receipt of cars or tanks covered by those records, waybills
2 or supporting documents.

3 If the Department has reason to believe and does believe
4 that the amount shown on the return as purchased, acquired,
5 received, sold, used, or lost is incorrect, or that an amount
6 of special fuel of the type required by the 1st paragraph of
7 this Section to be reported to the Department by suppliers
8 has not been correctly reported as a purchase, receipt, sale,
9 use, or loss the Department shall fix an amount for such
10 purchase, receipt, sale, use, or loss according to its best
11 judgment and information, ~~which amount so fixed by the~~
12 ~~Department shall be prima facie correct.~~ All licensed
13 suppliers shall report all losses of special fuel sustained
14 on account of fire, theft, spillage, spoilage, leakage, or
15 any other provable cause when filing the return for the
16 period during which the loss occurred. The mere making of
17 the report does not assure the allowance of the loss as a
18 reduction in tax liability. Losses of special fuel as the
19 result of evaporation or shrinkage due to temperature
20 variations may not exceed one percent of the total gallons
21 in storage at the beginning of the month, plus the receipts
22 of gallonage during the month, minus the gallonage remaining
23 in storage at the end of the month.

24 Any loss reported that is in excess of one percent shall
25 be subject to the tax imposed by Section 2 of this Law.

26 In case of a sale of special fuel to someone other than a
27 licensed distributor or licensed supplier for a use other
28 than in motor vehicles, the supplier shall show in his return
29 the amount of invoiced gallons sold and the name and address
30 of the purchaser in addition to any other information the
31 Department may require.

32 All special fuel sold or used for non-highway purposes
33 must have a dye added in accordance with Section 4d of this
34 Law.

1 All returns shall be made on forms prepared and furnished
2 by the Department and shall contain such other information as
3 the Department may reasonably require. The return must be
4 accompanied by appropriate computer-generated magnetic media
5 supporting schedule data in the format required by the
6 Department, unless, as provided by rule, the Department
7 grants an exception upon petition of a taxpayer.

8 In case of a tax-free sale, as provided in Section 6a, of
9 special fuel which the supplier is required by this Section
10 to include in his return to the Department, the supplier in
11 his return shall show: (1) If the sale of special fuel is
12 made to the Federal Government or its instrumentalities; (2)
13 if the sale of special fuel is made to a municipal
14 corporation owning and operating a local transportation
15 system for public service in this State, the name and address
16 of such purchaser and the amount sold, as evidenced by
17 official forms of exemption certificates properly executed
18 and furnished by such purchaser; (3) if the sale of special
19 fuel is made to a privately owned public utility owning and
20 operating 2-axle vehicles designed and used for transporting
21 more than 7 passengers, which vehicles are used as common
22 carriers in general transportation of passengers, are not
23 devoted to any specialized purpose and are operated entirely
24 within the territorial limits of a single municipality or of
25 any group of contiguous municipalities or in a close radius
26 thereof, and the operations of which are subject to the
27 regulations of the Illinois Commerce Commission, then the
28 name and address of such purchaser and the amount sold, as
29 evidenced by official forms of exemption certificates
30 properly executed and furnished by such purchaser; (4) if the
31 product sold is special fuel and if the sale is made to a
32 licensed supplier or to a licensed distributor under
33 conditions which qualify the sale for tax exemption under
34 Section 6a of this Act, the amount sold and the name, address

1 and license number of such purchaser; (5) if a sale of
2 special fuel is made to a person where delivery is made
3 outside of this State, the name and address of such purchaser
4 and the point of delivery together with the date and amount
5 of invoiced gallons delivered; and (6) if a sale of special
6 fuel is made to someone other than a licensed distributor or
7 a licensed supplier, for a use other than in motor vehicles,
8 by making a specific notation thereof on the invoice or sales
9 slip covering that sale and obtaining such supporting
10 documentation as may be required by the Department.

11 All special fuel sold or used for non-highway purposes
12 must have a dye added in accordance with Section 4d of this
13 Law.

14 (Source: P.A. 91-173, eff. 1-1-00.)

15 Section 50. The Coin-Operated Amusement Device and
16 Redemption Machine Tax Act is amended by changing Section 2
17 as follows:

18 (35 ILCS 510/2) (from Ch. 120, par. 481b.2)

19 Sec. 2. (a) Any person, firm, limited liability company,
20 or corporation which displays any device described in Section
21 1, to be played or operated by the public at any place owned
22 or leased by any such person, firm, limited liability
23 company, or corporation, shall before he displays such
24 device, file in the Office of the Department of Revenue an
25 application for a license for such device properly sworn to,
26 setting forth his name and address, with a brief description
27 of the device to be displayed and the premises where such
28 device will be located, together with such other relevant
29 data as the Department of Revenue may require. Such
30 application for a license shall be accompanied by the
31 required license tax. Such license tax shall be paid to the
32 Department of Revenue of the State of Illinois and all monies

1 received by the Department of Revenue under this Act shall be
2 paid into the General Revenue Fund in the State Treasury. The
3 Department of Revenue shall supply and deliver to the person,
4 firm, limited liability company, or corporation which
5 displays any device described in Section 1, charges prepaid
6 and without additional cost, one license tag for each such
7 device on which an application is made, stating the year for
8 which issued. Such license tag shall thereupon be securely
9 affixed to such device.

10 (b) If an amount of tax, penalty, or interest has been
11 paid in error to the Department, the taxpayer may file a
12 claim for credit or refund with the Department. If it is
13 determined that the Department must issue a credit or refund
14 under this Act, the Department may first apply the amount of
15 the credit or refund due against any amount of tax, penalty,
16 or interest due under this Act from the taxpayer entitled to
17 the credit or refund. If proceedings are pending to
18 determine if any tax, penalty, or interest is due under this
19 Act from the taxpayer, the Department may withhold issuance
20 of the credit or refund pending the final disposition of
21 those proceedings and may apply that credit or refund against
22 any amount determined to be due to the Department as a result
23 of those proceedings. The balance, if any, of the credit or
24 refund shall be paid to the taxpayer.

