

101 West Jefferson Street  
Springfield, IL 62702  
217.785.7570

555 West Monroe Street  
Chicago, IL 60661  
312.814.3190



JB Pritzker  
Governor

David Harris  
Director

STATE OF ILLINOIS  
**DEPARTMENT OF REVENUE**

TO: The Honorable JB Pritzker  
Governor

The Honorable Don Harmon  
Senate President

The Honorable Emanuel "Chris" Welch  
Speaker of the House

The Honorable John Curran  
Senate Republican Leader

The Honorable Tony McCombie  
House Republican Leader

FROM: David Harris  
Director

DATE: December 30, 2024

SUBJECT: Illinois Department of Revenue FY2024 Annual Report

---

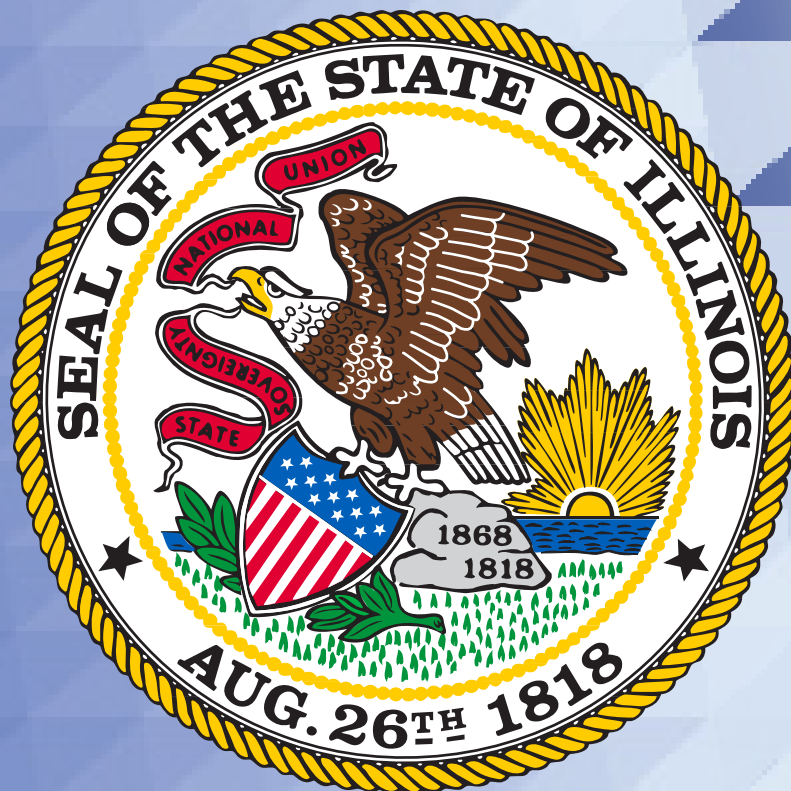
The Illinois Department of Revenue is submitting its Annual Report for Fiscal Year 2024 as required by 30 ILCS 105/3(A), including information required per 20 ILCS 2505/2505-745.

cc: Office of the Governor  
Andy Manar  
Amanda Elliott  
Alexis Sturm  
Ann Spillane  
Jim Foys  
Emily Miller  
Chris Shallow  
Samir Tanna  
General Assembly  
Secretary of the Senate  
Clerk of the House  
Department of Revenue  
Richard Sgro  
Cory Staley  
Rubina Hafeez

ILLINOIS DEPARTMENT OF REVENUE

# Annual Report

## Fiscal Year 2024





# Annual Report FY2024

## Table of Contents

### **Collections Remitted to the State Comptroller**

All Revenue Sources.....	3
Additional Information .....	4

### **Illinois Department of Revenue Legislative Recap**

Income Tax.....	5
Sales and Related Taxes .....	6
Property Tax .....	8
General / Miscellaneous.....	11

### **Illinois Department of Revenue Rulemaking**

The Public Utilities Revenue Act .....	12
Sustainable Aviation Fuel Credit .....	12
Retailers' Occupation Tax Clean-up .....	12
Standard Exemption & EIC Expansion .....	12
Rolling Stock .....	12
EDGE Credit .....	13
Late Payment Penalties for Revenue Auditor Reports (RAR).....	13
Bad Debts .....	13
Volunteer Emergency Worker Credit.....	13
Public Information, Rulemaking and Organization .....	13
County Water Commission Retailers' Occupation Tax Repealer .....	13
Rental Purchase Agreement Occupation and Use Tax Act.....	13
Taxpayer Rights Department Responsibilities Update.....	14
Cannabis Cultivators and Infuser Agreements.....	14
Charitable Games Act .....	14
Use Tax Clean Up .....	14
MICRO Investment Tax Credit .....	14
Informal Conference Board (ICB) Rights and Limitations .....	14
Manufacturing Machinery and Equipment Exemption (MM&E) and School Meal Plans Clean Up ...	14
Service Use Tax .....	15
Investment Partnership .....	15
Booking Intermediaries .....	15

# Table of Contents - continued

Practice and Procedure for Hearings Before the Illinois Department of Revenue .....	15
PA 103-0009 Implementation .....	15

## **Illinois Department of Revenue Court Cases**

### **Income Tax**

Jeremy A. Dubow v. Illinois Department of Revenue .....	16
---	----

### **Sales and Related Taxes**

American Aviation Supply, LLC v. Illinois Department of Revenue .....	16
Midwest Medical Equipment Solutions, Inc. v. Illinois Department of Revenue .....	17

## **Illinois Department of Revenue Recurrent Taxpayer Non-Compliance Issues**

Income Tax .....	19
Sales Tax .....	19

# Annual Report FY2024

## Collections Remitted to the State Comptroller - All Revenue Sources

	Total
<b>Collections by tax/type <sup>1</sup></b>	
Sales and Use.....	\$21,203,626,345.17
Motor Fuel.....	2,828,020,530.03
Cigarette .....	711,986,468.88
Senior Citizen Deferral.....	4,100,297.39
Liquor .....	311,480,168.30
Public Utility .....	1,318,578,331.04
Hotel.....	477,964,365.04
Real Estate Transfer .....	100,596,701.71
Charity Gaming.....	4,982,807.77
Private Vehicle Use.....	94,986,466.82
General Office / Misc. ....	84,833,455.15
Business Income.....	13,595,482,600.85
Individual Income .....	26,227,370,764.68
Automobile Renting.....	106,789,494.01
Live Adult Entertainment.....	332,547.95
Adult Use Cannabis .....	457,284,195.37
	<b><u>\$67,528,415,540.16</u></b>

### Collections deposited into State Treasury and in-transit to State Comptroller at year end:

Current year .....	532,117,141.02
Prior year .....	<u>627,433,897.81</u>
Net change.....	<b><u>(\$95,316,756.79)</u></b>

### Comptroller fund receipts <sup>2</sup>

Sales and Use.....	21,336,383,452.88
Motor Fuel.....	2,818,173,851.78
Cigarette .....	707,935,063.72
Senior Citizen Deferral.....	4,259,918.77
Liquor .....	311,136,613.25
Public Utility .....	1,318,866,995.94
Hotel.....	479,310,943.79
Real Estate Transfer .....	100,671,803.21
Charity Gaming.....	4,819,187.12
Private Vehicle Use.....	95,466,126.63
General Office / Misc. ....	88,870,053.45
Business Income.....	13,604,025,575.87
Individual Income .....	26,185,564,497.82
Automobile Renting.....	106,789,212.29
Live Adult Entertainment.....	332,547.95
Adult Use Cannabis .....	461,126,452.81
	<b><u>\$67,623,732,296.95</u></b>

**Collections reconciled to receipts <sup>3</sup> \$0**

# Annual Report FY2024

## Additional Information

### **<sup>1</sup> Collections by tax/type**

Taxpayers remit their payments to the Illinois Department of Revenue (IDOR) using prescribed payment vouchers. The monies collected are deposited into bank accounts held in the custody of the State Treasurer's Office. The amounts showing in the "**Collections by tax/type**" section reflect the payments received from taxpayers.

