



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5289

Introduced 2/8/2012, by Rep. Arthur Turner

SYNOPSIS AS INTRODUCED:

35 ILCS 105/14	from Ch. 120, par. 439.14
35 ILCS 110/15	from Ch. 120, par. 439.45
35 ILCS 115/15	from Ch. 120, par. 439.115
35 ILCS 120/13	from Ch. 120, par. 452

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. In provisions setting forth criminal penalties for failure to file a return and for filing a fraudulent return, provides that: (i) when the amount due is under \$300, the person is guilty of a Class 4 felony; (ii) when the amount due is at least \$300 but less than \$1,000, the person is guilty of a Class 3 felony; and (iii) when the amount due is at least \$1,000, the person is guilty of a Class 2 felony. Creates the offense of tax evasion. Provides that a person commits the offense of tax evasion when he knowingly attempts in any manner to evade or defeat the tax imposed on him or on any other person, or the payment thereof and he commits an affirmative act in furtherance of the evasion. Provides that two or more acts of tax evasion may be charged as a single count in any indictment, information, or complaint and the amount of tax deficiency may be aggregated for purposes of determining the amount of tax which is attempted to be or is evaded and the period between the first and last acts may be alleged as the date of the offense. Sets forth criminal penalties for the offense of tax evasion.

LRB097 16882 HLH 62069 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning revenue.

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

4 Section 5. The Use Tax Act is amended by changing Section
5 14 as follows:

6 (35 ILCS 105/14) (from Ch. 120, par. 439.14)

7 Sec. 14. When the amount due is under \$300, any person
8 subject to the provisions hereof who fails to file a return, or
9 who violates any other provision of Section 9 or Section 10
10 hereof, or who fails to keep books and records as required
11 herein, or who files a fraudulent return, or who wilfully
12 violates any rule or regulation of the Department for the
13 administration and enforcement of the provisions hereof, or any
14 officer or agent of a corporation or manager, member, or agent
15 of a limited liability company subject hereto who signs a
16 fraudulent return filed on behalf of such corporation or
17 limited liability company, or any accountant or other agent who
18 knowingly enters false information on the return of any
19 taxpayer under this Act, or any person who violates any of the
20 provisions of Sections 3, 5 or 7 hereof, or any purchaser who
21 obtains a registration number or resale number from the
22 Department through misrepresentation, or who represents to a
23 seller that such purchaser has a registration number or a

1 resale number from the Department when he knows that he does
2 not, or who uses his registration number or resale number to
3 make a seller believe that he is buying tangible personal
4 property for resale when such purchaser in fact knows that this
5 is not the case, is guilty of a Class 4 felony.

6 When the amount due is at least \$300 but less than \$1,000,
7 any person subject to the provisions hereof who fails to file a
8 return, or who violates any other provision of Section 9 or
9 Section 10 hereof, or who fails to keep books and records as
10 required herein, or who files a fraudulent return, or who
11 wilfully violates any rule or regulation of the Department for
12 the administration and enforcement of the provisions hereof, or
13 any officer or agent of a corporation or manager, member, or
14 agent of a limited liability company subject hereto who signs a
15 fraudulent return filed on behalf of such corporation or
16 limited liability company, or any accountant or other agent who
17 knowingly enters false information on the return of any
18 taxpayer under this Act, or any person who violates any of the
19 provisions of Sections 3, 5 or 7 hereof, or any purchaser who
20 obtains a registration number or resale number from the
21 Department through misrepresentation, or who represents to a
22 seller that such purchaser has a registration number or a
23 resale number from the Department when he knows that he does
24 not, or who uses his registration number or resale number to
25 make a seller believe that he is buying tangible personal
26 property for resale when such purchaser in fact knows that this

1 is not the case, is guilty of a Class 3 felony.

2 When the amount due is at least \$1,000, any person subject
3 to the provisions hereof who fails to file a return, or who
4 violates any other provision of Section 9 or Section 10 hereof,
5 or who fails to keep books and records as required herein, or
6 who files a fraudulent return, or who wilfully violates any
7 rule or regulation of the Department for the administration and
8 enforcement of the provisions hereof, or any officer or agent
9 of a corporation or manager, member, or agent of a limited
10 liability company subject hereto who signs a fraudulent return
11 filed on behalf of such corporation or limited liability
12 company, or any accountant or other agent who knowingly enters
13 false information on the return of any taxpayer under this Act,
14 or any person who violates any of the provisions of Sections 3,
15 5 or 7 hereof, or any purchaser who obtains a registration
16 number or resale number from the Department through
17 misrepresentation, or who represents to a seller that such
18 purchaser has a registration number or a resale number from the
19 Department when he knows that he does not, or who uses his
20 registration number or resale number to make a seller believe
21 that he is buying tangible personal property for resale when
22 such purchaser in fact knows that this is not the case, is
23 guilty of a Class 2 felony.

