

1 AN ACT concerning revenue.

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

4 Article 1. ILLINOIS TAX TRIBUNAL ACT OF 2012

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

7 Section 1-5. Statement of purpose.

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

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

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

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

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

11 "Department" means the Department of Revenue.

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

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

18 Section 1-15. Independent Tax Tribunal; establishment.

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

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

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

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

10 (2) To accept and expend appropriations.

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

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

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

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

25 (1) The State Records Act.

26 (2) The Illinois Procurement Code, except that the

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

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

6 (4) The State Property Control Act.

7 (5) The State Officials and Employees Ethics Act.

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

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

14 (d) The Tax Tribunal shall exercise its jurisdiction on and
15 after July 1, 2013, but the administrative law judges of the
16 Tribunal may be appointed prior to that date and may take any
17 action prior to that date that is necessary to enable the Tax
18 Tribunal to properly exercise its jurisdiction on or after that
19 date. Any administrative proceeding commenced prior to July 1,
20 2013, that would otherwise be subject to the jurisdiction of
21 the Illinois Independent Tax Tribunal may be conducted
22 according to the procedures set forth in this Act if the
23 taxpayer so elects. Such an election shall be irrevocable and
24 may be made on or after July 1, 2013, but no later than 30 days
25 after the date on which the taxpayer's protest was filed.

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

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

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

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

1 and until a successor has been appointed and confirmed.

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

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

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

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

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

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

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

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

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

1 the Secretary of State.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 Section 1-45. Jurisdiction of the Tax Tribunal.

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

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

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

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

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

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

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

21 (1) any assessment made under the Property Tax Code;

22 (2) any decisions relating to the issuance or denial of
23 an exemption ruling for any entity claiming exemption from
24 any tax imposed under the Property Tax Code or any State
25 tax administered by the Department;

26 (3) a notice of proposed tax liability, notice of

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

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

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

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

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

25 Section 1-50. Pleadings.

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

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

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

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

9 Section 1-55. Fees.

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

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

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

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

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

6 Section 1-60. Discovery and stipulation.

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

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

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

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

22 Section 1-63. Mediation. At any point in the proceedings
23 before the Tax Tribunal, but prior to the hearing under Section
24 1-65 of this Act, the parties may jointly petition the Tax

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

6 Section 1-65. Hearings.

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

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

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

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

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

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

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

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

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

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

25 Section 1-67. Temporary suspension of proceedings.

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

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

19 Section 1-70. Decisions.

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

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

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

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

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

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

16 Section 1-75. Appeals.

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

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

1 Section 1-80. Representation.

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

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

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

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

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

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

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

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

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

22 Section 1-90. Service of process and mailings.

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

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

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

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

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

1 Article 5. AMENDATORY PROVISIONS

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

4 (5 ILCS 120/1.02) (from Ch. 102, par. 41.02)

5 Sec. 1.02. For the purposes of this Act:

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

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

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

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

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

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

18 (5 ILCS 140/7) (from Ch. 116, par. 207)

19 Sec. 7. Exemptions.

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

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

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

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

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

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

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

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

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

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

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

1 request;

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

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

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

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

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

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

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

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

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

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

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

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

18 (j) The following information pertaining to
19 educational matters:

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

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

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

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

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

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

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

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

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

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

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

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

26 (r) The records, documents, and information relating

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

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

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

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

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

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

18 (w) (Blank).

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

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

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

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

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

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

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

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

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

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

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

11 (gg) Confidential information described in Section
12 1-100 of the Illinois Independent Tax Tribunal Act of 2012.

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

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

24 (Source: P.A. 96-261, eff. 1-1-10; 96-328, eff. 8-11-09;
25 96-542, eff. 1-1-10; 96-558, eff. 1-1-10; 96-736, eff. 7-1-10;
26 96-863, eff. 3-1-10; 96-1378, eff. 7-29-10; 97-333, eff.

1 8-12-11; 97-385, eff. 8-15-11; 97-452, eff. 8-19-11; revised
2 9-2-11.)

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

6 (20 ILCS 2505/2505-510) (was 20 ILCS 2505/39b20.1)

7 Sec. 2505-510. Informal assessment review.

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

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

24 (c) Offers of disposition of a proposed audit adjustment

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

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

10 Section 5-20. The Illinois Income Tax Act is amended by
11 changing Sections 908, 909, 910, 914, 916, 918, 1201, 1202, and
12 1408 as follows:

13 (35 ILCS 5/908) (from Ch. 120, par. 9-908)

14 Sec. 908. Procedure on protest.

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

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

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

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

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

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

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

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

23 (1) 30 Days after issuance of a notice of decision as
24 provided in subsection (b); or

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

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

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

14 If the taxpayer files a petition with the Illinois
15 Independent Tax Tribunal, or otherwise elects to be subject to
16 the provisions of the Illinois Independent Tax Tribunal Act of
17 2012, then the Department's decision will become final as
18 provided in that Act.