### **<sup>2</sup> Comptroller fund receipts**

The monies collected are then receipted into State funds maintained by the State Comptroller's Office. The fund receipts are reflected in the section titled "Comptroller fund receipts". The allocation of specific monies to specific funds is governed by various tax acts. Additional information regarding fund receipts can be found in the State Ledger on the Comptroller's website.

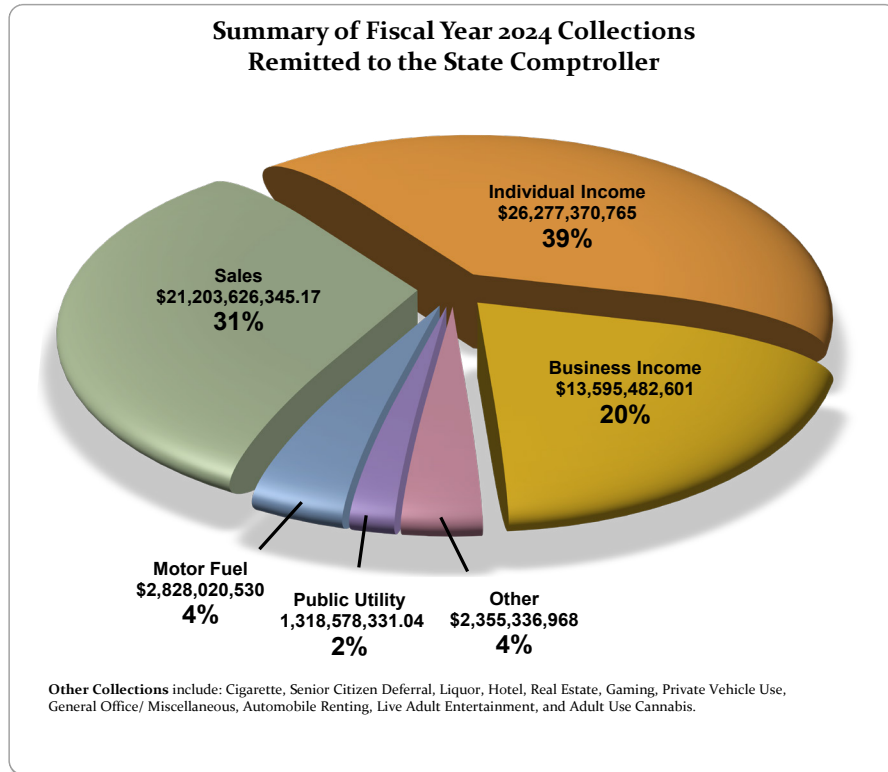
### **<sup>3</sup> Collections reconciled to receipts**

The line "**Collections reconciled to receipts**" demonstrates any discrepancies between money collected by IDOR from taxpayers and the money ultimately receipted into State funds. Variances between collections and receipts are due to timing differences related to changes in the amount of deposits in-transit to the State Comptroller at the end of the period. This information is provided in the section titled "**Collections deposited into State Treasury and in-transit to State Comptroller at year end.**"

(Total "**Collections by tax/type**, \$67,528,415,540.16" less "**Collections deposited into the State Treasury and in-transit to the State Comptroller**, (\$95,316,756.79) " is equal to "**Comptroller fund receipts**, \$67,623,732,296.95".)

Information regarding the taxes imposed, rates, form/filing requirements, payment requirements, and statutory authority can be found in the Research/Tax Information section of IDOR's website at [tax.illinois.gov](http://tax.illinois.gov). A more detailed version of this schedule with monthly amounts, collections by voucher type, and receipts by fund and revenue source can be found in the Information for Research section of the IDOR's website.

Also, updated tax statistics are available at the Research section of IDOR's website. Please see the report "Monthly Collections Remitted to the State Comptroller." This report provides additional details about monthly amounts, collections by voucher type, and receipts by fund and revenue source.



# Annual Report FY2024

## Illinois Department of Revenue Legislative Summary

### Income Tax

#### **Senate Bill 3155, Public Act 103-0945**

- **Angel Investment Tax Credit** - Amends the Illinois Income Tax Act to provide the repayment of any angel investment credits issued involving a 3-year reporting period that includes March 13, 2020, to January 1, 2024, shall be determined at the discretion of the Department of Commerce and Economic Opportunity.

#### **House Bill 4951, Public Act 103-0592**

- **Workforce Development Through Charitable Loan Repayment Act** - Creates the Workforce Development Through Charitable Loan Repayment Act. Amends the Illinois Income Tax Act to create a deduction for taxable years beginning on or after January 1, 2026, for qualified workers. Provides the deduction is equal to the amount included in a taxpayer's federal adjusted gross income that is attributable to student loan repayment assistance received by the taxpayer from a qualified community foundation.
- **Local Journalism Sustainability Act** - Creates the Local Journalism Sustainability Act. For reporting periods that begin on or after January 1, 2025, and before January 1, 2030, creates a withholding credit for local news organizations that employ qualified journalists. Provides the Department of Commerce and Economic Opportunity shall award tax credits not to exceed \$5 million per year. Amends the Illinois Income Tax Act to provide a taxpayer who is issued a credit certificate under the Local Journalism Sustainability Act is allowed a credit against its withholding liability.
- **Live Theater Production Tax Credit Act** - Amends the Live Theater Production Tax Credit Act to provide after July 1, 2024, "accredited theater production" also includes non-profit theater productions. Provides for State fiscal years ending on or after June 30, 2025, the amount of tax credits awarded under this Act shall not exceed \$6 million, with no more than \$2 million in credits awarded for long-run productions, pre-Broadway productions, commercial Broadway touring shows, or non-profit theater productions. Amends the Illinois Income Tax Act to provide a taxpayer is allowed to use its credit against its withholding liability and provides excess credit can be carried forward for periods that occur in the five (5) succeeding calendar years.
- **Music and Musicians Tax Credit and Jobs Act** - Creates the Music and Musician Tax Credit and Jobs Act. For tax years beginning on or after January 1, 2025, creates a credit for qualified music companies in an amount certified by the Department of Commerce and Economic Opportunity (DCEO). Provides DCEO shall award tax credits not to exceed \$2 million in any calendar year. Amends the Illinois Income Tax Act to provide excess credit can be carried forward for five (5) years.
- **Wages Paid to Returning Citizens Credit** - Amends the Illinois Income Tax Act to rename the credit for wages paid to ex-felons to the credit for wages paid to returning citizens. Provides, beginning on or after January 1, 2025, each taxpayer is entitled to a credit in an amount equal to 15% of qualified wages paid by the taxpayer during the taxable year to one or more Illinois residents who are qualified returning citizens. Provides the total credit allowed to a taxpayer with respect to each qualified returning citizen may not exceed \$7,500. Limits the amount of credits that can be awarded to \$1 million per year.
- **Volunteer Emergency Worker Credit** - Amends the Illinois Income Tax Act to expand the volunteer emergency worker credit to include volunteer members of a county or municipal emergency services and disaster agency. Effective for taxable years beginning on or after January 1, 2024.
- **Investment Income for Financial Organizations** - Amends the Illinois Income Tax Act to change how investment income for financial organizations is apportioned. Effective for tax years ending on or after December 31, 2024.