25 If no tax, penalty, or interest is due and no proceedings
26 are pending to determine whether the taxpayer is indebted to
27 the Department for tax, penalty, or interest, the credit
28 memorandum or refund shall be issued to the taxpayer; or, the
29 credit memorandum may be assigned by the taxpayer, subject to
30 reasonable rules of the Department, to any other person who
31 is subject to this Act, and the amount of the credit
32 memorandum by the Department against any tax, penalty, or
33 interest due or to become due under this Act from the
34 assignee.

1 For any claim for credit or refund filed with the
2 Department on or after each July 1, no amount erroneously
3 paid more than 3 years before that July 1, shall be credited
4 or refunded.

5 A claim for credit or refund shall be filed on a form
6 provided by the Department. As soon as practicable after any
7 claim for credit or refund is filed, the Department shall
8 determine the amount of credit or refund to which the
9 claimant is entitled and shall notify the claimant of that
10 determination.

11 A claim for credit or refund shall be filed with the
12 Department on the date it is received by the Department.
13 Upon receipt of any claim for credit or refund filed under
14 this Section, an officer or employee of the Department,
15 authorized by the Director of Revenue to acknowledge receipt
16 of such claims on behalf of the Department, shall deliver or
17 mail to the claimant or his duly authorized agent, a written
18 receipt, acknowledging that the claim has been filed with the
19 Department, describing the claim in sufficient detail to
20 identify it, and stating the date on which the claim was
21 received by the Department. The written receipt shall be
22 prima facie evidence that the Department received the claim
23 described in the receipt and shall be prima facie evidence of
24 the date when such claim was received by the Department. In
25 ~~the--absence--of--a--written--receipt,--the--records--of--the~~
26 ~~Department--as--to--whether--a--claim--was--received,--or--when--the~~
27 ~~claim--was--received--by--the--Department,--shall--be--deemed--to--be~~
28 ~~prima-facie-correct-in-the-event-of-any-dispute--between--the~~
29 ~~claimant,--or-his-legal-representative,--and-the-Department-on~~
30 ~~these-issues.~~

31 Any credit or refund that is allowed under this Article
32 shall bear interest at the rate and in the manner specified
33 in the Uniform Penalty and Interest Act.

34 If the Department determines that the claimant is

1 entitled to a refund, the refund shall be made only from an
 2 appropriation to the Department for that purpose. If the
 3 amount appropriated is insufficient to pay claimants electing
 4 to receive a cash refund, the Department by rule or
 5 regulation shall first provide for the payment of refunds in
 6 hardship cases as defined by the Department.

7 (Source: P.A. 88-194; 88-480; 88-670, eff. 12-2-94.)

8 Section 55. The Cannabis and Controlled Substances Tax
 9 Act is amended by changing Section 16 as follows:

10 (35 ILCS 520/16) (from Ch. 120, par. 2166)

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

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

30 (b) Filing of Lien. Upon issuance of a jeopardy
 31 assessment as provided by subsection (a) of this Section, the
 32 Department may file a notice of jeopardy assessment lien in

1 the office of the recorder of the county in which any
2 property of the taxpayer may be located and shall notify the
3 taxpayer of such filing.

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

14 After the expiration of the period within which the
15 person assessed may file an action for judicial review under
16 the Administrative Review Law without such action being
17 filed, a certified copy of the final assessment or revised
18 final assessment of the Department may be filed with the
19 Circuit Court of the county in which the dealer resides, or
20 of Cook County in the case of a dealer who does not reside in
21 this State, or in the county where the violation of this Act
22 took place. The certified copy of the final assessment or
23 revised final assessment shall be accompanied by a
24 certification which recites facts that are sufficient to show
25 that the Department complied with the jurisdictional
26 requirements of the Act in arriving at its final assessment
27 or its revised final assessment and that the dealer had this
28 opportunity for an administrative hearing and for judicial
29 review, whether he availed himself or herself of either or
30 both of these opportunities or not. If the court is
31 satisfied that the Department complied with the
32 jurisdictional requirements of the Act in arriving at its
33 final assessment or its revised final assessment and that the
34 taxpayer had his opportunity for an administrative hearing

1 and for judicial review, whether he availed himself of either
2 or both of these opportunities or not, the court shall render
3 judgment in favor of the Department and against the taxpayer
4 for the amount shown to be due by the final assessment or the
5 revised final assessment, plus any interest which may be due,
6 and such judgment shall be entered in the judgment docket of
7 the court. Such judgment shall bear the same rate of
8 interest and shall have the same effect as other judgments.
9 The judgment may be enforced, and all laws applicable to
10 sales for the enforcement of a judgment shall be applicable
11 to sales made under such judgments. The Department shall
12 file the certified copy of its assessment, as herein
13 provided, with the Circuit Court within 2 years after such
14 assessment becomes final except when the taxpayer consents in
15 writing to an extension of such filing period, and except
16 that the time limitation period on the Department's right to
17 file the certified copy of its assessment with the Circuit
18 Court shall not run during any period of time in which the
19 order of any court has the effect of enjoining or restraining
20 the Department from filing such certified copy of its
21 assessment with the Circuit Court.

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

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

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

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

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

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

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

33 Section 60. The Messages Tax Act is amended by changing

1 Section 6 as follows:

2 (35 ILCS 610/6) (from Ch. 120, par. 467.6)

3 Sec. 6. If it appears, after claim therefor filed with
4 the Department, that an amount of tax or penalty or interest
5 has been paid which was not due under this Act, whether as
6 the result of a mistake of fact or an error of law, except as
7 hereinafter provided, then the Department shall issue a
8 credit memorandum or refund to the person who made the
9 erroneous payment or, if that person has died or become a
10 person under legal disability, to his or her legal
11 representative, as such.

12 If it is determined that the Department should issue a
13 credit or refund under this Act, the Department may first
14 apply the amount thereof against any amount of tax or penalty
15 or interest due hereunder from the person entitled to such
16 credit or refund. For this purpose, if proceedings are
17 pending to determine whether or not any tax or penalty or
18 interest is due under this Act from such person, the
19 Department may withhold issuance of the credit or refund
20 pending the final disposition of such proceedings and may
21 apply such credit or refund against any amount found to be
22 due to the Department as a result of such proceedings. The
23 balance, if any, of the credit or refund shall be issued to
24 the person entitled thereto.