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

20 (35 ILCS 5/909) (from Ch. 120, par. 9-909)

21 Sec. 909. Credits and Refunds.

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

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

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

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

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

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

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

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

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

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

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

11 (h) This amendatory Act of 1983 applies to returns and
12 claims for refunds filed with the Department on and after July
13 1, 1983.

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

15 (35 ILCS 5/910) (from Ch. 120, par. 9-910)

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

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

1 taxpayer or his authorized representative a hearing. With
2 respect to protests filed with the Department prior to July 1,
3 2013 that would otherwise be subject to the jurisdiction of the
4 Illinois Independent Tax Tribunal, the taxpayer may elect to be
5 subject to the provisions of the Illinois Independent Tax
6 Tribunal Act of 2012 on or after July 1, 2013, but not later
7 than 30 days after the date on which the protest was filed. If
8 made, the election shall be irrevocable.

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

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

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

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

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

20 (1) 30 days after issuance of a notice of decision as
21 provided in subsection (b); or

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

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

1 the provisions of the Illinois Independent Tax Tribunal Act of
2 2012, then the Department's decision will become final as
3 provided in that Act.

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

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

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

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

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

17 (35 ILCS 5/916) (from Ch. 120, par. 9-916)

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

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

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

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

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

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

4 (35 ILCS 5/918) (from Ch. 120, par. 9-918)

5 Sec. 918. Place of Hearings.

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

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

16 (35 ILCS 5/1201) (from Ch. 120, par. 12-1201)

17 Sec. 1201. Administrative Review Law; Illinois Independent
18 Tax Tribunal Act of 2012. The provisions of the Administrative
19 Review Law, and the rules adopted pursuant thereto, shall apply
20 to and govern all proceedings for the judicial review of final
21 actions of the Department referred to in Sections 908 (d) and
22 910 (d). Such final actions shall constitute "administrative
23 decisions" as defined in Section 3-101 of the Code of Civil
24 Procedure.

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

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

9 (35 ILCS 5/1202) (from Ch. 120, par. 12-1202)

10 Sec. 1202. Venue.

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

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

19 (35 ILCS 5/1408) (from Ch. 120, par. 14-1408)

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

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

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

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

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

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

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

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

4 (35 ILCS 105/20) (from Ch. 120, par. 439.20)

5 Sec. 20. As soon as practicable after a claim for credit or
6 refund is filed, the Department shall examine the same and
7 determine the amount of credit or refund to which the claimant
8 or the claimant's legal representative, in the event that the
9 claimant shall have died or become a person under legal
10 disability, is entitled and shall, by its Notice of Tentative
11 Determination of Claim, notify the claimant or his or her legal
12 representative of such determination, which determination
13 shall be prima facie correct. Proof of such determination by
14 the Department may be made at any hearing before the Department
15 or in any legal proceeding by a reproduced copy of the
16 Department's record relating thereto, in the name of the
17 Department under the certificate of the Director of Revenue.
18 Such reproduced copy shall, without further proof, be admitted
19 into evidence before the Department or in any legal proceeding
20 and shall be prima facie proof of the correctness of the
21 Department's determination, as shown therein. If such
22 claimant, or the legal representative of a deceased claimant or
23 a claimant who is a person under legal disability shall, within
24 60 days after the Department's Notice of Tentative
25 Determination of Claim, file a protest thereto and request a

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

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

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

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

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

17 (35 ILCS 110/11) (from Ch. 120, par. 439.41)

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

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

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

17 (35 ILCS 110/18) (from Ch. 120, par. 439.48)

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

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

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

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

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

14 (35 ILCS 110/20a) (from Ch. 120, par. 439.50a)

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

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

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

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

7 (35 ILCS 115/11) (from Ch. 120, par. 439.111)

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

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

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

9 (35 ILCS 115/18) (from Ch. 120, par. 439.118)

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

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

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

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

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

6 (35 ILCS 115/20a) (from Ch. 120, par. 439.120a)

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

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

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

1 (35 ILCS 120/4) (from Ch. 120, par. 443)