24 Any person who violates any provision of Section 6 hereof,
25 or who engages in the business of selling tangible personal
26 property at retail after his Certificate of Registration under

1 this Act has been revoked in accordance with Section 12 of this
2 Act, is guilty of a Class 4 felony. Each day any such person is
3 engaged in business in violation of Section 6, or after his
4 Certificate of Registration under this Act has been revoked,
5 constitutes a separate offense.

6 When the amount due is under \$300, any person who accepts
7 money that is due to the Department under this Act from a
8 taxpayer for the purpose of acting as the taxpayer's agent to
9 make the payment to the Department, but who fails to remit such
10 payment to the Department when due is guilty of a Class 4
11 felony. Any such person who purports to make such payment by
12 issuing or delivering a check or other order upon a real or
13 fictitious depository for the payment of money, knowing that it
14 will not be paid by the depository, shall be guilty of a
15 deceptive practice in violation of Section 17-1 of the Criminal
16 Code of 1961, as amended.

17 ~~When the amount due is \$300 or more any person subject to~~
18 ~~the provisions hereof who fails to file a return or who~~
19 ~~violates any other provision of Section 9 or Section 10 hereof~~
20 ~~or who fails to keep books and records as required herein or~~
21 ~~who files a fraudulent return, or who wilfully violates any~~
22 ~~rule or regulation of the Department for the administration and~~
23 ~~enforcement of the provisions hereof, or any officer or agent~~
24 ~~of a corporation or manager, member, or agent of a limited~~
25 ~~liability company subject hereto who signs a fraudulent return~~
26 ~~filed on behalf of such corporation or limited liability~~

1 ~~company, or any accountant or other agent who knowingly enters~~
2 ~~false information on the return of any taxpayer under this Act~~
3 ~~or any person who violates any of the provisions of Sections 3,~~
4 ~~5 or 7 hereof or any purchaser who obtains a registration~~
5 ~~number or resale number from the Department through~~
6 ~~misrepresentation, or who represents to a seller that such~~
7 ~~purchaser has a registration number or a resale number from the~~
8 ~~Department when he knows that he does not or who uses his~~
9 ~~registration number or resale number to make a seller believe~~
10 ~~that he is buying tangible personal property for resale when~~
11 ~~such purchaser in fact knows that this is not the case, is~~
12 ~~guilty of a Class 3 felony.~~

13 When the amount due is \$300 or more any person who accepts
14 money that is due to the Department under this Act from a
15 taxpayer for the purpose of acting as the taxpayer's agent to
16 make the payment to the Department, but who fails to remit such
17 payment to the Department when due is guilty of a Class 3
18 felony. Any such person who purports to make such payment by
19 issuing or delivering a check or other order upon a real or
20 fictitious depository for the payment of money, knowing that it
21 will not be paid by the depository shall be guilty of a
22 deceptive practice in violation of Section 17-1 of the Criminal
23 Code of 1961, as amended.

24 Any seller who collects or attempts to collect use tax
25 measured by receipts which such seller knows are not subject to
26 use tax, or any seller who knowingly over-collects or attempts

1 to over-collect use tax in a transaction which is subject to
2 the tax that is imposed by this Act, shall be guilty of a Class
3 4 felony for each such offense. This paragraph does not apply
4 to an amount collected by the seller as use tax on receipts
5 which are subject to tax under this Act as long as such
6 collection is made in compliance with the tax collection
7 brackets prescribed by the Department in its Rules and
8 Regulations.

9 Any taxpayer or agent of a taxpayer who with the intent to
10 defraud purports to make a payment due to the Department by
11 issuing or delivering a check or other order upon a real or
12 fictitious depository for the payment of money, knowing that it
13 will not be paid by the depository, shall be guilty of a
14 deceptive practice in violation of Section 17-1 of the Criminal
15 Code of 1961, as amended.

16 A person commits the offense of tax evasion under this Act
17 when he knowingly attempts in any manner to evade or defeat the
18 tax imposed on him or on any other person, or the payment
19 thereof, and he commits an affirmative act in furtherance of
20 the evasion. Two or more acts of tax evasion may be charged as
21 a single count in any indictment, information, or complaint and
22 the amount of tax deficiency may be aggregated for purposes of
23 determining the amount of tax which is attempted to be or is
24 evaded and the period between the first and last acts may be
25 alleged as the date of the offense.

26 (1) When the amount of tax, the assessment or payment

1 of which is attempted to be or is evaded is less than \$500
2 a person is guilty of a Class 4 felony.