25 If no tax or penalty or interest is due and no proceeding
26 is pending to determine whether such person is indebted to
27 the Department for tax or penalty or interest, the credit
28 memorandum or refund shall be issued to the claimant; or (in
29 the case of a credit memorandum) the credit memorandum may be
30 assigned and set over by the lawful holder thereof, subject
31 to reasonable rules of the Department, to any other person
32 who is subject to this Act, and the amount thereof shall be
33 applied by the Department against any tax or penalty or

1 interest due or to become due under this Act from such
2 assignee.

3 As to any claim for credit or refund filed with the
4 Department on or after each January 1 and July 1, no amounts
5 erroneously paid more than 3 years prior to such January 1
6 and July 1, respectively, shall be credited or refunded,
7 except that if both the Department and the taxpayer have
8 agreed to an extension of time to issue a notice of tax
9 liability under this Act, the claim may be filed at any time
10 prior to the expiration of the period agreed upon.

11 Claims for credit or refund shall be filed upon forms
12 provided by the Department. As soon as practicable after any
13 claim for credit or refund is filed, the Department shall
14 examine the same and determine the amount of credit or refund
15 to which the claimant is entitled and shall notify the
16 claimant of such determination, ~~which amount shall be prima~~
17 ~~facie correct.~~

18 Any credit or refund that is allowed under this Act shall
19 bear interest at the rate and in the manner specified in the
20 Uniform Penalty and Interest Act.

21 In case the Department determines that the claimant is
22 entitled to a refund, such refund shall be made only from
23 such appropriation as may be available for that purpose. If
24 it appears unlikely that the amount appropriated would permit
25 everyone having a claim allowed during the period covered by
26 such appropriation to elect to receive a cash refund, the
27 Department, by rule or regulation, shall provide for the
28 payment of refunds in hardship cases and shall define what
29 types of cases qualify as hardship cases.

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

31 Section 65. The Gas Revenue Tax Act is amended by
32 changing Section 6 as follows:

1 (35 ILCS 615/6) (from Ch. 120, par. 467.21)

2 Sec. 6. If it appears, after claim therefor filed with
3 the Department, that an amount of tax or penalty or interest
4 has been paid which was not due under this Act, whether as
5 the result of a mistake of fact or an error of law, except as
6 hereinafter provided, then the Department shall issue a
7 credit memorandum or refund to the person who made the
8 erroneous payment or, if that person has died or become a
9 person under legal disability, to his or her legal
10 representative, as such.

11 If it is determined that the Department should issue a
12 credit or refund under this Act, the Department may first
13 apply the amount thereof against any amount of tax or penalty
14 or interest due hereunder from the person entitled to such
15 credit or refund. For this purpose, if proceedings are
16 pending to determine whether or not any tax or penalty or
17 interest is due under this Act from such person, the
18 Department may withhold issuance of the credit or refund
19 pending the final disposition of such proceedings and may
20 apply such credit or refund against any amount found to be
21 due to the Department as a result of such proceedings. The
22 balance, if any, of the credit or refund shall be issued to
23 the person entitled thereto.

24 If no tax or penalty or interest is due and no proceeding
25 is pending to determine whether such person is indebted to
26 the Department for tax or penalty or interest, the credit
27 memorandum or refund shall be issued to the claimant; or (in
28 the case of a credit memorandum) the credit memorandum may be
29 assigned and set over by the lawful holder thereof, subject
30 to reasonable rules of the Department, to any other person
31 who is subject to this Act, and the amount thereof shall be
32 applied by the Department against any tax or penalty or
33 interest due or to become due under this Act from such
34 assignee.

1 As to any claim for credit or refund filed with the
2 Department on or after each January 1 and July 1, no amounts
3 erroneously paid more than 3 years prior to such January 1
4 and July 1, respectively, shall be credited or refunded,
5 except that if both the Department and the taxpayer have
6 agreed to an extension of time to issue a notice of tax
7 liability under this Act, the claim may be filed at any time
8 prior to the expiration of the period agreed upon.

9 Claims for credit or refund shall be filed upon forms
10 provided by the Department. As soon as practicable after any
11 claim for credit or refund is filed, the Department shall
12 examine the same and determine the amount of credit or refund
13 to which the claimant is entitled and shall notify the
14 claimant of such determination, ~~which amount shall be prima~~
15 ~~faeie-correct.~~

16 Any credit or refund that is allowed under this Act shall
17 bear interest at the rate and in the manner specified in the
18 Uniform Penalty and Interest Act.

19 In case the Department determines that the claimant is
20 entitled to a refund, such refund shall be made only from
21 such appropriation as may be available for that purpose. If
22 it appears unlikely that the amount appropriated would permit
23 everyone having a claim allowed during the period covered by
24 such appropriation to elect to receive a cash refund, the
25 Department, by rule or regulation, shall provide for the
26 payment of refunds in hardship cases and shall define what
27 types of cases qualify as hardship cases.

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

29 Section 70. The Public Utilities Revenue Act is amended
30 by changing Section 6 as follows:

31 (35 ILCS 620/6) (from Ch. 120, par. 473)

32 Sec. 6. If it appears, after claim therefor filed with

1 the Department, that an amount of tax or penalty or interest
2 has been paid which was not due under this Act, whether as
3 the result of a mistake of fact or an error of law, except as
4 hereinafter provided, then the Department shall issue a
5 credit memorandum or refund to the person who made the
6 erroneous payment or, if that person has died or become a
7 person under legal disability, to his or her legal
8 representative, as such.

9 If it is determined that the Department should issue a
10 credit or refund under this Act, the Department may first
11 apply the amount thereof against any amount of tax or penalty
12 or interest due hereunder from the person entitled to such
13 credit or refund. Any credit memorandum issued under the
14 Electricity Excise Tax Law may be applied against any
15 liability incurred under the tax previously imposed by
16 Section 2 of this Act. For this purpose, if proceedings are
17 pending to determine whether or not any tax or penalty or
18 interest is due under this Act from such person, the
19 Department may withhold issuance of the credit or refund
20 pending the final disposition of such proceedings and may
21 apply such credit or refund against any amount found to be
22 due to the Department as a result of such proceedings. The
23 balance, if any, of the credit or refund shall be issued to
24 the person entitled thereto.