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

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

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

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

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

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

26 Proof of such notice of tax liability by the Department may

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

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

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

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

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

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

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

8 If such person or legal representative shall within 60 days
9 after such notice of tax liability file a protest to said
10 notice of tax liability with the Department and request a
11 hearing thereon, the Department shall give notice to such
12 person or legal representative of the time and place fixed for
13 such hearing and shall hold a hearing in conformity with the
14 provisions of this Act, and pursuant thereto shall issue to
15 such person or legal representative a final assessment for the
16 amount found to be due as a result of such hearing. On or after
17 July 1, 2013, protests concerning matters that are subject to
18 the jurisdiction of the Illinois Independent Tax Tribunal shall
19 be filed with the Illinois Independent Tax Tribunal in
20 accordance with the Illinois Independent Tax Tribunal Act of
21 2012, and hearings concerning those matters shall be held
22 before the Tribunal in accordance with that Act. The Tribunal
23 shall give notice to such person of the time and place fixed
24 for such hearing and shall hold a hearing. With respect to
25 protests filed with the Department prior to July 1, 2013 that
26 would otherwise be subject to the jurisdiction of the Illinois

1 Independent Tax Tribunal, the taxpayer may elect to be subject
2 to the provisions of the Illinois Independent Tax Tribunal Act
3 of 2012 at any time on or after July 1, 2013, but not later than
4 30 days after the date on which the protest was filed. If made,
5 the election shall be irrevocable.

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

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

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

24 (35 ILCS 120/5) (from Ch. 120, par. 444)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 with the Circuit Court.

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

18 No claim shall be filed against the estate of any deceased
19 person or any person under legal disability for any tax or
20 penalty or part of either, or interest, except in the manner
21 prescribed and within the time limited by the Probate Act of
22 1975, as amended.

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

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

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

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

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

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

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

4 (35 ILCS 120/5a) (from Ch. 120, par. 444a)

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

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

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

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

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

1 Department from filing such notice of lien.

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

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

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

8 On and after July 1, 2013, protests concerning matters that
9 are subject to the jurisdiction of the Illinois Independent Tax
10 Tribunal shall be filed with the Tribunal, and hearings on
11 those matters shall be held before the Tribunal in accordance
12 with the Illinois Independent Tax Tribunal Act of 2012. The
13 Tribunal shall notify the taxpayer of its findings as to
14 whether or not such jeopardy assessment lien will be released.
15 If not, and if the taxpayer is aggrieved by this decision, he
16 may file an action for judicial review of such final
17 determination of the Department in accordance with Section 12
18 of this Act and the Illinois Independent Tax Tribunal Act of
19 2012.

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

1 irrevocable.

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

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

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

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

13 In case title to land to be affected by the notice of lien
14 or notice of jeopardy assessment lien is registered under the
15 provisions of "An Act concerning land titles", approved May 1,
16 1897, as amended, such notice shall be filed in the office of
17 the Registrar of Titles of the county within which the property
18 subject to the lien is situated and shall be entered upon the
19 register of titles as a memorial or charge upon each folium of
20 the register of titles affected by such notice, and the
21 Department shall not have a preference over the rights of any
22 bona fide purchaser, mortgagee, judgment creditor or other lien
23 holder arising prior to the registration of such notice:
24 Provided, however, that the word "bona fide" shall not include
25 any mortgage of real or personal property or any other credit
26 transaction that results in the mortgagee or the holder of the

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

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

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

10 (35 ILCS 120/8) (from Ch. 120, par. 447)

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

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

12 (Source: Laws 1965, p. 200.)

13 (35 ILCS 120/9) (from Ch. 120, par. 448)

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

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

6 (Source: Laws 1933, p. 924.)

7 (35 ILCS 120/11a) (from Ch. 120, par. 450a)

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

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

23 (35 ILCS 120/12) (from Ch. 120, par. 451)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (35 ILCS 130/3) (from Ch. 120, par. 453.3)

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

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

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

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

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

6 The Department, or any person authorized by the Department,
7 shall sell such stamps only to persons holding valid licenses
8 as distributors under this Act. On and after July 1, 2003,
9 payment for such stamps must be made by means of electronic
10 funds transfer. The Department may refuse to sell stamps to any
11 person who does not comply with the provisions of this Act.
12 Beginning on the effective date of this amendatory Act of the
13 92nd General Assembly and through June 30, 2002, persons
14 holding valid licenses as distributors may purchase cigarette
15 tax stamps up to an amount equal to 115% of the distributor's
16 average monthly cigarette tax stamp purchases over the 12
17 calendar months prior to the effective date of this amendatory
18 Act of the 92nd General Assembly.

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

1 bond, which is in addition to the bond required under Section 4
2 of this Act, payable to the Department in an amount equal to
3 80% of such distributor's average monthly tax liability to the
4 Department under this Act during the preceding calendar year or
5 \$500,000, whichever is less. The Bond shall be joint and
6 several and shall be in the form of a surety company bond in
7 such form as the Department prescribes, or it may be in the
8 form of a bank certificate of deposit or bank letter of credit.
9 The bond shall be conditioned upon the distributor's payment of
10 amount of any 21-day draft which the Department accepts from
11 that distributor for the delivery of stamps to that distributor
12 under this Act. The distributor's failure to pay any such
13 draft, when due, shall also make such distributor automatically
14 liable to the Department for a penalty equal to 25% of the
15 amount of such draft.