3 (2) When the amount of tax, the assessment or payment
4 of which is attempted to be or is evaded is \$500 or more
5 but less than \$10,000, a person is guilty of a Class 3
6 felony.

7 (3) When the amount of tax, the assessment or payment
8 of which is attempted to be or is evaded is \$10,000 or more
9 but less than \$100,000, a person is guilty of a Class 2
10 felony.

11 (4) When the amount of tax, the assessment or payment
12 of which is attempted to be or is evaded \$100,000 or more,
13 a person is guilty of a non-probationable Class 1 felony.

14 A prosecution for any act in violation of this Section may
15 be commenced at any time within 3 years of the commission of
16 that Act.

17 This Section does not apply if the violation in a
18 particular case also constitutes a criminal violation of the
19 Retailers' Occupation Tax Act.

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

21 Section 10. The Service Use Tax Act is amended by changing
22 Section 15 as follows:

23 (35 ILCS 110/15) (from Ch. 120, par. 439.45)

24 Sec. 15. When the amount due is under \$300, any person

1 subject to the provisions hereof who fails to file a return, or
2 who violates any other provision of Section 9 or Section 10
3 hereof, or who fails to keep books and records as required
4 herein, or who files a fraudulent return, or who wilfully
5 violates any Rule or Regulation of the Department for the
6 administration and enforcement of the provisions hereof, or any
7 officer or agent of a corporation, or manager, member, or agent
8 of a limited liability company, subject hereto who signs a
9 fraudulent return filed on behalf of such corporation or
10 limited liability company, or any accountant or other agent who
11 knowingly enters false information on the return of any
12 taxpayer under this Act, or any person who violates any of the
13 provisions of Sections 3 and 5 hereof, or any purchaser who
14 obtains a registration number or resale number from the
15 Department through misrepresentation, or who represents to a
16 seller that such purchaser has a registration number or a
17 resale number from the Department when he knows that he does
18 not, or who uses his registration number or resale number to
19 make a seller believe that he is buying tangible personal
20 property for resale when such purchaser in fact knows that this
21 is not the case, is guilty of a Class 4 felony.

22 When the amount due is at least \$300 but less than \$1000,
23 any person subject to the provisions hereof who fails to file a
24 return, or who violates any other provision of Section 9 or
25 Section 10 hereof, or who fails to keep books and records as
26 required herein, or who files a fraudulent return, or who

1 wilfully violates any Rule or Regulation of the Department for
2 the administration and enforcement of the provisions hereof, or
3 any officer or agent of a corporation, or manager, member, or
4 agent of a limited liability company, subject hereto who signs
5 a fraudulent return filed on behalf of such corporation or
6 limited liability company, or any accountant or other agent who
7 knowingly enters false information on the return of any
8 taxpayer under this Act, or any person who violates any of the
9 provisions of Sections 3 and 5 hereof, or any purchaser who
10 obtains a registration number or resale number from the
11 Department through misrepresentation, or who represents to a
12 seller that such purchaser has a registration number or a
13 resale number from the Department when he knows that he does
14 not, or who uses his registration number or resale number to
15 make a seller believe that he is buying tangible personal
16 property for resale when such purchaser in fact knows that this
17 is not the case, is guilty of a Class 3 felony.

18 When the amount due is at least \$1000, any person subject
19 to the provisions hereof who fails to file a return, or who
20 violates any other provision of Section 9 or Section 10 hereof,
21 or who fails to keep books and records as required herein, or
22 who files a fraudulent return, or who wilfully violates any
23 Rule or Regulation of the Department for the administration and
24 enforcement of the provisions hereof, or any officer or agent
25 of a corporation, or manager, member, or agent of a limited
26 liability company, subject hereto who signs a fraudulent return

1 filed on behalf of such corporation or limited liability
2 company, or any accountant or other agent who knowingly enters
3 false information on the return of any taxpayer under this Act,
4 or any person who violates any of the provisions of Sections 3
5 and 5 hereof, or any purchaser who obtains a registration
6 number or resale number from the Department through
7 misrepresentation, or who represents to a seller that such
8 purchaser has a registration number or a resale number from the
9 Department when he knows that he does not, or who uses his
10 registration number or resale number to make a seller believe
11 that he is buying tangible personal property for resale when
12 such purchaser in fact knows that this is not the case, is
13 guilty of a Class 2 felony.

14 Any person who violates any provision of Section 6 hereof,
15 or who engages in the business of making sales of service after
16 his Certificate of Registration under this Act has been revoked
17 in accordance with Section 12 of this Act, is guilty of a Class
18 4 felony. Each day any such person is engaged in business in
19 violation of Section 6, or after his Certificate of
20 Registration under this Act has been revoked, constitutes a
21 separate offense.