25 If no tax or penalty or interest is due and no proceeding
26 is pending to determine whether such person is indebted to
27 the Department for tax or penalty or interest, the credit
28 memorandum or refund shall be issued to the claimant; or (in
29 the case of a credit memorandum) the credit memorandum may be
30 assigned and set over by the lawful holder thereof, subject
31 to reasonable rules of the Department, to any other person
32 who is subject to this Act, and the amount thereof shall be
33 applied by the Department against any tax or penalty or
34 interest due or to become due under this Act from such

1 assignee.

2 As to any claim for credit or refund filed with the
3 Department on or after each January 1 and July 1, no amounts
4 erroneously paid more than 3 years prior to such January 1
5 and July 1, respectively, shall be credited or refunded,
6 except that if both the Department and the taxpayer have
7 agreed to an extension of time to issue a notice of tax
8 liability under this Act, the claim may be filed at any time
9 prior to the expiration of the period agreed upon.

10 Claims for credit or refund shall be filed upon forms
11 provided by the Department. As soon as practicable after any
12 claim for credit or refund is filed, the Department shall
13 examine the same and determine the amount of credit or refund
14 to which the claimant is entitled and shall notify the
15 claimant of such determination, ~~which amount shall be prima~~
16 ~~faeie-correct.~~

17 Any credit or refund that is allowed under this Act shall
18 bear interest at the rate and in the manner specified in the
19 Uniform Penalty and Interest Act.

20 In case the Department determines that the claimant is
21 entitled to a refund, such refund shall be made only from
22 such appropriation as may be available for that purpose. If
23 it appears unlikely that the amount appropriated would permit
24 everyone having a claim allowed during the period covered by
25 such appropriation to elect to receive a cash refund, the
26 Department, by rule or regulation, shall provide for the
27 payment of refunds in hardship cases and shall define what
28 types of cases qualify as hardship cases.

29 (Source: P.A. 90-491, eff. 1-1-98; 90-624, eff. 7-10-98.)

30 Section 75. The Water Company Invested Capital Tax Act
31 is amended by changing Section 6 as follows:

32 (35 ILCS 625/6) (from Ch. 120, par. 1416)

1 Sec. 6. If it appears, after claim therefor filed with
2 the Department, that an amount of tax or penalty or interest
3 has been paid which was not due under this Act, whether as
4 the result of a mistake of fact or an error of law, except as
5 hereinafter provided, then the Department shall issue a
6 credit memorandum or refund to the person who made the
7 erroneous payment or, if that person has died or become
8 incompetent, to his legal representative, as such.

9 If it is determined that the Department should issue a
10 credit or refund under this Act, the Department may first
11 apply the amount thereof against any amount of tax or penalty
12 or interest due hereunder from the person entitled to such
13 credit or refund. For this purpose, if proceedings are
14 pending to determine whether or not any tax or penalty or
15 interest is due under this Act from such person, the
16 Department may withhold issuance of the credit or refund
17 pending the final disposition of such proceedings and may
18 apply such credit or refund against any amount found to be
19 due to the Department as a result of such proceedings. The
20 balance, if any, of the credit or refund shall be issued to
21 the person entitled thereto.

22 If no tax or penalty or interest is due and no proceeding
23 is pending to determine whether such person is indebted to
24 the Department for tax or penalty or interest, the credit
25 memorandum or refund shall be issued to the claimant; or (in
26 the case of a credit memorandum) the credit memorandum may be
27 assigned and set over by the lawful holder thereof, subject
28 to reasonable rules of the Department, to any other person
29 who is subject to this Act, and the amount thereof shall be
30 applied by the Department against any tax or penalty or
31 interest due or to become due under this Act from such
32 assignee.

33 As to any claim for credit or refund filed with the
34 Department on or after each January 1 and July 1, no amounts

1 erroneously paid more than 3 years prior to such January 1
 2 and July 1, respectively, shall be credited or refunded,
 3 except that if both the Department and the taxpayer have
 4 agreed to an extension of time to issue a notice of tax
 5 liability under this Act, the claim may be filed at any time
 6 prior to the expiration of the period agreed upon.

7 Claims for credit or refund shall be filed upon forms
 8 provided by the Department. As soon as practicable after any
 9 claim for credit or refund is filed, the Department shall
 10 examine the same and determine the amount of credit or refund
 11 to which the claimant is entitled and shall notify the
 12 claimant of such determination, ~~which amount shall be prima~~
 13 ~~faeie-correct.~~

14 Any credit or refund that is allowed under this Section
 15 shall bear interest at the rate and in the manner specified
 16 in the Uniform Penalty and Interest Act.

17 In case the Department determines that the claimant is
 18 entitled to a refund, such refund shall be made only from
 19 such appropriation as may be available for that purpose. If
 20 it appears unlikely that the amount appropriated would permit
 21 everyone having a claim allowed during the period covered by
 22 such appropriation to elect to receive a cash refund, the
 23 Department, by rule or regulation, shall provide for the
 24 payment of refunds in hardship cases and shall define what
 25 types of cases qualify as hardship cases.