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

1 4 of this Act, payable to the Department in an amount equal to
2 150% of such distributor's average monthly tax liability to the
3 Department under this Act during the preceding calendar year or
4 \$750,000, whichever is less, except that as to bonds filed on
5 or after January 1, 1987, such additional bond shall be in an
6 amount equal to 100% of such distributor's average monthly tax
7 liability under this Act during the preceding calendar year or
8 \$750,000, whichever is less. The bond shall be joint and
9 several and shall be in the form of a surety company bond in
10 such form as the Department prescribes, or it may be in the
11 form of a bank certificate of deposit or bank letter of credit.
12 The bond shall be conditioned upon the distributor's payment of
13 the amount of any 30-day draft which the Department accepts
14 from that distributor for the delivery of stamps to that
15 distributor under this Act. The distributor's failure to pay
16 any such draft, when due, shall also make such distributor
17 automatically liable to the Department for a penalty equal to
18 25% of the amount of such draft.

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

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

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

1 Illinois Independent Tax Tribunal shall be filed with the
2 Tribunal in accordance with the Illinois Independent Tax
3 Tribunal Act of 2012, and hearings on those matters shall be
4 held before the Tribunal in accordance with that Act. With
5 respect to protests filed with the Department prior to July 1,
6 2013 that would otherwise be subject to the jurisdiction of the
7 Illinois Independent Tax Tribunal, the taxpayer may elect to be
8 subject to the provisions of the Illinois Independent Tax
9 Tribunal Act at any time on or after July 1, 2013, but not
10 later than 30 days after the date on which the protest was
11 filed. If made, the election shall be irrevocable. In the
12 absence of such a protest filed within the time allowed by law,
13 the Department's decision shall become final without any
14 further determination being made or notice given.

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

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

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

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

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

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

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

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

1 Product Manufacturers' Escrow Act.

2 (Source: P.A. 95-1053, eff. 1-1-10; 96-782, eff. 1-1-10;
3 96-1027, eff. 7-12-10.)

4 (35 ILCS 130/8) (from Ch. 120, par. 453.8)

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

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

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

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

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

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

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

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

26 No stay order shall be entered by the Circuit Court unless

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

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

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

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

1 (35 ILCS 130/8a) (from Ch. 120, par. 453.8a)

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

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

17 (35 ILCS 130/9a) (from Ch. 120, par. 453.9a)

18 Sec. 9a. Examination and correction of returns.

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

1 the distributor to file an amended return, the Department may
2 simply notify the distributor of the correction or corrections
3 it has made. Proof of such correction by the Department may be
4 made at any hearing before the Department or in any legal
5 proceeding by a reproduced copy of the Department's record
6 relating thereto in the name of the Department under the
7 certificate of the Director of Revenue. Such reproduced copy
8 shall, without further proof, be admitted into evidence before
9 the Department or in any legal proceeding and shall be prima
10 facie proof of the correctness of the amount of tax due, as
11 shown therein. If the Department finds that any amount of tax
12 is due from the distributor, the Department shall issue the
13 distributor a notice of tax liability for the amount of tax
14 claimed by the Department to be due, together with a penalty in
15 an amount determined in accordance with Sections 3-3, 3-5 and
16 3-6 of the Uniform Penalty and Interest Act. If, in
17 administering the provisions of this Act, comparison of a
18 return or returns of a distributor with the books, records and
19 inventories of such distributor discloses a deficiency which
20 cannot be allocated by the Department to a particular month or
21 months, the Department shall issue the distributor a notice of
22 tax liability for the amount of tax claimed by the Department
23 to be due for a given period, but without any obligation upon
24 the Department to allocate such deficiency to any particular
25 month or months, together with a penalty in an amount
26 determined in accordance with Sections 3-3, 3-5 and 3-6 of the

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

13 (2) Except as otherwise provided in this Section, if ~~if~~,
14 within 60 days after such notice of tax liability, the
15 distributor or his or her legal representative files a protest
16 to such notice of tax liability and requests a hearing thereon,
17 the Department shall give notice to such distributor or legal
18 representative of the time and place fixed for such hearing,
19 and shall hold a hearing in conformity with the provisions of
20 this Act, and pursuant thereto shall issue a final assessment
21 to such distributor or legal representative for the amount
22 found to be due as a result of such hearing. On or after July 1,
23 2013, protests concerning matters that are subject to the
24 jurisdiction of the Illinois Independent Tax Tribunal shall be
25 filed in accordance with the Illinois Independent Tax Tribunal
26 Act of 2012, and hearings concerning those matters shall be