## Illinois Department of Revenue Legislative Summary - continued

- **Credit for Student Assistance Contributions** - Amends the Illinois Income Tax Act to extend the credit for student-assistance contributions to taxable years ending before December 31, 2029.
- **Adoption Credit** - Amends the Illinois Income Tax Act to extend the adoption credit to taxable years ending before December 31, 2029.
- **Child Tax Credit** - Amends the Illinois Income Tax Act to create a credit for taxpayers with at least one qualifying child under 12 years of age for tax years beginning on or after January 1, 2024. Provides the credit is equal to 20% of a taxpayer's state Earned Income Tax Credit (EITC) for tax year 2024 and equal to 40% of a taxpayer's EITC for tax years beginning on or after January 1, 2025. Provides the credit is refundable.
- **Net Operating Loss Deduction Limitation** - Amends the Illinois Income Tax Act to limit the amount a taxpayer can deduct for its net operating loss at \$500,000 for taxable years ending on or after December 31, 2024, and prior to December 31, 2027.
- **Illinois Gives Tax Credit Act** - Creates the Illinois Gives Tax Credit Act. For taxable years ending on or after December 31, 2025, and ending before January 1, 2030, creates a credit equal to 25% of an endowment gift made to a qualified community foundations' permanent endowment fund. Provides the credit shall not exceed \$100,000 per taxpayer. Provides contributions to any specific qualified community foundation shall not exceed \$3 million per year. Limits the amount of credits that can be awarded to \$5 million per year. Amends the Illinois Income Tax Act to provide excess credit can be carried forward for five (5) tax years.

### **House Bill 5005, Public Act 103-0595**

- **Credit for Quantum Computing Campuses** - Amends the Illinois Income Tax Act to create a credit for taxpayers certified by DCEO in an amount equal to 20% of wages paid to employees of a construction contractor employed in the construction of an eligible facility located on a quantum computing campus. Provides excess credit can be carried forward for five (5) years.
- **Research and Development Credit** - Amends the Illinois Income Tax Act to extend the Research and Development credit to tax years ending prior to January 1, 2032.

## Sales and Related Taxes

### **Senate Bill 3282, Public Act 103-0966**

- **Direct Pay Permit Program** - Amends the Retailers' Occupation Tax Act to require Direct Pay Permit holders to review their purchase activities for a 12-month period ending on December 31st of the immediately preceding calendar year. Provides permit holders three (3) months to complete the review, with the first review to be completed by March 31, 2025, and subsequent reviews to be completed by March 31st of each year thereafter. Requires the permit holder to file amended returns to address any identified errors. Provides for penalty assessment if it is determined upon audit that the permit holder is non-compliant on at least 95% of its transactions.

### **Senate Bill 3362, Public Act 103-0983**

- **Leveling the Playing Field** - Amends the Retailers' Occupation Tax Act to provide a retailer maintaining a place of business in Illinois that makes retail sales of tangible personal property to Illinois customers from a location or locations outside of Illinois is engaged in the occupation of selling at retail at the Illinois location to which the tangible personal property is shipped or delivered or at which possession is taken by the purchaser. Provides such retailers are liable for all applicable State and locally imposed retailers' occupation taxes administered by the Department on these sales, effective January 1, 2025.

## Illinois Department of Revenue Legislative Summary - continued

### **Senate Bill 3426, Public Act 103-0995**

- **Aircraft Maintenance Exemption** - Amends the “sales” tax acts to make technical corrections to the aircraft maintenance sales tax exemption.
- **Motor Fuel Tax Inflation Adjustment** - Amends the Motor Fuel Tax Law to clarify the annual inflation adjustment for the motor fuel tax rate is based on a comparison of 12-month averages.

### **Senate Bill 3452, Public Act 103-1001**

- **Seized Contraband Hearing** - Amends the Cigarette Tax Act, the Cigarette Use Tax Act, the Tobacco Products Tax Act of 1995, and the Cannabis Regulation and Tax Act to provide the Department is not required to hold a hearing regarding seized contraband if the owner of the property or the person whose possession the contraband was found, if the owner is unknown, has consented to its forfeiture.
- **Tobacco Products Bond Requirement** - Amends the Tobacco Products Tax Act of 1995 to provide those licensed under the Act are not required to maintain a bond if they have a continuous compliance history, are a new licensee or had a tax liability for the previous year less than \$50,000.

### **Senate Bill 3476, Public Act 103-0643**

**Home Delivered Meals Exemption** - Amends the “sales” tax acts to create an exemption for home-delivered meals provided under Medicare or Medicaid programs when payment is made by an intermediary, effective July 1, 2024.

### **House Bill 3144, Public Act 103-0781**

- **Grocery Tax Repeal** - Amends the “sales” tax acts to repeal the tax on food for human consumption that is to be consumed off the premises where it is sold, effective January 1, 2026.
- **Prepaid Telephone Calling Arrangements** - Amends the Retailers’ Occupation Tax Act to provide retailers occupation tax only applies to prepaid telephone calling arrangements which are obtained through the purchase of a preloaded phone, calling card, or other item of tangible personal property, effective January 1, 2025. **Note:** HB 4636 as amended by Senate Amendment 1, which passed the General Assembly on November 20, 2024, and which as of the publication of this Report is pending Gubernatorial action, repeals this provision.
- **Wireless 9-1-1 Surcharge** - Amends the Prepaid Wireless 9-1-1 Surcharge Act to allow home rule municipalities with a population of more than 500,000 to impose a prepaid wireless 9-1-1 surcharge at a rate not to exceed 9%, effective July 1, 2024, to July 1, 2029.
- **County Grocery Tax** - Creates the County Grocery Occupation Tax Law to authorize counties to impose a tax at the rate of 1% on persons engaged in the business of selling food for human consumption that is to be consumed off the premises where it is sold, effective January 1, 2026.
- **Municipal Grocery Tax** - Creates the Municipal Grocery Occupation Tax Law to authorize municipalities to impose a tax at the rate of 1% on persons engaged in the business of selling food for human consumption that is to be consumed off the premises where it is sold, effective January 1, 2026.
- **Non-Home Rule** - Amends the Illinois Municipal Code to allow non-home rule municipalities to impose tax by ordinance or resolution. **Note:** HB 4636 as amended by Senate Amendment 1, which passed the General Assembly on November 20, 2024, and which as of the publication of this Report is awaiting Gubernatorial action, provides any such ordinance or resolution shall be filed with the Department on or before April 1 for implementation July 1.