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

27 Section 80. The Telecommunications Excise Tax Act is
 28 amended by changing Section 10 as follows:

29 (35 ILCS 630/10) (from Ch. 120, par. 2010)

30 Sec. 10. If it shall appear that an amount of tax or
 31 penalty or interest has been paid in error hereunder to the
 32 Department by a taxpayer, as distinguished from the retailer,

1 whether such amount be paid through a mistake of fact or an
2 error of law, such taxpayer may file a claim for credit or
3 refund with the Department. If it shall appear that an
4 amount of tax or penalty or interest has been paid in error
5 to the Department hereunder by a retailer who is required or
6 authorized to collect and remit the tax imposed by this
7 Article, whether such amount be paid through a mistake of
8 fact or an error of law, such retailer may file a claim for
9 credit or refund with the Department, provided that no credit
10 or refund shall be allowed for any amount paid by any such
11 retailer unless it shall appear that he bore the burden of
12 such amount and did not shift the burden thereof to anyone
13 else, or unless it shall appear that he or she or his or her
14 legal representative has unconditionally repaid such amount
15 to his customer (1) who bore the burden thereof and has not
16 shifted such burden directly or indirectly in any manner
17 whatsoever; or (2) who, if he or she shifted such burden, has
18 repaid unconditionally such amount to his or her own
19 customer; and (3) who is not entitled to receive any
20 reimbursement therefor from any other source than from his
21 retailer, nor to be relieved of such burden in any other
22 manner whatsoever.

23 If it is determined that the Department should issue a
24 credit or refund under this Article, the Department may first
25 apply the amount thereof against any amount of tax or penalty
26 or interest due hereunder from the person entitled to such
27 credit or refund. For this purpose, if proceedings are
28 pending to determine whether or not any tax or penalty or
29 interest is due under this Article from such person, the
30 Department may withhold issuance of the credit or refund
31 pending the final disposition of such proceedings and may
32 apply such credit or refund against any amount found to be
33 due to the Department as a result of such proceedings. The
34 balance, if any, of the credit or refund shall be issued to

1 the person entitled thereto.

2 If no tax or penalty or interest is due and no proceeding
3 is pending to determine whether such person is indebted to
4 the Department for tax or penalty or interest, the credit
5 memorandum or refund shall be issued to the claimant; or (in
6 the case of a credit memorandum) the credit memorandum may be
7 assigned and set over by the lawful holder thereof, subject
8 to reasonable rules of the Department, to any other person
9 who is subject to this Article, and the amount thereof shall
10 be applied by the Department against any tax or penalty or
11 interest due or to become due under this Article from such
12 assignee.

13 As to any claim for credit or refund filed with the
14 Department on or after each January 1 and July 1, no amounts
15 erroneously paid more than three years prior to such January
16 1 and July 1, respectively, shall be credited or refunded,
17 except that if both the Department and the taxpayer have
18 agreed to an extension of time to issue a notice of tax
19 liability under this Act, the claim may be filed at any time
20 prior to the expiration of the period agreed upon.

21 Claims for credit or refund shall be filed upon forms
22 provided by the Department. As soon as practicable after any
23 claim for credit or refund is filed, the Department shall
24 examine the same and determine the amount of credit or refund
25 to which the claimant is entitled and shall notify the
26 claimant of such determination, ~~which amount shall be prima~~
27 ~~facie correct.~~

28 A claim for credit or refund shall be considered to have
29 been filed with the Department on the date upon which it is
30 received by the Department. Upon receipt of any claim for
31 credit or refund filed under this Article, any officer or
32 employee of the Department, authorized in writing by the
33 Director of Revenue to acknowledge receipt of such claims on
34 behalf of the Department, shall execute on behalf of the

1 Department, and shall deliver or mail to the claimant or his
2 duly authorized agent, a written receipt, acknowledging that
3 the claim has been filed with the Department, describing the
4 claim in sufficient detail to identify it and stating the
5 date upon which the claim was received by the Department.
6 Such written receipt shall be prima facie evidence that the
7 Department received the claim described in such receipt and
8 shall be prima facie evidence of the date when such claim was
9 received by the Department. In the absence of such a written
10 receipt, the records of the Department as to when the claim
11 was received by the Department, or as to whether or not the
12 claim was received at all by the Department, shall be deemed
13 to be prima facie correct upon these questions in the event
14 of any dispute between the claimant (or his or her legal
15 representative) and the Department concerning these
16 questions.

17 Any credit or refund that is allowed under this Article
18 shall bear interest at the rate and in the manner specified
19 in the Uniform Penalty and Interest Act.

20 In case the Department determines that the claimant is
21 entitled to a refund, such refund shall be made only from
22 such appropriation as may be available for that purpose. If
23 it appears unlikely that the amount appropriated would permit
24 everyone having a claim allowed during the period covered by
25 such appropriation to elect to receive a cash refund, the
26 Department by rule or regulation shall provide for the
27 payment of refunds in hardship cases and shall define what
28 types of cases qualify as hardship cases.

29 If a retailer who has failed to pay tax on gross charges
30 for telecommunications is required by the Department to pay
31 such tax, such retailer, without filing any formal claim with
32 the Department, shall be allowed to take credit against such
33 tax liability to the extent, if any, to which such retailer
34 has paid the tax to its vendor of the telecommunications

1 which such retailer purchased and used for resale, and no
2 penalty or interest shall be charged to such retailer on the
3 amount of such credit. However, when such credit is allowed
4 to the retailer by the Department, the vendor is precluded
5 from refunding any of the tax to the retailer and filing a
6 claim for credit or refund with respect thereto with the
7 Department. The provisions of this Section added by this
8 amendatory Act of 1988 shall be applied retroactively,
9 regardless of the date of the transaction.
10 (Source: P.A. 90-491, eff. 1-1-98.)

11 Section 85. The Uniform Penalty and Interest Act is
12 amended by changing Sections 3-3 and 3-7 as follows:

13 (35 ILCS 735/3-3) (from Ch. 120, par. 2603-3)

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

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

1 the prescribed due date, the penalty imposed by Section
2 3-3(a) shall be abated.