1 held before the Tribunal in accordance with that Act. With
2 respect to protests filed with the Department prior to July 1,
3 2013 that would otherwise be subject to the jurisdiction of the
4 Illinois Independent Tax Tribunal, the taxpayer may elect to be
5 subject to the provisions of the Illinois Independent Tax
6 Tribunal Act at any time on or after July 1, 2013, but not
7 later than 30 days after the date on which the protest was
8 filed. If made, the election shall be irrevocable. If a protest
9 to the notice of tax liability and a request for a hearing
10 thereon is not filed within the time allowed by law ~~60 days~~
11 ~~after such notice of tax liability,~~ such notice of tax
12 liability shall become final without the necessity of a final
13 assessment being issued and shall be deemed to be a final
14 assessment.

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

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

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

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

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

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

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

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

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

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

13 All of the provisions of Sections 5a, 5b, 5c, 5d, 5e, 5f,
14 5g, 5i and 5j of the Retailers' Occupation Tax Act, which are
15 not inconsistent with this Act, and Section 3-7 of the Uniform
16 Penalty and Interest Act shall apply, as far as practicable, to
17 the subject matter of this Act to the same extent as if such
18 provisions were included herein. References in such
19 incorporated Sections of the "Retailers' Occupation Tax Act" to
20 retailers, to sellers or to persons engaged in the business of
21 selling tangible personal property shall mean distributors
22 when used in this Act.

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

24 (35 ILCS 130/9b) (from Ch. 120, par. 453.9b)

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

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

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

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

13 (35 ILCS 130/10) (from Ch. 120, par. 453.10)

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

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

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

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

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

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

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

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

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

9 (35 ILCS 135/3) (from Ch. 120, par. 453.33)

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

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

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

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

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

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

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

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

1 comply with the provisions of this Act. Beginning on June 6,
2 2002 and through June 30, 2002, persons holding valid licenses
3 as distributors may purchase cigarette tax stamps up to an
4 amount equal to 115% of the distributor's average monthly
5 cigarette tax stamp purchases over the 12 calendar months prior
6 to June 6, 2002.

7 Prior to December 1, 1985, the Department shall allow a
8 distributor 21 days in which to make final payment of the
9 amount to be paid for such stamps, by allowing the distributor
10 to make payment for the stamps at the time of purchasing them
11 with a draft which shall be in such form as the Department
12 prescribes, and which shall be payable within 21 days
13 thereafter: Provided that such distributor has filed with the
14 Department, and has received the Department's approval of, a
15 bond, which is in addition to the bond required under Section 4
16 of this Act, payable to the Department in an amount equal to
17 80% of such distributor's average monthly tax liability to the
18 Department under this Act during the preceding calendar year or
19 \$500,000, whichever is less. The bond shall be joint and
20 several and shall be in the form of a surety company bond in
21 such form as the Department prescribes, or it may be in the
22 form of a bank certificate of deposit or bank letter of credit.
23 The bond shall be conditioned upon the distributor's payment of
24 the amount of any 21-day draft which the Department accepts
25 from that distributor for the delivery of stamps to that
26 distributor under this Act. The distributor's failure to pay

1 any such draft, when due, shall also make such distributor
2 automatically liable to the Department for a penalty equal to
3 25% of the amount of such draft.

4 On and after December 1, 1985 and until July 1, 2003, the
5 Department shall allow a distributor 30 days in which to make
6 final payment of the amount to be paid for such stamps, by
7 allowing the distributor to make payment for the stamps at the
8 time of purchasing them with a draft which shall be in such
9 form as the Department prescribes, and which shall be payable
10 within 30 days thereafter, and beginning on January 1, 2003 and
11 thereafter, the draft shall be payable by means of electronic
12 funds transfer: Provided that such distributor has filed with
13 the Department, and has received the Department's approval of,
14 a bond, which is in addition to the bond required under Section
15 4 of this Act, payable to the Department in an amount equal to
16 150% of such distributor's average monthly tax liability to the
17 Department under this Act during the preceding calendar year or
18 \$750,000, whichever is less, except that as to bonds filed on
19 or after January 1, 1987, such additional bond shall be in an
20 amount equal to 100% of such distributor's average monthly tax
21 liability under this Act during the preceding calendar year or
22 \$750,000, whichever is less. The bond shall be joint and
23 several and shall be in the form of a surety company bond in
24 such form as the Department prescribes, or it may be in the
25 form of a bank certificate of deposit or bank letter of credit.
26 The bond shall be conditioned upon the distributor's payment of

1 the amount of any 30-day draft which the Department accepts
2 from that distributor for the delivery of stamps to that
3 distributor under this Act. The distributor's failure to pay
4 any such draft, when due, shall also make such distributor
5 automatically liable to the Department for a penalty equal to
6 25% of the amount of such draft.