# Illinois Department of Revenue Legislative Summary - continued

## *House Bill 4951, Public Act 103-0592*

- **Hotel Operators' Occupation Tax (HOOT)-Re-Renters** - Amends the Hotel Operator's Occupation Tax Act to provide "re-renters of hotel rooms" are required to collect and remit HOOT on charges it imposes, effective July 1, 2024. Provides for a credit for taxes paid to a hotel operator.
- **Leaking Underground Storage Tank Tax** - Amends the Motor Fuel Tax Law to extend imposition of the leaking underground storage tank tax through December 31, 2029.
- **Environmental Impact Fee** - Amends the Environmental Impact Fee Law to extend imposition of the environmental impact fee through December 31, 2029.
- **Lease Tax** - Amends the "sales" tax acts to create a lease tax on the lease of tangible personal property, other than motor vehicles, watercraft, aircraft, and semitrailers that are required to be registered with an agency of this State, effective for leases entered into on or after January 1, 2025.
- **Tobacco Uniformity Project** - Amends the Cigarette Tax Act, the Cigarette Use Tax Act, and the Tobacco Products Tax Act of 1995 to provide the Department may request additional information on cigarette and tobacco products tax returns for purposes of implementing uniform regulation and taxation of cigarettes and tobacco products, effective January 1, 2025.
- **Vendor's Discount Cap** - Amends the "sales" tax acts to provide the amount allowed retailers for timely filing their returns and timely paying their tax liability shall not exceed \$1,000 per month, effective for returns due after January 1, 2025.

## *House Bill 5005, Public Act 103-0595*

- **Quantum Computing Campus Building Materials Exemption** - Amends the "sales" tax acts to create an exemption for qualified building materials incorporated into real estate at a quantum computing campus certified by DCEO, effective June 26, 2024.
- **Quantum Computing Campus Utility Tax Exemptions** - Amends the Gas Use Tax Law, the Telecommunications Excise Tax Act, the Telecommunications Infrastructure Maintenance Fee Act, the Simplified Municipal Telecommunications Tax Act, the Electricity Excise Tax Act, and the Public Utilities Act to create an exemption from charges imposed under those Acts for tenants located in a quantum computing campus certified by DCEO, effective June 26, 2024.

## *House Bill 5412, Public Act 103-0712*

- **REV Illinois and MICRO Act Clean Up** - Amends the Retailers' Occupation Tax Act to require retailers to obtain written certification to document exempt sales under REV and MICRO Acts.

## Property Tax

### *Senate Bill 317, Public Act 103-0873*

- **Delinquent Property Taxes - Government-Owned Property** - Amends the Property Tax Code to expand provisions governing delinquent property taxes owed by lessees of government-owned property to all counties and provides the provisions apply to lessees of property owned by a governmental entity rather than a taxing district, effective for tax year 2024 and thereafter.

### *Senate Bill 2859, Public Act 103-0631*

- **Wastewater Treatment Facilities** - Amends the Property Tax Code to require the Department to assess regional wastewater treatment facilities and provides guidelines for how the facilities are to be assessed.

# Illinois Department of Revenue Legislative Summary - continued

## ***Senate Bill 2936, Public Act 103-0931***

- **Urban Decay Abatement** - Amends the Property Tax Code to include newly remodeled single family or duplex residential dwellings located in an area of urban decay to those properties eligible for abatement. Provides the abatement for these additional property types is limited to the amount in property taxes attributable to the improvements.

## ***Senate Bill 3209, Public Act 103-0954***

- **Charitable Exemption** - Amends the Property Tax Code to remove the requirement that limited liability companies must be disregarded entities for federal and Illinois income tax purposes to qualify for a charitable exemption.

## ***Senate Bill 3275, Public Act 103-0963***

- **Electronic Revenue Stamps** - Amends the Property Tax Code to provide paper revenue stamps will be phased out by December 31, 2025 and thereafter all counties shall issue electronic revenue stamps.

## ***Senate Bill 3455, Public Act 103-1002***

- **Property Tax Study** - Amends the Property Tax Code to require the Department to complete a study to evaluate the property tax system in Illinois, and analyze any information collected in connection with the study. Provides a final report shall be submitted to the General Assembly by July 1, 2026.

## ***Senate Bill 3567, Public Act 103-1018***

- **Truth in Taxation Law** - Amends the Property Tax Code to provide if a taxing district has a website, then the truth in taxation notice shall be posted on or near the top of the website's homepage or on a page accessible through a direct link from the homepage for not less than 30 consecutive days.

## ***House Bill 612, Public Act 103-0596***

- **Standard Homestead Exemption for Veterans with Disabilities (SHEVD)** - Amends the Property Tax Code to provide property owned by veterans of WW II is exempt, beginning with tax year 2024, and provides qualifying veterans need not reapply each year. Provides for qualifying veterans with a service-connected disability of 70% or more, the first \$250,000 in equalized assessed value of the property is exempt. Redefines "veteran" to provide it is a member of the armed forces who has a service-connected disability and who receives disability compensation.

## ***House Bill 1377, Public Act 103-0793***

- **Homestead Exemption for Municipality-Built Homes** - Amends the Property Tax Code to create a special homestead exemption for certain municipality-built homes for tax year 2024 and thereafter. Exemption is required in counties with 3 million or more inhabitants and allowed in other counties if the county board, by ordinance or resolution, opts in. Provides the exemption is equal to 50% of the equalized assessed value of the property for the first eight (8) years of eligibility and 33% of the equalized assessed value of the property for the ninth and tenth years of eligibility.

## ***House Bill 2232, Public Act 103-0655***

- **Refund of Protested Payments** - Amends the Property Tax Code to provide a claim for refund resulting from a final order of the Property Tax Appeal Board shall not be allowed unless the claim is filed within 20 years from the date the right to a refund arose. Provides the aggregate total of refunded taxes and interest shall not exceed \$5 million in any calendar year for claims filed more than seven (7) years after the right to the refund arose. Provides if the payment of a claim for a refund would cause the aggregate total of taxes and interest to exceed \$5 million in any year, any excess amount shall be paid in the next year.

## Illinois Department of Revenue Legislative Summary - continued

### **House Bill 4125, Public Act 103-0662**

- **Certificate of Error** - Amends the Property Tax Code to make a technical change to the issuance of certificates of error in counties with 3 million or more inhabitants. Effective for certificates of error issued on or after January 1, 2025, for taxable years 2004 or thereafter.

### **House Bill 4179, Public Act 103-0807**

- **Emergency Services** - Amends the Emergency Services Districts Act to provide rescue squad districts, in counties other than Cook County and the collar counties, may increase, by referendum, the tax rate authorized by its organizational proposition by up to 0.20%. Provides taxes collected under the Act may also be used to provide ambulance service.

### **House Bill 4284, Public Act 103-0587**

- **Homewood School District** - Amends the Property Tax Code to provide, for the purpose of calculating the limiting rate for levy year 2023, the last preceding aggregate extension base for Homewood School District 153 in Cook County shall be \$19,535,377.