3 (a-5) This subsection (a-5) is applicable to returns due
4 on and after January 1, 1996 and on or before December 31,
5 2000. A penalty equal to 2% of the tax required to be shown
6 due on a return, up to a maximum amount of \$250, determined
7 without regard to any part of the tax that is paid on time or
8 by any credit that was properly allowable on the date the
9 return was required to be filed, shall be imposed for failure
10 to file the tax return on or before the due date prescribed
11 for filing determined with regard for any extension of time
12 for filing. However, if any return is not filed within 30
13 days after notice of nonfiling mailed by the Department to
14 the last known address of the taxpayer contained in
15 Department records, an additional penalty amount shall be
16 imposed equal to the greater of \$250 or 2% of the tax shown
17 on the return. However, the additional penalty amount may
18 not exceed \$5,000 and is determined without regard to any
19 part of the tax that is paid on time or by any credit that
20 was properly allowable on the date the return was required to
21 be filed (penalty for late filing or nonfiling). If any
22 unprocessable return is corrected and filed within 30 days
23 after notice by the Department, the late filing or nonfiling
24 penalty shall not apply. If a penalty for late filing or
25 nonfiling is imposed in addition to a penalty for late
26 payment, the total penalty due shall be the sum of the late
27 filing penalty and the applicable late payment penalty. In
28 the case of any type of tax return required to be filed more
29 frequently than annually, when the failure to file the tax
30 return on or before the date prescribed for filing (including
31 any extensions) is shown to be nonfraudulent and has not
32 occurred in the 2 years immediately preceding the failure to
33 file on the prescribed due date, the penalty imposed by
34 Section 3-3(a-5) shall be abated.

1 (a-10) This subsection (a-10) is applicable to returns
2 due on and after January 1, 2001. A penalty equal to 2% of
3 the tax required to be shown due on a return, up to a maximum
4 amount of \$250, reduced by any tax that is paid on time or by
5 any credit that was properly allowable on the date the return
6 was required to be filed, shall be imposed for failure to
7 file the tax return on or before the due date prescribed for
8 filing determined with regard for any extension of time for
9 filing. However, if any return is not filed within 30 days
10 after notice of nonfiling mailed by the Department to the
11 last known address of the taxpayer contained in Department
12 records, an additional penalty amount shall be imposed equal
13 to the greater of \$250 or 2% of the tax shown on the return.
14 However, the additional penalty amount may not exceed \$5,000
15 and is determined without regard to any part of the tax that
16 is paid on time or by any credit that was properly allowable
17 on the date the return was required to be filed (penalty for
18 late filing or nonfiling). If any unprocessable return is
19 corrected and filed within 30 days after notice by the
20 Department, the late filing or nonfiling penalty shall not
21 apply. If a penalty for late filing or nonfiling is imposed
22 in addition to a penalty for late payment, the total penalty
23 due shall be the sum of the late filing penalty and the
24 applicable late payment penalty. In the case of any type of
25 tax return required to be filed more frequently than
26 annually, when the failure to file the tax return on or
27 before the date prescribed for filing (including any
28 extensions) is shown to be nonfraudulent and has not occurred
29 in the 2 years immediately preceding the failure to file on
30 the prescribed due date, the penalty imposed by Section
31 3-3(a-10) shall be abated.

32 (b) This subsection is applicable before January 1,
33 1998. A penalty of 15% of the tax shown on the return or the
34 tax required to be shown due on the return shall be imposed

1 for failure to pay:

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

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

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

29 (1) the tax shown due on the return on or before
30 the due date prescribed for payment of that tax, an
31 amount of underpayment of estimated tax, or an amount
32 that is reported in an amended return other than an
33 amended return timely filed as required by subsection (b)
34 of Section 506 of the Illinois Income Tax Act (penalty

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

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

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

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

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

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

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

34 (e-5) This subsection (e-5) is applicable to returns due

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

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

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

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

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

20 (35 ILCS 735/3-7) (from Ch. 120, par. 2603-7)

21 Sec. 3-7. Personal Liability Penalty.

22 (a) Any officer or employee of any taxpayer subject to
23 the provisions of a tax Act administered by the Department
24 who has the control, supervision or responsibility of filing
25 returns and making payment of the amount of any trust tax
26 imposed in accordance with that Act and who wilfully fails to
27 file the return or make the payment to the Department or
28 wilfully attempts in any other manner to evade or defeat the
29 tax shall be personally liable for a penalty equal to the
30 total amount of tax unpaid by the taxpayer including interest
31 and penalties thereon. The Department shall determine a
32 penalty due under this Section according to its best judgment
33 and information~~7-and-that-determination-shall-be-prima-faeie~~

1 ~~correct-and-shall-be-prima-facie-evidence-of--a--penalty--due~~
2 ~~under--this--Section.~~ Proof of that determination by the
3 Department shall be made at any hearing before it or in any
4 legal proceeding by reproduced copy or computer printout of
5 the Department's record relating thereto in the name of the
6 Department under the certificate of the Director of Revenue.
7 If reproduced copies of the Department's records are offered
8 as proof of that determination, the Director must certify
9 that those copies are true and exact copies of records on
10 file with the Department. If computer print-outs of the
11 Department's records are offered as proof of such
12 determination, the Director must certify that those computer
13 print-outs are true and exact representations of records
14 properly entered into standard electronic computing
15 equipment, in the regular course of the Department's
16 business, at or reasonably near the time of the occurrence of
17 the facts recorded, from trustworthy and reliable
18 information. That certified reproduced copy or certified
19 computer print-out shall without further proof, be admitted
20 into evidence before the Department or in any legal
21 proceeding ~~and-shall-be-prima-facie-proof-of-the-correctness~~
22 ~~of-the-amount-of-tax-or-penalty-due.~~

23 (b) The Department shall issue a notice of penalty
24 liability for the amount claimed by the Department pursuant
25 to this Section. Procedures for protest and review of a
26 notice of penalty liability issued pursuant to this Section
27 and assessment of the penalty due hereunder shall be the same
28 as those prescribed for protest and review of a notice of tax
29 liability or a notice of deficiency, as the case may be, and
30 the assessment of tax liability under the Act imposing that
31 liability.

32 (b-5) Any person filing an action under the
33 Administrative Review Law to review a final assessment or
34 revised final assessment (except a final assessment or

1 revised final assessment relating to any trust tax imposed in
2 accordance with the Illinois Income Tax Act) issued by the
3 Department under this Section shall, within 20 days after
4 filing the complaint, file a bond with good and sufficient
5 surety or sureties residing in this State or licensed to do
6 business in this State, or instead of bond, obtain an order
7 from the court imposing a lien upon the plaintiff's property
8 as hereinafter provided. If the person filing the complaint
9 fails to comply with this bonding requirement within 20 days
10 after filing the complaint, the Department shall file a
11 motion to dismiss and the court shall dismiss the action
12 unless the person filing the action complies with the bonding
13 requirements set out with this provision within 30 days after
14 the filing of the Department's motion to dismiss.