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

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

7 Except as otherwise provided in this Section, any ~~Any~~
8 person aggrieved by any decision of the Department under this
9 Section may, within the time allowed by law, protest and
10 request a hearing before the Department, whereupon the
11 Department shall give notice and shall hold a hearing in
12 conformity with the provisions of this Act and then issue its
13 final administrative decision in the matter to such person.
14 Effective July 1, 2013, protests concerning matters that are
15 subject to the jurisdiction of the Illinois Independent Tax
16 Tribunal shall be filed in accordance with the Illinois
17 Independent Tax Tribunal Act of 2012, and hearings concerning
18 those matters shall be held before the Tribunal in accordance
19 with that Act. With respect to protests filed with the
20 Department prior to July 1, 2013 that would otherwise be
21 subject to the jurisdiction of the Illinois Independent Tax
22 Tribunal, the person filing the protest may elect to be subject
23 to the provisions of the Illinois Independent Tax Tribunal Act
24 of 2012 at any time on or after July 1, 2013, but not later than
25 30 days after the date on which the protest was filed. If made,
26 the election shall be irrevocable. In the absence of such a

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

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

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

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

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

1 is required or authorized by this Act, the distributor shall be
2 allowed a discount during any year commencing July 1 and ending
3 the following June 30 in accordance with the schedule set out
4 hereinbelow, from the amount to be paid by him to the
5 Department for such stamps, or to be paid by him to the
6 Department on the basis of monthly remittances (as the case may
7 be), to cover the cost, to such distributor, of collecting the
8 tax herein imposed by affixing such stamps to the original
9 packages of cigarettes sold by such distributor or by placing
10 tax imprints underneath the sealed transparent wrapper of
11 original packages of cigarettes sold by such distributor (as
12 the case may be): (1) Prior to December 1, 1985, a discount
13 equal to 1-2/3% of the amount of the tax up to and including
14 the first \$700,000 paid hereunder by such distributor to the
15 Department during any such year; 1-1/3% of the next \$700,000 of
16 tax or any part thereof, paid hereunder by such distributor to
17 the Department during any such year; 1% of the next \$700,000 of
18 tax, or any part thereof, paid hereunder by such distributor to
19 the Department during any such year; and 2/3 of 1% of the
20 amount of any additional tax paid hereunder by such distributor
21 to the Department during any such year or (2) On and after
22 December 1, 1985, a discount equal to 1.75% of the amount of
23 the tax payable under this Act up to and including the first
24 \$3,000,000 paid hereunder by such distributor to the Department
25 during any such year and 1.5% of the amount of any additional
26 tax paid hereunder by such distributor to the Department during

1 any such year.

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

6 Cigarette manufacturers who are distributors under Section
7 7(a) of this Act, and who place their cigarettes in original
8 packages which are contained inside a sealed transparent
9 wrapper, shall be required to remit the tax which they are
10 required to collect under this Act to the Department by
11 remitting the amount thereof to the Department by the 5th day
12 of each month, covering cigarettes shipped or otherwise
13 delivered to points in Illinois to purchasers during the
14 preceding calendar month, but a distributor need not remit to
15 the Department the tax so collected by him from purchasers
16 under this Act to the extent to which such distributor is
17 required to remit the tax imposed by the Cigarette Tax Act to
18 the Department with respect to the same cigarettes. All taxes
19 upon cigarettes under this Act are a direct tax upon the retail
20 consumer and shall conclusively be presumed to be precollected
21 for the purpose of convenience and facility only. Cigarette
22 manufacturers that are distributors licensed under Section
23 7(a) of this Act and who place their cigarettes in original
24 packages which are contained inside a sealed transparent
25 wrapper, before delivering such cigarettes or causing such
26 cigarettes to be delivered in this State to purchasers, shall

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

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

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

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

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

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

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

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

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

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

18 Except as otherwise provided in this Section, if ~~if~~ within
19 60 days after such notice of tax liability, the person to whom
20 such notice is issued or his legal representative files a
21 protest to such notice of tax liability and requests a hearing
22 thereon, the Department shall give notice to such person or
23 legal representative of the time and place fixed for such
24 hearing, and shall hold a hearing in conformity with the
25 provisions of this Act, and pursuant thereto shall issue a
26 final assessment to such person or legal representative for the