### **House Bill 4951, Public Act 103-0592**

- **Housing Opportunity Abatement Program** - Amends the Property Tax Code to extend the housing opportunity area abatement program to tax year 2034.
- **Redemption Amount** - Amends the Property Tax Code to provide in counties with fewer than 3 million inhabitants if the property to be redeemed is property with respect to which a tax lien or certificate is acquired after January 1, 2024, by the county as trustee, the penalty bid at sale shall accrue according to the established penalty periods.
- **Available Exemptions** - Amends the Property Tax Code to provide bills mailed on or after January 1, 2026, shall include a list of exemptions available to taxpayers and contact information for the chief county assessment officer.
- **Distributions From Tax Reimbursement Account** - Amends the Property Tax Code to add an exception when a taxing district orders a distribution from the tax reimbursement account. Provides for commercial and industrial properties, owners who received a tax incentive because of a tax incentivized development established by an intergovernmental agreement to which the taxing district is a party do not qualify for the distribution.
- **LaMoille Community School District** - Amends the Property Tax Code to provide the LaMoille Community Unit School District #303 may, by ordinance adopted on or before June 30, 2024, amend or supplement its levy for the 2023 tax year.
- **Return of Erroneous Distributions** - Amends the Property Tax Code to provide all interest earned by a county on behalf of taxing districts must be distributed by the county treasurer, in counties with less than 3 million inhabitants, no later than the last distribution of taxes.
- **Senior Citizens Homestead Exemption** - Amends the Property Tax Code to repeal, in counties with 3 million or more inhabitants, and allow for the repeal, in counties with less than 3 million inhabitants, the annual application requirement to apply for the senior citizens homestead exemption. Provides in counties for which the application is not required that exemptions granted during the previous cycle be reviewed.
- **Historic Residence Assessment Freeze** - Amends the Property Tax Code to provide the fair cash value of a property shall be based on the final determination by the assessment officer, board of review, Property Tax Appeal Board, or court.

## Illinois Department of Revenue Legislative Summary - continued

- **Exemptions for Religious Purposes, Orphanages, or School Purposes** - Amends the Property Tax Code to make a technical change replacing “recorder” with “clerk”, as it relates to Cook County.
- **Pollution Control Facilities** - Amends the Property Tax Code to codify the Department’s method of valuation for pollution control facilities.
- **PTELL-Community Mental Health Facilities** - Amends the Property Tax Code to add a new special purpose extension for Community Mental Health Act fund requests to supplement existing funds for community mental health facilities and services, including services for a person with a developmental disability or substance abuse disorder.

### ***House Bill 5005, Public Act 103-0595***

- **REV Illinois and MICRO Project Facilities** - Amends the Property Tax Code to clarify that an abatement agreement of taxing districts may not exceed a period of 30 consecutive tax years.

## General/Miscellaneous

### ***Senate Bill 3475, Public Act 103-0642***

- **Hotel Operators’ Occupation Tax Distribution Formula** - Amends the Hotel Operator’s Occupation Tax Act to provide, after deposits to the Build Illinois Fund and the Illinois Sports Facilities Fund, 7% shall be deposited to the International Tourism Fund, 14% to the Chicago Travel Industry Promotion Fund, 23% to the Local Tourism Fund and 56% to the Tourism Promotion Fund, effective July 1, 2024.

### ***Senate Bill 3617, Public Act 103-1027***

- **Bank Levy Procedures** - Amends the Department of Revenue Law of the Civil Administrative Code of Illinois to allow the Department to develop and implement a data match program to identify accounts held at financial institutions by delinquent taxpayers for purposes of issuing bank levies on those accounts.

### ***Senate Bill 3762, Public Act 103-0723***

- **Language Access** - Creates the Language Equity and Access Act to provide the Governor’s Office of New Americans is to oversee the creation of language access plans at state agencies to improve access to State programs by limited English proficient persons.

### ***House Bill 4720, Public Act 103-0604***

- **Higher Education Savings Program** - Amends the State Treasurer Act to provide the Department shall provide the State Treasurer with information to assist the State Treasurer with administration of its Illinois Higher Education Savings Program.

### ***House Bill 4951, Public Act 103-0592***

- **County Official Compensation Task Force** - Amends the Department of Revenue Law of the Civil Administrative Code of Illinois to create the County Official Compensation Task Force. The Task Force is to review the compensation of county-level officials as provided for in various State statutes and to make recommendations to the General Assembly on changes to those statutes

# Annual Report FY2024

## Illinois Department of Revenue Rulemaking

**The Public Utilities Revenue Act** – 86 Ill. Adm. Code § 510.101; 86 Ill. Adm. Code § 510.105; 86 Ill. Adm. Code § 510.110; 86 Ill. Adm. Code § 510.120; 86 Ill. Adm. Code § 510.125; 86 Ill. Adm. Code § 510.130; 86 Ill. Adm. Code § 510.131; 86 Ill. Adm. Code § 510.135; 86 Ill. Adm. Code § 510.140; 86 Ill. Adm. Code § 510.144; 86 Ill. Adm. Code § 510.145; 86 Ill. Adm. Code § 510.150; 86 Ill. Adm. Code § 510.165; 86 Ill. Adm. Code § 510.170; 86 Ill. Adm. Code § 510.175; 86 Ill. Adm. Code § 510.180; 86 Ill. Adm. Code § 510.185; 86 Ill. Adm. Code § 510.190; 86 Ill. Adm. Code § 510.195; 86 Ill. Adm. Code § 510.200

Amended 86 Ill. Adm. Code 510 to reflect changes made to the Public Utilities Revenue Act by various Public Acts. Adopted at 47 Ill. Reg. 18748, effective November 28, 2023.

**Sustainable Aviation Fuel Credit** – 86 Ill. Adm. Code § 130.333

Implemented the Sustainable Aviation Fuel Purchase Credit (sales tax credit) enacted by P.A. 102-1125 and revised by P.A. 103-9.

Adopted at 47 Ill. Reg. 19135, effective December 6, 2023.

**Retailers' Occupation Tax Clean-up** – 86 Ill. Adm. Code § 130.311; 86 Ill. Adm. Code § 130.325; 86 Ill. Adm. Code § 130.445; 86 Ill. Adm. Code § 130.551; 86 Ill. Adm. Code § 130.705; 86 Ill. Adm. Code § 130.745; 86 Ill. Adm. Code § 130.801; 86 Ill. Adm. Code § 130.815; 86 Ill. Adm. Code § 130.901; 86 Ill. Adm. Code § 130.1905; 86 Ill. Adm. Code § 130.1935; 86 Ill. Adm. Code § 130.1946; 86 Ill. Adm. Code § 130.1947; 86 Ill. Adm. Code § 130.1953; 86 Ill. Adm. Code § 130.1990; 86 Ill. Adm. Code § 130.2000; 86 Ill. Adm. Code § 130.2035; 86 Ill. Adm. Code § 130.2060; 86 Ill. Adm. Code § 130.2085; 86 Ill. Adm. Code § 2165

Amended a number of sections of Part 130, Retailers' Occupation Tax, to reflect new statutory developments, decisional law, and Department policies. This rulemaking also deletes outdated provisions in Part 130 and provides various technical changes.