15 Upon dismissal of a complaint for failure to comply with
16 this subsection, the court shall enter judgment against the
17 taxpayer and in favor of the Department in the amount of the
18 final assessment or revised final assessment, together with
19 any interest that has accrued since the Department issued the
20 final assessment or revised final assessment, and for costs.
21 The judgment is enforceable as other judgments for the
22 payment of money.

23 The amount of the bond shall be fixed and approved by the
24 court, but shall not be less than the amount of the tax and
25 penalty claimed to be due by the Department in its final
26 assessment or revised final assessment to the person filing
27 the bond, plus the amount of interest due from that person to
28 the Department at the time when the Department issued its
29 final assessment or revised final assessment to that person.
30 The bond must be executed in favor of the Department and
31 conditioned on the taxpayer's payment within 30 days after
32 termination of the proceedings for judicial review of the
33 amount of tax, penalty, and interest found by the court to be
34 due in those proceedings. The bond, when filed and approved,

1 is, from that time until 2 years after termination of the
2 proceedings for judicial review in which the bond is filed, a
3 lien against the real estate situated in the county in which
4 the bond is filed of the person filing the bond and of the
5 surety or sureties on the bond, until the condition of the
6 bond is complied with or until the bond is canceled as
7 provided in this subsection. The lien does not apply,
8 however, to the real property of a corporate surety duly
9 licensed to do business in this State. If the person filing
10 the bond fails to keep its condition, the bond is forfeited,
11 and the Department may institute an action upon the bond in
12 its own name for the entire amount of the bond and costs. An
13 action upon the bond is in addition to any other remedy
14 provided by law. If the person filing the bond complies with
15 its condition or if, in the proceedings for judicial review
16 in which the bond is filed, the court determines that no tax,
17 penalty, or interest is due, the bond shall be canceled by
18 the issuer of the bond.

19 If the court finds in a particular case that the
20 plaintiff cannot furnish a satisfactory surety or sureties
21 for the kind of bond required in this subsection, the court
22 may relieve the plaintiff of the obligation of filing a bond
23 if, upon the timely application of the plaintiff for a lien
24 in place of a bond and accompanying proof, the court is
25 satisfied that a lien would secure the assessment as well as
26 would a bond. Upon that finding, the court shall enter an
27 order subjecting the plaintiff's real and personal property
28 (including subsequently acquired property) situated in the
29 county in which the order is entered to a lien in favor of
30 the Department. The lien shall be for the amount of the tax
31 and penalty claimed to be due by the Department in its final
32 assessment or revised final assessment, plus the amount of
33 interest due from that person to the Department at the time
34 when the Department issued its final assessment or revised

1 final assessment to that person. The lien shall continue
2 until the court determines in the proceedings for judicial
3 review that no tax, penalty, or interest is due, or until the
4 plaintiff pays to the Department the tax, penalty, and
5 interest secured by the lien. In its discretion, the court
6 may impose a lien regardless of the ratio of the taxpayer's
7 assets to the final assessment or revised final assessment
8 plus the amount of the interest and penalty. This subsection
9 does not give the Department a preference over the rights of
10 a bona fide purchaser, mortgagee, judgment creditor, or other
11 lien holder arising before the entry of the order creating
12 the lien in favor of the Department. "Bona fide", as used in
13 this subsection, does not include a mortgage of real or
14 personal property or other credit transaction that results in
15 the mortgagee or the holder of the security acting as trustee
16 for unsecured creditors of the taxpayer who executed the
17 chattel or real property mortgage or the document evidencing
18 the credit transaction. The lien is inferior to the lien of
19 general taxes, special assessments, and special taxes levied
20 by a political subdivision of this State. The lien is not
21 effective against a purchaser with respect to an item in a
22 retailer's stock in trade purchased from the retailer in the
23 usual course of the retailer's business. The lien may not be
24 enforced against the household effects, wearing apparel,
25 books, or tools or implements of a trade or profession kept
26 for use by any person. The lien is not effective against real
27 property unless and until a certified copy or memorandum of
28 such order is recorded in the Office of the Recorder of Deeds
29 for the county or counties in which the property is located.
30 The lien is not effective against real property whose title
31 is registered under the provisions of the Registered Titles
32 (Torrens) Act until the provisions of Section 85 of that Act
33 are complied with.

34 Service upon the Director of Revenue or the Assistant

1 Director of Revenue of summons issued in an action to review
2 a final administrative decision of the Department is service
3 upon the Department. The Department shall certify the record
4 of its proceedings if the taxpayer pays to it 75¢ per page of
5 testimony taken before the Department and 25¢ per page of all
6 other matters contained in the record, except that these
7 charges may be waived when the Department is satisfied that
8 the aggrieved party is a poor person who cannot afford to pay
9 the charges. If payment for the record is not made by the
10 taxpayer within 30 days after notice from the Department or
11 the Attorney General of the cost, the court in which the
12 proceeding is pending, on motion of the Department, shall
13 dismiss the complaint and (when the administrative decision
14 as to which the action for judicial review was filed is a
15 final assessment or revised final assessment) shall enter
16 judgment against the taxpayer and in favor of the Department
17 for the amount of tax and penalty shown by the Department's
18 final assessment or revised final assessment to be due, plus
19 interest as provided for in this Act from the date when the
20 liability upon which the interest accrued became delinquent
21 until the entry of the judgment in the action for judicial
22 review under the Administrative Review Law, and also for
23 costs.

24 (c) The personal liability imposed by this Section shall
25 survive the dissolution of a partnership, limited liability
26 company, or corporation. No notice of penalty liability
27 shall be issued after the expiration of 3 years after the
28 date all proceedings in court for the review of any final or
29 revised final assessments issued against a taxpayer which
30 constitute the basis of such penalty liability have
31 terminated or the time for the taking thereof has expired
32 without such proceedings being instituted or after the
33 expiration of 3 years after the date a return is filed with
34 the Department by a taxpayer in cases where the return

1 constitutes the basis of such liability. Interest shall
2 continue to accrue on that portion of the penalty imposed by
3 this Section which represents the tax unpaid by the taxpayer
4 at the same rate and in the same amount as interest accrues
5 on the tax unpaid by the taxpayer.