22 When the amount due is under \$300, any person who accepts
23 money that is due to the Department under this Act from a
24 taxpayer for the purpose of acting as the taxpayer's agent to
25 make the payment to the Department, but who fails to remit such
26 payment to the Department when due is guilty of a Class 4

1 felony. Any such person who purports to make such payment by
2 issuing or delivering a check or other order upon a real or
3 fictitious depository for the payment of money, knowing that it
4 will not be paid by the depository, shall be guilty of a
5 deceptive practice in violation of Section 17-1 of the Criminal
6 Code of 1961, as amended.

7 ~~When the amount due is \$300 or more, any person subject to~~
8 ~~the provisions hereof who fails to file a return, or who~~
9 ~~violates any other provision of Section 9 or Section 10 hereof,~~
10 ~~or who fails to keep books and records as required herein or~~
11 ~~who files a fraudulent return, or who willfully violates any~~
12 ~~rule or regulation of the Department for the administration and~~
13 ~~enforcement of the provisions hereof, or any officer or agent~~
14 ~~of a corporation, or manager, member, or agent of a limited~~
15 ~~liability company, subject hereto who signs a fraudulent return~~
16 ~~filed on behalf of such corporation or limited liability~~
17 ~~company, or any accountant or other agent who knowingly enters~~
18 ~~false information on the return of any taxpayer under this Act,~~
19 ~~or any person who violates any of the provisions of Sections 3~~
20 ~~and 5 hereof, or any purchaser who obtains a registration~~
21 ~~number or resale number from the Department through~~
22 ~~misrepresentation, or who represents to a seller that such~~
23 ~~purchaser has a registration number or a resale number from the~~
24 ~~Department when he knows that he does not, or who uses his~~
25 ~~registration number or resale number to make a seller believe~~
26 ~~that he is buying tangible personal property for resale when~~

1 ~~such purchaser in fact knows that this is not the case, is~~
2 ~~guilty of a Class 3 felony.~~

3 When the amount due is \$300 or more, any person who accepts
4 money that is due to the Department under this Act from a
5 taxpayer for the purpose of acting as the taxpayer's agent to
6 make the payment to the Department, but who fails to remit such
7 payment to the Department when due is guilty of a Class 3
8 felony. Any such person who purports to make such payment by
9 issuing or delivering a check or other order upon a real or
10 fictitious depository for the payment of money, knowing that it
11 will not be paid by the depository, shall be guilty of a
12 deceptive practice in violation of Section 17-1 of the Criminal
13 Code of 1961, as amended.

14 Any serviceman who collects or attempts to collect Service
15 Use Tax measured by receipts or selling prices which such
16 serviceman knows are not subject to Service Use Tax, or any
17 serviceman who knowingly over-collects or attempts to
18 over-collect Service Use Tax in a transaction which is subject
19 to the tax that is imposed by this Act, shall be guilty of a
20 Class 4 felony for each offense. This paragraph does not apply
21 to an amount collected by the serviceman as Service Use Tax on
22 receipts or selling prices which are subject to tax under this
23 Act as long as such collection is made in compliance with the
24 tax collection brackets prescribed by the Department in its
25 Rules and Regulations.

26 Any taxpayer or agent of a taxpayer who with the intent to

1 defraud purports to make a payment due to the Department by
2 issuing or delivering a check or other order upon a real or
3 fictitious depository for the payment of money, knowing that it
4 will not be paid by the depository, shall be guilty of a
5 deceptive practice in violation of Section 17-1 of the Criminal
6 Code of 1961, as amended.

7 A person commits the offense of tax evasion under this Act
8 when he knowingly attempts in any manner to evade or defeat the
9 tax imposed on him or on any other person, or the payment
10 thereof, and he commits an affirmative act in furtherance of
11 the evasion. Two or more acts of tax evasion may be charged as
12 a single count in any indictment, information, or complaint and
13 the amount of tax deficiency may be aggregated for purposes of
14 determining the amount of tax which is attempted to be or is
15 evaded and the period between the first and last acts may be
16 alleged as the date of the offense.

17 (1) When the amount of tax, the assessment or payment
18 of which is attempted to be or is evaded is less than \$500
19 a person is guilty of a Class 4 felony.

20 (2) When the amount of tax, the assessment or payment
21 of which is attempted to be or is evaded is \$500 or more
22 but less than \$10,000, a person is guilty of a Class 3
23 felony.

24 (3) When the amount of tax, the assessment or payment
25 of which is attempted to be or is evaded is \$10,000 or more
26 but less than \$100,000, a person is guilty of a Class 2

1 felony.

2 (4) When the amount of tax, the assessment or payment
3 of which is attempted to be or is evaded \$100,000 or more,
4 a person is guilty of a non-probationable Class 1 felony.

