

1 AN ACT in relation to taxes.

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

4 Section 1. Short title. This Act may be cited as the Tax  
5 Delinquency Amnesty Act.

6 Section 5. Definitions. As used in this Act:

7 "Department" means the Illinois Department of Revenue.

8 "Rules" means any rules adopted or forms prescribed by  
9 the Department.

10 "Taxable period" means any period of time for which any  
11 tax is imposed by and owed to the State of Illinois.

12 "Taxpayer" means any person, corporation, or other entity  
13 subject to any tax imposed by any law of the State of  
14 Illinois and payable to the State of Illinois.

15 Section 10. Amnesty program. The Department shall  
16 establish an amnesty program for all taxpayers owing any tax  
17 imposed by reason of or pursuant to authorization by any law  
18 of the State of Illinois and collected by the Department.  
19 Amnesty tax return forms shall be prepared by the Department  
20 and shall provide for specification by the taxpayer of the  
21 tax and the taxable period for which amnesty is being sought  
22 by the taxpayer.

23 The amnesty program shall be for a period from October 1,  
24 2002 through November 30, 2002.

25 The amnesty program shall provide that, upon written  
26 application by any taxpayer and payment by that taxpayer of  
27 all taxes due from that taxpayer to the State of Illinois for  
28 any taxable period ending prior to July 1, 2001, the  
29 Department shall not seek to collect any interest or  
30 penalties that may be applicable and the Department shall not

1 seek civil or criminal prosecution for any taxpayer for the  
2 period of time for which amnesty has been granted to the  
3 taxpayer. Failure to pay all taxes due to the State shall  
4 invalidate any amnesty granted under this Act. Amnesty shall  
5 be granted for only the taxable periods specified in the  
6 application and only if all amnesty conditions are satisfied  
7 by the taxpayer.

8 Amnesty shall not be granted to taxpayers who are a party  
9 to any criminal investigation or to any civil or criminal  
10 litigation that is pending in any circuit court or appellate  
11 court or the Supreme Court of this State for nonpayment,  
12 delinquency, or fraud in relation to any State tax imposed by  
13 any law of the State of Illinois.

14 The Department shall adopt rules as necessary to  
15 implement the provisions of this Act.

16 All money collected under this Act pursuant to a State  
17 imposed tax, other than the tax imposed pursuant to  
18 subsections (c) and (d) of Section 201 of the Illinois Income  
19 Tax Act, shall be deposited as follows: (i) one-half into the  
20 Common School Fund; (ii) one-half into the General Revenue  
21 Fund.

22 Section 97. Repealer. This Act is repealed on January 1,  
23 2004.

24 Section 905. The Uniform Penalty and Interest Act is  
25 amended by changing Sections 3-2, 3-3, 3-4, 3-5, 3-6, and  
26 3-7.5 as follows:

27 (35 ILCS 735/3-2) (from Ch. 120, par. 2603-2)

28 Sec. 3-2. Interest.

29 (a) Interest paid by the Department to taxpayers and  
30 interest charged to taxpayers by the Department shall be paid  
31 at the annual rate determined by the Department. That rate

1 shall be the underpayment rate established under Section 6621  
2 of the Internal Revenue Code.

3 (b) The interest rate shall be adjusted on a semiannual  
4 basis, on January 1 and July 1, based upon the underpayment  
5 rate going into effect on that January 1 or July 1 under  
6 Section 6621 of the Internal Revenue Code.

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

16 (c-5) This subsection (c-5) is applicable to returns due  
17 on and after January 1, 2001. Interest shall be simple  
18 interest calculated on a daily basis. Interest shall accrue  
19 upon tax due. If notice and demand is made for the payment  
20 of any amount of tax due and if the amount due is paid within  
21 30 days after the date of the notice and demand, interest  
22 under this Section on the amount so paid shall not be imposed  
23 for the period after the date of the notice and demand.

24 (d) No interest shall be paid upon any overpayment of  
25 tax if the overpayment is refunded or a credit approved  
26 within 90 days after the last date prescribed for filing the  
27 original return, or within 90 days of the receipt of the  
28 processable return, or within 90 days after the date of  
29 overpayment, whichever date is latest, as determined without  
30 regard to processing time by the Comptroller or without  
31 regard to the date on which the credit is applied to the  
32 taxpayer's account. In order for an original return to be  
33 processable for purposes of this Section, it must be in the  
34 form prescribed or approved by the Department, signed by the

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

21 (e) Interest on erroneous refunds. Any portion of the  
22 tax imposed by an Act to which this Act is applicable or any  
23 interest or penalty which has been erroneously refunded and  
24 which is recoverable by the Department shall bear interest  
25 from the date of payment of the refund. However, no interest  
26 will be charged if the erroneous refund is for an amount less  
27 than \$500 and is due to a mistake of the Department.