6 (d) In addition to any other remedy provided for by the
7 laws of this State, and provided that no hearing or
8 proceeding for review is pending, any Section of a tax Act
9 which provides a means for collection of taxes shall in the
10 same manner and to the same extent provide a means for the
11 collection of the penalty imposed by this Section. The
12 procedures for the filing of an action for collection of the
13 penalty imposed by this Section shall be the same as those
14 prescribed by a tax Act for the filing of an action for
15 collection of the tax assessed under that Act. The time
16 limitation period on the Department's right to bring suit to
17 recover the amount of such tax, or portion thereof, or
18 penalty or interest from such person, or if deceased or
19 incompetent to file a claim thereof against his estate, shall
20 not run during: (1) any period of time in which the order of
21 any Court has the effect of enjoining or restraining the
22 Department from bringing such suit or claim against such
23 person, or (2) any period of time in which the order of the
24 Court has the effect of enjoining or restraining the
25 Department from bringing suit or initiating other proper
26 proceedings for the collection of such amounts from the
27 taxpayer, or (3) any period of time the person departs from
28 and remains out of the State; but the foregoing provisions
29 concerning absence from the State shall not apply to any case
30 in which, at the time when a tax or penalty becomes due under
31 this Act, the person allegedly liable therefor is not a
32 resident of this State.

33 (e) For the purposes of this Section, "officer or
34 employee of any taxpayer" includes a partner of a

1 partnership, a manager or member of a limited liability
2 corporation, and a member of a registered limited liability
3 partnership.

4 (f) A trust tax is any tax for which an amount is
5 collected or withheld by a taxpayer from another person, and
6 any tax for which an amount is required to be collected or
7 withheld by a taxpayer from another person, regardless of
8 whether it is in fact collected or withheld.

9 (g) The personal liability imposed by this Section is in
10 addition to liability incurred by a partner of a partnership
11 or limited liability partnership resulting from the issuance
12 of a notice of tax liability issued to the partnership or
13 limited liability partnership.

14 (h) In addition to any other basis for imposition of
15 liability under this Act including under subsection (a) of
16 this Section, any person who collects, withholds, or receives
17 a tax, or any amount represented to be a tax, from another
18 person holds the amount so collected or withheld in special
19 trust for the benefit of the Department and is liable to the
20 Department for the amount so withheld or collected plus
21 accrued interest and penalty on that amount. For purposes of
22 this subsection, "person" shall have the same definition as
23 provided in Section 1 of the Retailers' Occupation Tax Act.

24 (Source: P.A. 90-458, eff. 8-17-97; 91-203, eff. 7-20-99.)

25 Section 90. The Illinois Public Accounting Act is
26 amended by changing Section 27 as follows:

27 (225 ILCS 450/27) (from Ch. 111, par. 5533)

28 Sec. 27. A public accountant shall not be required by any
29 court or by the Department of Revenue in a non-criminal
30 proceeding before it to divulge information or evidence which
31 has been obtained by him in his confidential capacity as a
32 public accountant. This Section shall not apply to any

1 investigation or hearing undertaken pursuant to this Act.

2 Nothing in this Section shall be construed to limit,
3 waive, or abrogate the scope or nature of any common law
4 privilege concerning the confidential capacity of a public
5 accountant.

6 (Source: P.A. 83-291.)

7 Section 95. No acceleration or delay. Where this Act
8 makes changes in a statute that is represented in this Act by
9 text that is not yet or no longer in effect (for example, a
10 Section represented by multiple versions), the use of that
11 text does not accelerate or delay the taking effect of (i)
12 the changes made by this Act or (ii) provisions derived from
13 any other Public Act.

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.

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Statutes amended in order of appearance

20 ILCS 2520/5	from Ch. 120, par. 2305
20 ILCS 2520/5.5 new	
20 ILCS 2520/5.6 new	
35 ILCS 5/902	from Ch. 120, par. 9-902
35 ILCS 5/904	from Ch. 120, par. 9-904
35 ILCS 5/917	from Ch. 120, par. 9-917
35 ILCS 5/917.5 new	
35 ILCS 105/19	from Ch. 120, par. 439.19
35 ILCS 105/20	from Ch. 120, par. 439.20
35 ILCS 110/17	from Ch. 120, par. 439.47
35 ILCS 110/18	from Ch. 120, par. 439.48
35 ILCS 115/17	from Ch. 120, par. 439.117
35 ILCS 115/18	from Ch. 120, par. 439.118
35 ILCS 120/4	from Ch. 120, par. 443
35 ILCS 120/5	from Ch. 120, par. 444
35 ILCS 120/6a	from Ch. 120, par. 445a
35 ILCS 120/6b	from Ch. 120, par. 445b
35 ILCS 130/9a	from Ch. 120, par. 453.9a
35 ILCS 130/9b	from Ch. 120, par. 453.9b
35 ILCS 135/13	from Ch. 120, par. 453.43
35 ILCS 135/13a	from Ch. 120, par. 453.43a
35 ILCS 145/6	from Ch. 120, par. 481b.36
35 ILCS 505/5	from Ch. 120, par. 421
35 ILCS 505/5a	from Ch. 120, par. 421a
35 ILCS 510/2	from Ch. 120, par. 481b.2
35 ILCS 520/16	from Ch. 120, par. 2166
35 ILCS 610/6	from Ch. 120, par. 467.6
35 ILCS 615/6	from Ch. 120, par. 467.21
35 ILCS 620/6	from Ch. 120, par. 473
35 ILCS 625/6	from Ch. 120, par. 1416
35 ILCS 630/10	from Ch. 120, par. 2010
35 ILCS 735/3-3	from Ch. 120, par. 2603-3

- 1 35 ILCS 735/3-7 from Ch. 120, par. 2603-7
- 2 225 ILCS 450/27 from Ch. 111, par. 5533