5 A prosecution for any Act in violation of this Section may
6 be commenced at any time within 3 years of the commission of
7 that Act.

8 This Section does not apply if the violation in a
9 particular case also constitutes a criminal violation of the
10 Retailers' Occupation Tax Act, the Use Tax Act or the Service
11 Occupation Tax Act.

12 (Source: P.A. 90-655, eff. 7-30-98; 91-51, eff. 6-30-99.)

13 Section 15. The Service Occupation Tax Act is amended by
14 changing Section 15 as follows:

15 (35 ILCS 115/15) (from Ch. 120, par. 439.115)

16 Sec. 15. When the amount due is under \$300, any person
17 subject to the provisions hereof who fails to file a return, or
18 who violates any other provision of Section 9 or Section 10
19 hereof, or who fails to keep books and records as required
20 herein, or who files a fraudulent return, or who wilfully
21 violates any Rule or Regulation of the Department for the
22 administration and enforcement of the provisions hereof, or any
23 officer or agent of a corporation, or manager, member, or agent
24 of a limited liability company, subject hereto who signs a

1 fraudulent return filed on behalf of such corporation or
2 limited liability company, or any accountant or other agent who
3 knowingly enters false information on the return of any
4 taxpayer under this Act, or any person who violates any of the
5 provisions of Sections 3, 5 or 7 hereof, or any purchaser who
6 obtains a registration number or resale number from the
7 Department through misrepresentation, or who represents to a
8 seller that such purchaser has a registration number or a
9 resale number from the Department when he knows that he does
10 not, or who uses his registration number or resale number to
11 make a seller believe that he is buying tangible personal
12 property for resale when such purchaser in fact knows that this
13 is not the case, is guilty of a Class 4 felony.

14 When the amount due is at least \$300 but less than \$1000,
15 any person subject to the provisions hereof who fails to file a
16 return, or who violates any other provision of Section 9 or
17 Section 10 hereof, or who fails to keep books and records as
18 required herein, or who files a fraudulent return, or who
19 wilfully violates any Rule or Regulation of the Department for
20 the administration and enforcement of the provisions hereof, or
21 any officer or agent of a corporation, or manager, member, or
22 agent of a limited liability company, subject hereto who signs
23 a fraudulent return filed on behalf of such corporation or
24 limited liability company, or any accountant or other agent who
25 knowingly enters false information on the return of any
26 taxpayer under this Act, or any person who violates any of the

1 provisions of Sections 3, 5 or 7 hereof, or any purchaser who
2 obtains a registration number or resale number from the
3 Department through misrepresentation, or who represents to a
4 seller that such purchaser has a registration number or a
5 resale number from the Department when he knows that he does
6 not, or who uses his registration number or resale number to
7 make a seller believe that he is buying tangible personal
8 property for resale when such purchaser in fact knows that this
9 is not the case, is guilty of a Class 3 felony.

10 When the amount due is at least \$1000, any person subject
11 to the provisions hereof who fails to file a return, or who
12 violates any other provision of Section 9 or Section 10 hereof,
13 or who fails to keep books and records as required herein, or
14 who files a fraudulent return, or who wilfully violates any
15 Rule or Regulation of the Department for the administration and
16 enforcement of the provisions hereof, or any officer or agent
17 of a corporation, or manager, member, or agent of a limited
18 liability company, subject hereto who signs a fraudulent return
19 filed on behalf of such corporation or limited liability
20 company, or any accountant or other agent who knowingly enters
21 false information on the return of any taxpayer under this Act,
22 or any person who violates any of the provisions of Sections 3,
23 5 or 7 hereof, or any purchaser who obtains a registration
24 number or resale number from the Department through
25 misrepresentation, or who represents to a seller that such
26 purchaser has a registration number or a resale number from the

1 Department when he knows that he does not, or who uses his
2 registration number or resale number to make a seller believe
3 that he is buying tangible personal property for resale when
4 such purchaser in fact knows that this is not the case, is
5 guilty of a Class 2 felony.

6 Any person who violates any provision of Section 6 hereof,
7 or who engages in the business of making sales of service after
8 his Certificate of Registration under this Act has been revoked
9 in accordance with Section 12 of this Act, is guilty of a Class
10 4 felony. Each day any such person is engaged in business in
11 violation of Section 6, or after his Certificate of
12 Registration under this Act has been revoked, constitutes a
13 separate offense.