1 amount found to be due as a result of such hearing. Effective
2 July 1, 2013, protests concerning matters that are subject to
3 the jurisdiction of the Illinois Independent Tax Tribunal shall
4 be filed with the Tribunal in accordance with the Illinois
5 Independent Tax Tribunal Act of 2012, and hearings concerning
6 those matters shall be held before the Tribunal in accordance
7 with that Act. With respect to protests filed with the
8 Department prior to July 1, 2013 that would otherwise be
9 subject to the jurisdiction of the Illinois Independent Tax
10 Tribunal, the person filing the protest may elect to be subject
11 to the provisions of the Illinois Independent Tax Tribunal Act
12 of 2012 at any time on or after July 1, 2013, but not later than
13 30 days after the date on which the protest was filed. If made,
14 the election shall be irrevocable. If a protest to the notice
15 of tax liability and a request for a hearing thereon is not
16 filed within the time allowed by law ~~60 days after such notice~~
17 ~~of tax liability,~~ such notice of tax liability shall become
18 final without the necessity of a final assessment being issued
19 and shall be deemed to be a final assessment.

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

21 (35 ILCS 135/13a) (from Ch. 120, par. 453.43a)

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

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

1 matters that are subject to the jurisdiction of the Illinois
2 Independent Tax Tribunal shall be filed with the Tribunal in
3 accordance with the Illinois Independent Tax Tribunal Act of
4 2012, and hearings concerning those matters shall be held
5 before the Tribunal in accordance with that Act. With respect
6 to protests filed with the Department prior to July 1, 2013
7 that would otherwise be subject to the jurisdiction of the
8 Illinois Independent Tax Tribunal, the person filing the
9 protest may elect to be subject to the provisions of the
10 Illinois Independent Tax Tribunal Act of 2012 at any time on or
11 after July 1, 2013, but not later than 30 days after the date
12 on which the protest was filed. If made, the election shall be
13 irrevocable. If a protest to the notice of tax liability and a
14 request for a hearing thereon is not filed within the time
15 allowed by law ~~60 days after such notice of tax liability~~, such
16 notice of tax liability shall become final without the
17 necessity of a final assessment being issued and shall be
18 deemed to be a final assessment.

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

20 (35 ILCS 135/21) (from Ch. 120, par. 453.51)

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

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

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

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

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

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

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

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

26 Service upon the Director of Revenue or Assistant Director

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

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

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

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

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

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

14 (35 ILCS 135/21a) (from Ch. 120, par. 453.51a)

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

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

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

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

7 (35 ILCS 143/10-58)

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

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

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

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

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

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

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

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

21 (35 ILCS 145/10) (from Ch. 120, par. 481b.40)

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

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

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

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

15 (35 ILCS 505/18) (from Ch. 120, par. 433.1)

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

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

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

7 Section 5-70. The Coin-Operated Amusement Device and
8 Redemption Machine Tax Act is amended by changing Sections 4a,
9 10, and 14 as follows:

10 (35 ILCS 510/4a) (from Ch. 120, par. 481b.4a)

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

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

2 (35 ILCS 510/10) (from Ch. 120, par. 481b.10)

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

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

10 (35 ILCS 510/14) (from Ch. 120, par. 481b.14)

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

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

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

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

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

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

1 When any amusement device shall have been declared
2 forfeited to the State by the Department, as provided in this
3 Section, and when all proceedings for the judicial review of
4 the Department's decision have terminated, the Department
5 shall (if such amusement device is not redeemed and reclaimed
6 within the time and in the manner provided for in this
7 Section), to the extent that its decision is sustained on
8 review, sell such amusement device for the best price
9 obtainable and shall forthwith pay over the proceeds of such
10 sale to the State Treasurer; provided, however, that if the
11 value of the property to be sold at any one time shall be
12 \$500.00 or more, such property shall be sold only to the
13 highest and best bidder on such terms and conditions and on
14 open competitive bidding after public advertisement, in such
15 manner and for such terms as the Department, by rule, may
16 prescribe.

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

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

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

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

7 (35 ILCS 520/16) (from Ch. 120, par. 2166)

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

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

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

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

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

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

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

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

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

1 1975, as amended.

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

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

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

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

24 (35 ILCS 520/25) (from Ch. 120, par. 2175)

25 Sec. 25. Administrative Procedure Act - Application. The

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

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

16 (35 ILCS 520/26) (from Ch. 120, par. 2176)

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

1 extent as if such provisions were included herein.

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

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

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

10 (35 ILCS 615/8) (from Ch. 120, par. 467.23)

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

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

12 (Source: Laws 1965, p. 198.)

13 (35 ILCS 615/10) (from Ch. 120, par. 467.25)

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

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

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

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

1 of books, papers, records or memoranda.