Adopted at 47 Ill. Reg. 19349, effective December 12, 2023.

**Standard Exemption & EIC Expansion** - 86 Ill. Adm. Code § 100.2055; 86 Ill. Adm. Code § 100.2199

This rulemaking implements the changes to the standard exemption made by P.A. 103-0009. This rulemaking also incorporates the changes made by P.A. 102-0700 that increased the IL earned income tax credit to 20% of the federal credit and extended eligibility to taxpayers without Social Security numbers and taxpayers 18-25 or over 65 without dependents.

Adopted at 48 Ill. Reg. 1677, effective January 10, 2024.

**Rolling Stock** – 86 Ill. Adm. Code § 130.340; 86 Ill. Adm. Code § 140.201; 86 Ill. Adm. Code § 150.701

Updated and restructured the sales tax rolling stock exemption rule. Set forth the elements of the exemption in a logical order and deleted obsolete and dated provisions. Implemented Public Act 100-321, which established a new rolling stock test for motor vehicles and trailers to qualify for the exemption (see 130.340(d)(1)). Revised the provisions related to motor vehicles and trailers prior to the enactment of Public Act 100-321, which provisions continue to apply to limousines and, effective with the enactment of Public Act 98-584, apply to aircraft and watercraft. Replaced outdated references to the Interstate Commerce Commission with the Federal Motor Carrier Safety Administration and made other changes regarding documenting the exemption. Added examples of what movements do and do not qualify as interstate trips or miles for aircraft, watercraft, and limousines. Added a carve-out (100-200 hours or 6-months, whichever occurs first) from the trips or miles calculation for flights by an aircraft for the purpose of aircraft or pilot certification.

Adopted at 48 Ill. Reg. 1870; 48 Ill. Reg. 4512; and 48 Ill. Reg. 1950, effective January 18, 2024.

## Illinois Department of Revenue Rulemaking - continued

### **Edge Credit** - 86 Ill. Adm. Code § 100.2198; 86 Ill. Adm. Code § 100.7380

This rulemaking implements the changes to the EDGE Credit withholding election made by Public Act 102-0700 and Public Act 103-0009. The election may be made by a startup taxpayer, as defined in the Economic Development for a Growing Economy Tax Credit Act, for any credit awarded pursuant to an Agreement executed on or after April 19, 2022, and shall be effective until the startup taxpayer has any Illinois income tax liability. Additionally, an EDGE Credit withholding election shall allow the credit to be taken against payments due during the first withholding reporting period that begins after the end of the withholding reporting period in which the credit is awarded, rather than be taken in the first calendar year after the credit is awarded. Additional updates and corrections to this section are included in the rulemaking.

Adopted at 48 Ill. Reg. 2243, effective January 29, 2024.

### **Late Payment Penalties for RARs** - 86 Ill. Adm. Code § 700.305

This rulemaking incorporates the change made by Public Act 103-0098 requiring that federal change amended returns be filed and paid timely in order to avoid late-payment penalties. Examples are updated accordingly.

Adopted at 48 Ill. Reg. 2676, effective January 31, 2024.

### **Bad Debts** – 86 Ill. Adm. Code § 130.1960

Amended Section 130.1960 to implement the appellate court's decision in *Kishwaukee Auto Corral, Inc. v. Department of Revenue*, 2021 IL App (1st) 200236. The amendment clarified that a cash basis retailer that cannot claim a bad debt deduction on its federal income tax return is entitled to claim a refund for sales tax paid by the retailer on a portion of an installment contract found to be worthless or uncollectable. The amendment provided new guidance for the calculation of a bad debt, including examples, as well as additional guidance regarding procedural requirements and record keeping.

Adopted at 48 Ill. Reg. 2856, effective February 8, 2024.

### **Volunteer Emergency Worker Credit** - 86 Ill. Adm. Code § 100.2179

This rulemaking implements the process for applying for the new \$500 voluntary emergency worker tax credit created by Public Act 103-0009.

Adopted at 48 Ill. Reg. 4433, effective March 11, 2024.

### **Public Information, Rulemaking and Organization** - 86 Ill. Adm. Code § 1200.100; 86 Ill. Adm. Code § 1200.310; 86 Ill. Adm. Code § 1200.Table A

This rulemaking updates the public information rules to change addresses and telephone numbers, remove obsolete information, and revise the organizational chart.

Adopted at 48 Ill. Reg. 5192, effective March 15, 2024.

**County Water Commission Retailers' Occupation Tax Repealer** – 86 Ill. Adm. Code § 630.101; 86 Ill. Adm. Code § 630.105; 86 Ill. Adm. Code § 630.110; 86 Ill. Adm. Code § 630.115; 86 Ill. Adm. Code § 630.120; 86 Ill. Adm. Code § 630.125; 86 Ill. Adm. Code § 630.130; 86 Ill. Adm. Code § 630.135; 86 Ill. Adm. Code § 640.101; 86 Ill. Adm. Code § 640.105; 86 Ill. Adm. Code § 640.110; 86 Ill. Adm. Code § 640.115; 86 Ill. Adm. Code § 640.120; 86 Ill. Adm. Code § 640.125; 86 Ill. Adm. Code § 640.130; 86 Ill. Adm. Code § 640.135; 86 Ill. Adm. Code § 650.101; 86 Ill. Adm. Code § 650.105; 86 Ill. Adm. Code § 650.110; 86 Ill. Adm. Code § 650.115; 86 Ill. Adm. Code § 650.120

Repealed Parts 630, 640, and 650 due to the statutory termination of the tax on June 1, 2016.

Adopted at 48 Ill. Reg. 5364; 48 Ill. Reg. 5366; and 48 Ill. Reg. 5368, effective March 25, 2024.

**Rental Purchase Agreement Occupation and Use Tax Act** – 86 Ill. Adm. Code § 125.100; 86 Ill. Adm. Code § 125.105; 86 Ill. Adm. Code § 125.110; 86 Ill. Adm. Code § 125.115; 86 Ill. Adm. Code § 125.120; 86 Ill. Adm. Code § 125.125; 86 Ill. Adm. Code § 125.130; 86 Ill. Adm. Code § 125.135; 86 Ill. Adm. Code § 125.140; 86 Ill. Adm. Code § 125.145

Created a new Part 125, Rental Purchase Agreement Occupation and Use Tax, to implement Public Act 100-437, Rental Purchase Agreement Occupation and Use Tax Act, codified at 35 ILCS 180.

Adopted at 48 Ill. Reg. 6047, effective April 2, 2024.

## Illinois Department of Revenue Rulemaking - continued

### **Taxpayer Rights Department Responsibilities Update** – 86 Ill. Adm. Code § 205.20

Amended to conform with the current text found in 20 ILCS 2520/4 implemented by Public Act 93-951. Adopted at 48 Ill. Reg. 6064, effective April 2, 2024.