14 When the amount due is under \$300, any person who accepts
15 money that is due to the Department under this Act from a
16 taxpayer for the purpose of acting as the taxpayer's agent to
17 make the payment to the Department, but who fails to remit such
18 payment to the Department when due is guilty of a Class 4
19 felony. Any such person who purports to make such payment by
20 issuing or delivering a check or other order upon a real or
21 fictitious depository for the payment of money, knowing that it
22 will not be paid by the depository, shall be guilty of a
23 deceptive practice in violation of Section 17-1 of the Criminal
24 Code of 1961, as amended.

25 ~~When the amount due is \$300 or more, any person subject to~~
26 ~~the provisions hereof who fails to file a return, or who~~

1 ~~violates any other provision of Section 9 or Section 10 hereof,~~
2 ~~or who fails to keep books and records as required herein, or~~
3 ~~who files a fraudulent return, or who wilfully violates any~~
4 ~~rule or regulation of the Department for the administration and~~
5 ~~enforcement of the provisions hereof, or any officer or agent~~
6 ~~of a corporation, or manager, member, or agent of a limited~~
7 ~~liability company, subject hereto who signs a fraudulent return~~
8 ~~filed on behalf of such corporation or limited liability~~
9 ~~company, or any accountant or other agent who knowingly enters~~
10 ~~false information on the return of any taxpayer under this Act,~~
11 ~~or any person who violates any of the provisions of Sections 3,~~
12 ~~5 or 7 hereof, or any purchaser who obtains a registration~~
13 ~~number or resale number from the Department through~~
14 ~~misrepresentation, or who represents to a seller that such~~
15 ~~purchaser has a registration number or a resale number from the~~
16 ~~Department when he knows that he does not, or who uses his~~
17 ~~registration number or resale number to make a seller believe~~
18 ~~that he is buying tangible personal property for resale when~~
19 ~~such purchaser in fact knows that this is not the case, is~~
20 ~~guilty of a Class 3 felony.~~

21 When the amount due is \$300 or more, any person who accepts
22 money that is due to the Department under this Act from a
23 taxpayer for the purpose of acting as the taxpayer's agent to
24 make the payment to the Department but who fails to remit such
25 payment to the Department when due is guilty of a Class 3
26 felony. Any such person who purports to make such payment by

1 issuing or delivering a check or other order upon a real or
2 fictitious depository for the payment of money, knowing that it
3 will not be paid by the depository shall be guilty of a
4 deceptive practice in violation of Section 17-1 of the Criminal
5 Code of 1961, as amended.

6 Any serviceman who collects or attempts to collect Service
7 Occupation Tax, measured by receipts which such serviceman
8 knows are not subject to Service Occupation Tax, or any
9 serviceman who collects or attempts to collect an amount
10 (however designated) which purports to reimburse such
11 serviceman for Service Occupation Tax liability measured by
12 receipts or selling prices which such serviceman knows are not
13 subject to Service Occupation Tax, or any serviceman who
14 knowingly over-collects or attempts to over-collect Service
15 Occupation Tax or an amount purporting to be reimbursement for
16 Service Occupation Tax liability in a transaction which is
17 subject to the tax that is imposed by this Act, shall be guilty
18 of a Class 4 felony for each such offense. This paragraph does
19 not apply to an amount collected by the serviceman as
20 reimbursement for the serviceman's Service Occupation Tax
21 liability on receipts or selling prices which are subject to
22 tax under this Act, as long as such collection is made in
23 compliance with the tax collection brackets prescribed by the
24 Department in its Rules and Regulations.

25 A prosecution for any act in violation of this Section may
26 be commenced at any time within 3 years of the commission of

1 that act.

2 A person commits the offense of tax evasion under this Act
3 when he knowingly attempts in any manner to evade or defeat the
4 tax imposed on him or on any other person, or the payment
5 thereof, and he commits an affirmative act in furtherance of
6 the evasion. Two or more acts of tax evasion may be charged as
7 a single count in any indictment, information, or complaint and
8 the amount of tax deficiency may be aggregated for purposes of
9 determining the amount of tax which is attempted to be or is
10 evaded and the period between the first and last acts may be
11 alleged as the date of the offense.

12 (1) When the amount of tax, the assessment or payment
13 of which is attempted to be or is evaded is less than \$500
14 a person is guilty of a Class 4 felony.

15 (2) When the amount of tax, the assessment or payment
16 of which is attempted to be or is evaded is \$500 or more
17 but less than \$10,000, a person is guilty of a Class 3
18 felony.

19 (3) When the amount of tax, the assessment or payment
20 of which is attempted to be or is evaded is \$10,000 or more
21 but less than \$100,000, a person is guilty of a Class 2
22 felony.

23 (4) When the amount of tax, the assessment or payment
24 of which is attempted to be or is evaded \$100,000 or more,
25 a person is guilty of a non-probationable Class 1 felony.

26 This Section does not apply if the violation in a

1 particular case also constitutes a criminal violation of the
2 Retailers' Occupation Tax Act or the Use Tax Act.