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

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

8 (35 ILCS 615/12) (from Ch. 120, par. 467.27)

9 Sec. 12. The Circuit Court of the county wherein a hearing
10 is held shall have power to review all final administrative
11 decisions of the Department in administering the provisions of
12 this Act: Provided that if the administrative proceeding which
13 is to be reviewed judicially is a claim for refund proceeding
14 commenced in accordance with Section 6 of this Act and Section
15 2a of "An Act in relation to the payment and disposition of
16 moneys received by officers and employees of the State of
17 Illinois by virtue of their office or employment", approved
18 June 9, 1911, as amended, the Circuit Court having jurisdiction
19 of the action for judicial review under this Section and under
20 the Administrative Review Law, as amended, shall be the same
21 court that entered the temporary restraining order or
22 preliminary injunction which is provided for in Section 2a of
23 "An Act in relation to the payment and disposition of moneys
24 received by officers and employees of the State of Illinois by
25 virtue of their office or employment", and which enables such

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

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

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

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

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

1 (35 ILCS 615/12c) (from Ch. 120, par. 467.27c)

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

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

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

19 (35 ILCS 620/8) (from Ch. 120, par. 475)

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

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

21 (Source: Laws 1965, p. 199.)

22 (35 ILCS 620/12) (from Ch. 120, par. 479)

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

1 expedient.

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

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

16 Notwithstanding any other provision of law, all hearings
17 held before the Illinois Independent Tax Tribunal shall be held
18 in accordance with the Illinois Independent Tax Tribunal Act of
19 2012.

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

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

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

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

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

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

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

23 (35 ILCS 620/12a) (from Ch. 120, par. 479a)

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

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

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

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

16 (35 ILCS 625/8) (from Ch. 120, par. 1418)

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

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

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

19 (35 ILCS 625/10) (from Ch. 120, par. 1420)

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

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

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

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

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

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

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

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

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

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

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

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

1 matters contained in such record, except that these charges may
2 be waived where the Department is satisfied that the aggrieved
3 party is a poor person who cannot afford to pay such charges.
4 (Source: P.A. 84-548.)

5 (35 ILCS 625/14) (from Ch. 120, par. 1424)

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

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

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

22 (35 ILCS 630/12) (from Ch. 120, par. 2012)

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

1 provisions of this Article, the Department or any officer or
2 employee of the Department designated, in writing, by the
3 Director thereof, may hold investigations and, except for
4 matters otherwise reserved to the Illinois Independent Tax
5 Tribunal, may hold hearings concerning any matters covered by
6 this Article and may examine any books, papers, records or
7 memoranda bearing upon the business transacted or purchased by
8 any such retailer or taxpayer and may require the attendance of
9 such retailer or taxpayer or any officer or employee of such,
10 or of any person having knowledge of such business, and may
11 take testimony and require proof of its information. In the
12 conduct of any investigation or hearing, neither the Department
13 nor any officer or employee thereof shall be bound by the
14 technical rules of evidence, and no informality in any
15 proceeding, or in the manner of taking testimony, shall
16 invalidate any order, decision, rule or regulation made or
17 approved or confirmed by the Department. The Director or any
18 officer or employee thereof shall have power to administer
19 oaths to any such persons. The books, papers, records and
20 memoranda of the Department, or parts thereof, may be provided
21 in any hearing, investigation or legal proceeding by a
22 reproduced copy thereof under the certificate of the Director.
23 Such reproduced copy shall, without further proof, be admitted
24 into evidence before the Department or in any legal proceeding.
25 (Source: P.A. 84-126.)

1 (35 ILCS 630/16) (from Ch. 120, par. 2016)

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

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

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

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

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

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

20 (35 ILCS 630/18) (from Ch. 120, par. 2018)

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

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

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

12 Section 5-105. The Telecommunications Infrastructure
13 Maintenance Fee Act is amended by changing Sections 27.10,
14 27.30, and 27.40 as follows:

15 (35 ILCS 635/27.10)

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

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

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

19 (35 ILCS 635/27.30)

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

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

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

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

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

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

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

8 (35 ILCS 635/27.40)

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

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

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

3 (35 ILCS 640/2-14)

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

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

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

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

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

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

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

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

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

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

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

1 (35 ILCS 640/2-15)

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

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

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

20 (35 ILCS 735/3-12)

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

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

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

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

8 (30 ILCS 105/5.811 new)

9 Sec. 5.811. The Illinois Independent Tax Tribunal Fund.

10 (35 ILCS 1005/Act rep.)

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

13 Article 97. INSEVERABILITY

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

18 Article 99. EFFECTIVE DATE

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