### **Cannabis Cultivators and Infuser Agreements** – 86 Ill. Adm. Code § 422.110; 86 Ill. Adm. Code § 422.120

Amended Section 422.110 to address the tax treatment of cannabis and cannabis concentrate processed into cannabis-infused products by infuser organizations on behalf of cannabis cultivators. Amended Section 422.120 to provide for additional record keeping requirements for infuser organizations processing cannabis and cannabis-infused products on behalf of cannabis cultivators.

Adopted at 48 Ill. Reg. 6068, effective April 2, 2024.

### **Charitable Games Act** - 86 Ill. Adm. Code § 435.100

This rulemaking updates the mailing address, email address and phone number for contacting the Office of Bingo and Charitable Games.

Adopted at 48 Ill. Reg. 6075, effective April 2, 2024.

### **Use Tax Clean Up** - 86 Ill. Adm. Code § 150.110; 86 Ill. Adm. Code § 150.201; 86 Ill. Adm. Code § 150.305; 86 Ill. Adm. Code § 150.310; 86 Ill. Adm. Code § 150.325; 86 Ill. Adm. Code § 150.337; 86 Ill. Adm. Code § 150.525; 86 Ill. Adm. Code § 150.701; 86 Ill. Adm. Code § 150.705; 86 Ill. Adm. Code § 150.716; 86 Ill. Adm. Code § 150.801; 86 Ill. Adm. Code § 150.901; 86 Ill. Adm. Code § 150.905; 86 Ill. Adm. Code § 150.1305; 86 Ill. Adm. Code § 150.1310; 86 Ill. Adm. Code § 150.1401; 86 Ill. Adm. Code § 150.1405; 86 Ill. Adm. Code § 150.1420

Amended several sections of Part 150, Use Tax, to reflect new statutory developments, decisional law, and Department policies. This rulemaking also deleted outdated provisions in Part 150 and provided various technical changes.

Adopted at 48 Ill. Reg. 6836, effective April 24, 2024.

### **MICRO Investment Tax Credit** - 86 Ill. Adm. Code § 100.2136

The rulemaking implements the new Section 239 of the Illinois Income Tax Act, 35 ILCS 5/239, as created and amended by P.A. 102-0700. For tax years beginning on or after January 1, 2025, taxpayers may claim a Manufacturing Illinois Chips for Real Opportunity (MICRO) Investment tax credit for investment in qualified property which is placed in service at the site of a MICRO Illinois Project subject to an agreement between the taxpayer and the Illinois Department of Commerce and Economic Opportunity pursuant to the MICRO Act, 35 ILCS 45. The amount of the credit is equal to 0.5% of the basis of the qualified property and is allowed for the tax year in which the property is placed in service, or if the amount of the credit exceeds the tax liability for that year, the excess credit amount may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year.

Adopted at 48 Ill. Reg. 10281, effective June 25, 2024.

### **ICB Rights and Limitations** - 86 Ill. Adm. Code § 215.115; 86 Ill. Adm. Code § 215.120

This rulemaking extends the time that must remain on the statute of limitations before Informal Conference Board (ICB) rights will be granted from 60 days to 180 days. This rulemaking provides that ICB will not hold cases nor make adjustments to issues that are related to pending litigation. This rulemaking also would expand ICB jurisdiction to include audit adjustments that result in reductions to net operating losses rather than assessments or claim denials. This allows taxpayers to seek informal review of the audit adjustments without having to wait until the losses have been used completely and a deficiency results. However, no protest rights will be afforded in these cases to remain consistent with IRS procedure.

Adopted at 48 Ill. Reg. 10305, effective June 25, 2024.

## Illinois Department of Revenue Rulemaking - continued

**MM&E and School Meal Plans Clean Up** - 86 Ill. Adm. Code § 130.210; 86 Ill. Adm. Code § 130.215; 86 Ill. Adm. Code § 130.330; 86 Ill. Adm. Code § 130.1930; 86 Ill. Adm. Code § 130.1980; 86 Ill. Adm. Code § 130.2005; 86 Ill. Adm. Code § 130.2020; 86 Ill. Adm. Code § 130.2145; 86 Ill. Adm. Code § 180.145

Amended several sections of Part 130, Retailers' Occupation Tax, to reflect new statutory developments, decisional law, and Department policies. This rulemaking also deleted outdated provisions in Part 130 and provided various technical changes. Section 130.330 was amended to include statutory language and clarify the nonapplication of the exemption to food service businesses. Section 130.2005 was amended to incorporate Department policies from letter rulings with regard to dining plans at universities.

Adopted at 48 Ill. Reg. 10646 and 48 Ill. Reg. 10757, effective July 2, 2024.

**Service Use Tax** - 86 Ill. Adm. Code § 160.101; 86 Ill. Adm. Code § 160.105; 86 Ill. Adm. Code § 160.110; 86 Ill. Adm. Code § 160.111; 86 Ill. Adm. Code § 160.115; 86 Ill. Adm. Code § 160.116; 86 Ill. Adm. Code § 160.117; 86 Ill. Adm. Code § 160.125; 86 Ill. Adm. Code § 160.125; 86 Ill. Adm. Code § 160.130; 86 Ill. Adm. Code § 160.135; 86 Ill. Adm. Code § 160.136; 86 Ill. Adm. Code § 160.160; 86 Ill. Adm. Code § 160.165; 86 Ill. Adm. Code § 160.170; 86 Ill. Adm. Code § 160.175

Amended to reflect new statutory developments, decisional law, and Department policies. This rulemaking also deleted outdated provisions in Part 160 and provided various technical changes.

Adopted at 48 Ill. Reg. 10710, effective July 2, 2024.

**Investment Partnership** - 86 Ill. Adm. Code § 100.7034; 86 Ill. Adm. Code § 100.9730

This rulemaking amends Section 100.9730 Investment Partnerships, implementing the changes in Public Act 103-0009 to the definition of "investment partnership" in the Illinois Income Tax Act Section 1501(a)(11.5). Additional updates and corrections to this section are included in the rulemaking. This rulemaking adds a new section (Section 100.7034) implementing the changes in Public Act 103-0009 requiring investment partnerships to withhold an amount from each nonresident partner for taxable years ending on and after December 31, 2023.

Adopted at 48 Ill. Reg. 10846, effective July 11, 2024.

**Booking Intermediaries** - 86 Ill. Adm. Code § 195.100; 86 Ill. Adm. Code § 195.105; 86 Ill. Adm. Code § 195.110; 86 Ill. Adm. Code § 195.120; 86 Ill. Adm. Code § 195.125; 86 Ill. Adm. Code § 195.130; 86 Ill. Adm. Code § 195.135; 86 Ill. Adm. Code § 195.140; 86 Ill. Adm. Code § 195.150

Implemented the amendments to the Parking Excise Tax Act (35 ILCS 525) enacted by Public Act 102-700, Article 100, effective July 1, 2023, and Public Act 103-9, Article 20, effective July 1, 2023. The amendments to the Parking Excise Tax Act clarified the imposition, collection, and remittance of the tax when booking intermediaries facilitate the use of parking spaces on behalf of registered and unregistered operators of parking areas and garages.

Adopted at 48 Ill. Reg. 12523, effective August 5, 2024.

**Practice and Procedure for Hearings Before the Illinois Department of Revenue** - 86 Ill. Adm. Code § 200.107

This rulemaking updates the address for the Chicago location where administrative hearings are conducted.