3 (Source: P.A. 91-51, eff. 6-30-99.)

4 Section 20. The Retailers' Occupation Tax Act is amended by
5 changing Section 13 as follows:

6 (35 ILCS 120/13) (from Ch. 120, par. 452)

7 Sec. 13. When the amount due is under \$300, any person
8 engaged in the business of selling tangible personal property
9 at retail in this State who fails to file a return, or who
10 files a fraudulent return, or any officer, employee or agent of
11 a corporation, member, employee or agent of a partnership, or
12 manager, member, agent, or employee of a limited liability
13 company engaged in the business of selling tangible personal
14 property at retail in this State who, as such officer,
15 employee, agent, manager, or member is under a duty to file a
16 return, or any officer, agent or employee of a corporation,
17 member, agent, or employee of a partnership, or manager,
18 member, agent, or employee of a limited liability company
19 engaged in the business of selling tangible personal property
20 at retail in this State who files or causes to be filed or
21 signs or causes to be signed a fraudulent return filed on
22 behalf of such corporation or limited liability company, or any
23 accountant or other agent who knowingly enters false
24 information on the return of any taxpayer under this Act, is

1 guilty of a Class 4 felony.

2 When the amount due is at least \$300 but less than \$1000,
3 any person engaged in the business of selling tangible personal
4 property at retail in this State who fails to file a return, or
5 who files a fraudulent return, or any officer, employee or
6 agent of a corporation, member, employee or agent of a
7 partnership, or manager, member, agent, or employee of a
8 limited liability company engaged in the business of selling
9 tangible personal property at retail in this State who, as such
10 officer, employee, agent, manager, or member is under a duty to
11 file a return and who fails to file such return or any officer,
12 agent, or employee of a corporation, member, agent or employee
13 of a partnership, or manager, member, agent, or employee of a
14 limited liability company engaged in the business of selling
15 tangible personal property at retail in this State who files or
16 causes to be filed or signs or causes to be signed a fraudulent
17 return filed on behalf of such corporation or limited liability
18 company, or any accountant or other agent who knowingly enters
19 false information on the return of any taxpayer under this Act
20 is guilty of a Class 3 felony.

21 When the amount due is at least \$1000, any person engaged
22 in the business of selling tangible personal property at retail
23 in this State who fails to file a return, or who files a
24 fraudulent return, or any officer, employee or agent of a
25 corporation, member, employee or agent of a partnership, or
26 manager, member, agent, or employee of a limited liability

1 company engaged in the business of selling tangible personal
2 property at retail in this State who, as such officer,
3 employee, agent, manager, or member is under a duty to file a
4 return and who fails to file such return or any officer, agent,
5 or employee of a corporation, member, agent or employee of a
6 partnership, or manager, member, agent, or employee of a
7 limited liability company engaged in the business of selling
8 tangible personal property at retail in this State who files or
9 causes to be filed or signs or causes to be signed a fraudulent
10 return filed on behalf of such corporation or limited liability
11 company, or any accountant or other agent who knowingly enters
12 false information on the return of any taxpayer under this Act
13 is guilty of a Class 2 felony.

14 Any person who or any officer or director of any
15 corporation, partner or member of any partnership, or manager
16 or member of a limited liability company that: (a) violates
17 Section 2a of this Act or (b) fails to keep books and records,
18 or fails to produce books and records as required by Section 7
19 or (c) willfully violates a rule or regulation of the
20 Department for the administration and enforcement of this Act
21 is guilty of a Class A misdemeanor. Any person, manager or
22 member of a limited liability company, or officer or director
23 of any corporation who engages in the business of selling
24 tangible personal property at retail after the certificate of
25 registration of that person, corporation, limited liability
26 company, or partnership has been revoked is guilty of a Class A

1 misdemeanor. Each day such person, corporation, or partnership
2 is engaged in business without a certificate of registration or
3 after the certificate of registration of that person,
4 corporation, or partnership has been revoked constitutes a
5 separate offense.

6 Any purchaser who obtains a registration number or resale
7 number from the Department through misrepresentation, or who
8 represents to a seller that such purchaser has a registration
9 number or a resale number from the Department when he knows
10 that he does not, or who uses his registration number or resale
11 number to make a seller believe that he is buying tangible
12 personal property for resale when such purchaser in fact knows
13 that this is not the case is guilty of a Class 4 felony.

14 Any distributor, supplier or other reseller of motor fuel
15 registered pursuant to Section 2a or 2c of this Act who fails
16 to collect the prepaid tax on invoiced gallons of motor fuel
17 sold or who fails to deliver a statement of tax paid to the
18 purchaser or to the Department as required by Sections 2d and
19 2e of this Act, respectively, shall be guilty of a Class A
20 misdemeanor if the amount due is under \$300, and a Class 4
21 felony if the amount due is \$300 or more.