28 (f) If a taxpayer has a tax liability that is eligible  
29 for amnesty under the Tax Delinquency Amnesty Act and the  
30 taxpayer fails to satisfy the tax liability during the  
31 amnesty period provided for in that Act, then the interest  
32 charged by the Department under this Section shall be imposed  
33 at a rate that is 200% of the rate that would otherwise be  
34 imposed under this Section.

1 (Source: P.A. 91-803, eff. 1-1-01.)

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

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

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

24 (a-5) This subsection (a-5) is applicable to returns due  
25 on and after January 1, 1996 and on or before December 31,  
26 2000. A penalty equal to 2% of the tax required to be shown  
27 due on a return, up to a maximum amount of \$250, determined  
28 without regard to any part of the tax that is paid on time or  
29 by any credit that was properly allowable on the date the  
30 return was required to be filed, shall be imposed for failure  
31 to file the tax return on or before the due date prescribed  
32 for filing determined with regard for any extension of time  
33 for filing. However, if any return is not filed within 30

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

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

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

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

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

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

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

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

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

24 (2) the full amount of any tax required to be shown  
25 due on a return and which is not shown (penalty for late  
26 payment or nonpayment of additional liability), within 30  
27 days after a notice of arithmetic error, notice and  
28 demand, or a final assessment is issued by the  
29 Department. In the case of a final assessment arising  
30 following a protest and hearing, the 30-day period shall  
31 not begin until all proceedings in court for review of  
32 the final assessment have terminated or the period for  
33 obtaining a review has expired without proceedings for a  
34 review having been instituted. In the case of a notice

1 of tax liability that becomes a final assessment without  
2 a protest and hearing, the penalty provided in this  
3 paragraph (2) shall be imposed at the expiration of the  
4 period provided for the filing of a protest.

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

8 (1) the tax shown due on a return on or before the  
9 due date prescribed for payment of that tax, an amount of  
10 underpayment of estimated tax, or an amount that is  
11 reported in an amended return other than an amended  
12 return timely filed as required by subsection (b) of  
13 Section 506 of the Illinois Income Tax Act (penalty for  
14 late payment or nonpayment of admitted liability). The  
15 amount of penalty imposed under this subsection (b-10)(1)  
16 shall be 2% of any amount that is paid no later than 30  
17 days after the due date, 5% of any amount that is paid  
18 later than 30 days after the due date and not later than  
19 90 days after the due date, 10% of any amount that is  
20 paid later than 90 days after the due date and not later  
21 than 180 days after the due date, and 15% of any amount  
22 that is paid later than 180 days after the due date.

23 (2) the full amount of any tax required to be shown  
24 due on a return and that is not shown (penalty for late  
25 payment or nonpayment of additional liability), within 30  
26 days after a notice of arithmetic error, notice and  
27 demand, or a final assessment is issued by the  
28 Department. In the case of a final assessment arising  
29 following a protest and hearing, the 30-day period shall  
30 not begin until all proceedings in court for review of  
31 the final assessment have terminated or the period for  
32 obtaining a review has expired without proceedings for a  
33 review having been instituted. The amount of penalty  
34 imposed under this subsection (b-10)(2) shall be 20% of

1 any amount that is not paid within the 30-day period. In  
2 the case of a notice of tax liability that becomes a  
3 final assessment without a protest and hearing, the  
4 penalty provided in this subsection (b-10)(2) shall be  
5 imposed at the expiration of the period provided for the  
6 filing of a protest.

7 (c) For purposes of the late payment penalties, the  
8 basis of the penalty shall be the tax shown or required to be  
9 shown on a return, whichever is applicable, reduced by any  
10 part of the tax which is paid on time and by any credit which  
11 was properly allowable on the date the return was required to  
12 be filed.

13 (d) A penalty shall be applied to the tax required to be  
14 shown even if that amount is less than the tax shown on the  
15 return.

16 (e) This subsection (e) is applicable to returns due  
17 before January 1, 2001. If both a subsection (b)(1) or  
18 (b-5)(1) penalty and a subsection (b)(2) or (b-5)(2) penalty  
19 are assessed against the same return, the subsection (b)(2)  
20 or (b-5)(2) penalty shall be assessed against only the  
21 additional tax found to be due.

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

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

32 (g) The time within which to file a return or pay an  
33 amount of tax due without imposition of a penalty does not  
34 extend the time within which to file a protest to a notice of

1 tax liability or a notice of deficiency.

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

6 (i) If a taxpayer has a tax liability that is eligible  
7 for amnesty under the Tax Delinquency Amnesty Act and the  
8 taxpayer fails to satisfy the tax liability during the  
9 amnesty period provided for in that Act, then the penalty  
10 imposed by the Department under this Section shall be imposed  
11 in an amount that is 200% of the amount that would otherwise  
12 be imposed under this Section.

13 (Source: P.A. 90-491, eff. 1-1-98; 90-548, eff. 12-4-97;  
14 91-239, eff. 1-1-00; 91-803, eff. 1-1-01.)

15 (35 ILCS 735/3-4) (from Ch. 120, par. 2603-4)

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

18 (a) Failure to file correct information returns -  
19 imposition of penalty.

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

28 (2) Failures subject to penalty. The following  
29 failures are subject to the penalty imposed in paragraph  
30 (1) of this subsection (a):

31 (A) any failure to file an information return  
32 with the Department on or before the required filing  
33 date, or

1 (B) any failure to include all of the  
2 information required to be shown on the return or  
3 the inclusion of incorrect information.

4 (b) Reduction where correction in specified period.

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

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

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

14 (c) Information return defined. An information return is  
15 any tax return required by a tax Act to be filed with the  
16 Department that does not, by law, require the payment of a  
17 tax liability.

18 (d) If a taxpayer has a tax liability that is eligible  
19 for amnesty under the Tax Delinquency Amnesty Act and the  
20 taxpayer fails to satisfy the tax liability during the  
21 amnesty period provided for in that Act, then the penalty  
22 imposed by the Department under this Section shall be imposed  
23 in an amount that is 200% of the amount that would otherwise  
24 be imposed under this Section.

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

26 (35 ILCS 735/3-5) (from Ch. 120, par. 2603-5)

27 Sec. 3-5. Penalty for negligence.

28 (a) If any return or amended return is prepared  
29 negligently, but without intent to defraud, and filed, in  
30 addition to any penalty imposed under Section 3-3 of this  
31 Act, a penalty shall be imposed in an amount equal to 20% of  
32 any resulting deficiency.

33 (b) Negligence includes any failure to make a reasonable

1 attempt to comply with the provisions of any tax Act and  
2 includes careless, reckless, or intentional disregard of the  
3 law or regulations.

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

9 (d) If a taxpayer has a tax liability that is eligible  
10 for amnesty under the Tax Delinquency Amnesty Act and the  
11 taxpayer fails to satisfy the tax liability during the  
12 amnesty period provided for in that Act, then the penalty  
13 imposed by the Department shall be imposed in an amount that  
14 is 200% of the amount that would otherwise be imposed in  
15 accordance with this Section.

16 (Source: P.A. 87-205; 87-1189.)

17 (35 ILCS 735/3-6) (from Ch. 120, par. 2603-6)  
18 Sec. 3-6. Penalty for fraud.

19 (a) If any return or amended return is filed with intent  
20 to defraud, in addition to any penalty imposed under Section  
21 3-3 of this Act, a penalty shall be imposed in an amount  
22 equal to 50% of any resulting deficiency.

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

26 (c) If a taxpayer has a tax liability that is eligible  
27 for amnesty under the Tax Delinquency Amnesty Act and the  
28 taxpayer fails to satisfy the tax liability during the  
29 amnesty period provided for in that Act, then the penalty  
30 imposed by the Department under this Section shall be imposed  
31 in an amount that is 200% of the amount that would otherwise  
32 be imposed under this Section.

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

1 (35 ILCS 735/3-7.5)

2 Sec. 3-7.5. Bad check penalty.

3 (a) In addition to any other penalty provided in this  
4 Act, a penalty of \$25 shall be imposed on any person who  
5 issues a check or other draft to the Department that is not  
6 honored upon presentment. The penalty imposed under this  
7 Section shall be deemed assessed at the time of presentment  
8 of the check or other draft and shall be treated for all  
9 purposes, including collection and allocation, as part of the  
10 tax or other liability for which the check or other draft  
11 represented payment.

12 (b) If a taxpayer has a tax liability that is eligible  
13 for amnesty under the Tax Delinquency Amnesty Act and the  
14 taxpayer fails to satisfy the tax liability during the  
15 amnesty period provided for in that Act, then the penalty  
16 imposed by the Department under this Section shall be imposed  
17 in an amount that is 200% of the amount that would otherwise  
18 be imposed under this Section.

19 (Source: P.A. 91-803, eff. 1-1-01.)

20 Section 999. Effective date. This Act takes effect upon  
21 becoming law.