22 When the amount due is under \$300, any person who accepts
23 money that is due to the Department under this Act from a
24 taxpayer for the purpose of acting as the taxpayer's agent to
25 make the payment to the Department, but who fails to remit such
26 payment to the Department when due is guilty of a Class 4

1 felony.

2 Any seller who collects or attempts to collect an amount
3 (however designated) which purports to reimburse such seller
4 for retailers' occupation tax liability measured by receipts
5 which such seller knows are not subject to retailers'
6 occupation tax, or any seller who knowingly over-collects or
7 attempts to over-collect an amount purporting to reimburse such
8 seller for retailers' occupation tax liability in a transaction
9 which is subject to the tax that is imposed by this Act, shall
10 be guilty of a Class 4 felony for each such offense. This
11 paragraph does not apply to an amount collected by the seller
12 as reimbursement for the seller's retailers' occupation tax
13 liability on receipts which are subject to tax under this Act
14 as long as such collection is made in compliance with the tax
15 collection brackets prescribed by the Department in its Rules
16 and Regulations.

17 ~~When the amount due is \$300 or more, any person engaged in~~
18 ~~the business of selling tangible personal property at retail in~~
19 ~~this State who fails to file a return, or who files a~~
20 ~~fraudulent return, or any officer, employee or agent of a~~
21 ~~corporation, member, employee or agent of a partnership, or~~
22 ~~manager, member, agent, or employee of a limited liability~~
23 ~~company engaged in the business of selling tangible personal~~
24 ~~property at retail in this State who, as such officer,~~
25 ~~employee, agent, manager, or member is under a duty to file a~~
26 ~~return and who fails to file such return or any officer, agent,~~

1 ~~or employee of a corporation, member, agent or employee of a~~
2 ~~partnership, or manager, member, agent, or employee of a~~
3 ~~limited liability company engaged in the business of selling~~
4 ~~tangible personal property at retail in this State who files or~~
5 ~~causes to be filed or signs or causes to be signed a fraudulent~~
6 ~~return filed on behalf of such corporation or limited liability~~
7 ~~company, or any accountant or other agent who knowingly enters~~
8 ~~false information on the return of any taxpayer under this Act~~
9 ~~is guilty of a Class 3 felony.~~

10 When the amount due is \$300 or more, any person engaged in
11 the business of selling tangible personal property at retail in
12 this State who accepts money that is due to the Department
13 under this Act from a taxpayer for the purpose of acting as the
14 taxpayer's agent to make payment to the Department but fails to
15 remit such payment to the Department when due, is guilty of a
16 Class 3 felony.

17 Any person whose principal place of business is in this
18 State and who is charged with a violation under this Section
19 shall be tried in the county where his principal place of
20 business is located unless he asserts a right to be tried in
21 another venue.

22 Any taxpayer or agent of a taxpayer who with the intent to
23 defraud purports to make a payment due to the Department by
24 issuing or delivering a check or other order upon a real or
25 fictitious depository for the payment of money, knowing that it
26 will not be paid by the depository, shall be guilty of a

1 deceptive practice in violation of Section 17-1 of the Criminal
2 Code of 1961, as amended.

3 A person commits the offense of tax evasion under this Act
4 when he knowingly attempts in any manner to evade or defeat the
5 tax imposed on him or on any other person, or the payment
6 thereof, and he commits an affirmative act in furtherance of
7 the evasion. Two or more acts of tax evasion may be charged as
8 a single count in any indictment, information, or complaint and
9 the amount of tax deficiency may be aggregated for purposes of
10 determining the amount of tax which is attempted to be or is
11 evaded and the period between the first and last acts may be
12 alleged as the date of the offense.

13 (1) When the amount of tax, the assessment or payment
14 of which is attempted to be or is evaded is less than \$500
15 a person is guilty of a Class 4 felony.

16 (2) When the amount of tax, the assessment or payment
17 of which is attempted to be or is evaded is \$500 or more
18 but less than \$10,000, a person is guilty of a Class 3
19 felony.

20 (3) When the amount of tax, the assessment or payment
21 of which is attempted to be or is evaded is \$10,000 or more
22 but less than \$100,000, a person is guilty of a Class 2
23 felony.

24 (4) When the amount of tax, the assessment or payment
25 of which is attempted to be or is evaded \$100,000 or more,
26 a person is guilty of a non-probationable Class 1 felony.

1 A prosecution for any act in violation of this Section may
2 be commenced at any time within 3 years of the commission of
3 that act.

4 (Source: P.A. 87-879; 88-480.)