Adopted at 48 Ill. Reg. 13834, effective August 27, 2024.

**PA 103-0009 Implementation** - 86 Ill. Adm. Code § 130.120; 86 Ill. Adm. Code § 130.320; 86 Ill. Adm. Code § 140.101; 86 Ill. Adm. Code § 140.125; 86 Ill. Adm. Code § 150.105; 86 Ill. Adm. Code § 480.101

Amended Parts 130, Retailers' Occupation Tax, 140, Service Occupation Tax, 150, Use Tax, 160, Service Use Tax, and 480, Hotel Operators' Occupation Tax to enact changes made by Public Act 103-0009. These changes included the expansion of the exemption for materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft to include aircraft engines or power plants and extension of the exemption to December 31, 2029 various changes to the percentages of proceeds subject to tax from sales of gasohol, majority blended ethanol fuel, and mid-range ethanol blends; and the exclusion from Hotel Operators' Occupation Tax of receipts from the renting of rooms to an entity organized and operated by an organization chartered by the United States Congress for the purpose of providing disaster relief.

Adopted at 48 Ill. Reg. 14779; 48 Ill. Reg. 14809; 48 Ill. Reg. 14836; and 48 Ill. Reg. 14846, effective September 25, 2024.

# Annual Report FY2024

## Illinois Department of Revenue Court Cases

### Income Tax

#### **Jeremy A. Dubow v. Illinois Department of Revenue, 23 TT 31 (August 29, 2024)**

The dispute involved how to calculate the credit for taxes paid to another state, related to alimony payments and health saving account (HSA) deductions, available under Illinois Income Tax Act (IITA) Section 601(b)(3). The Taxpayer argued that the credit should be calculated by apportioning certain tax deductions considered in computing the credit to the income deemed non-Illinois income. Conversely, the Department determined that the deductions should be allocated to the non-Illinois income entirely, rather than being apportioned. By allocating the deductions (rather than apportioning), the Department reduced the amount of non-Illinois income subject to the tax credit which, in turn, reduced the Taxpayer's refund claim.

The Taxpayer's main argument was that the calculation unreasonably construed the IITA because it left him worse off than a non-resident who, earning income in Illinois and following the same standards, would have reduced their Illinois income and taxes. The Taxpayer contended that the disparate impact on him, due to the Department's Schedule CR instructions for sourcing the alimony and HSA deductions, was an unreasonable construction of Illinois law because it was not a reasonable interpretation of the rule of *Lunding v. New York Tax Appeals Tribunal*, 522 U.S. 287 (1998). In *Lunding*, the U.S. Supreme Court held that allowing an alimony deduction for New York residents, but not non-residents, impermissibly discriminated against non-residents of New York and violated the Privilege and Immunities Clause of the United States Constitution.

The Department's position is that due to *Lunding*, the Department could not disallow a non-resident from allocating the alimony or HSA deduction to Illinois as a resident was allowed to do under Section 301(a). However, the IITA does not permit a resident to apportion those deductions in computing their Section 601(b)(3) tax credit. The Department's only available course in complying with both *Lunding* and Section 601(b)(3) is to allocate the alimony and HSA deductions to both a non-resident calculating Illinois net income and a resident calculating the amount of income deemed subject to the 601(b)(3) tax credit.

The Tax Tribunal granted the Department's cross-motion for summary judgment. In sum, the Tax Tribunal found that the Schedule CR form and instructions, which applied the IITA's plain language, were adequate. In reaching its conclusion, the Tax Tribunal held: "[The Department] did the only thing it could do, constrained as it was by the *Lunding* decision and the IITA's plain language. Absent legislative action, the Department could not provide the tax relief that the Petitioner sought here."

### Sales Tax

#### **American Aviation Supply, LLC v. Illinois Department of Revenue, 2024 IL App (1st) 230072 (Feb. 29, 2024)**

American Aviation Supply, LLC is a single-member limited liability company formed in Delaware, with its principal business in Texas, but which operates as an Illinois retailer. During the tax periods in issue, July 2011 through December 2014 and January 2015 through June 2016, American Aviation Supply sold aviation fuel to American Airlines, Inc. and U.S. Airways, Inc. (collectively the "Airlines"). For both tax periods, American Aviation Supply timely filed its Illinois sales and use tax returns and then timely filed amended returns seeking refunds for Retailer's Occupation Tax ("ROT") it collected, claiming that most of its fuel sales were exempt from the ROT under the expanded temporary storage exemption found at section 2-5(38) of the Retailer's Occupation Tax Act ("ROTA"), 35 ILCS 120/2-5(38). The Department audited American Aviation Supply for the tax periods in issue, denied the refund claims, and American Aviation Supply challenged the refund denials in the Tax Tribunal. The parties filed cross-motions for summary judgment on the applicability of the expanded temporary storage exemption to American Aviation Supply's aviation fuel sales. The Tax Tribunal affirmed the Notices of Proposed Claim Denial. The Tax Tribunal determined that the aviation fuel sales did not qualify for the expanded temporary storage exemption where fuel was temporarily stored in Illinois before being loaded into airplanes' fuel tanks at Illinois airports and partially consumed while flying out of Illinois.

## Illinois Department of Revenue Court Cases - continued

American Aviation Supply appealed the Tax Tribunal's decision to the First District Appellate Court. The First District affirmed the Tribunal's decision, finding that the expanded temporary storage exemption did not apply because the aviation fuel was consumed partly in Illinois.

### **Midwest Medical Equipment Solutions, Inc. v. Illinois Department of Revenue, 2023 IL App (1st) 221518-U (Dec. 26, 2023)**

Midwest Medical, a licensed provider of durable medical equipment such as breast pumps and nebulizers, challenged the Department's assessment of Retailer's Occupation Tax ("ROT") on transactions involving Medicaid enrollees covered under Managed Care Organization ("MCO") plans. Before the State began contracting with MCOs, the State reimbursed Midwest Medical for equipment provided to Medicaid enrollees by issuing payment directly. Those transactions were treated as exempt from ROT under the government body exemption, which exempts sales to the government from ROT. During the audit periods in issue, the State entered into contracts with MCOs to handle claims for Medicaid enrollees. Midwest Medical entered into its own contracts with the MCOs, under which Midwest Medical supplied items to Medicaid enrollees and invoiced and received payment from the MCOs.

Midwest Medical challenged the Department's assessments at the Tax Tribunal, arguing that notwithstanding that payment was no longer coming directly from the State, it was still entitled to the government body exemption. The Tax Tribunal rejected Midwest Medical's arguments, finding that under the applicable contracts, the MCOs were the true purchasers of the medical products, and not mere intermediaries. The Tax Tribunal also held that the MCOs were not acting as agents of the State, and even if they were, as a matter of law the government body exemption applies only to government bodies, and not agents thereof.

Midwest Medical appealed the Tax Tribunal's decision to the First District Appellate Court. The First District affirmed the Tribunal's decision, finding that the government body exemption did not apply to sales to MCOs.

# Annual Report FY2024

## Illinois Department of Revenue Recurrent Taxpayer Non-Compliance Issues

Per 20 ILCS 2520/4, the Illinois Department of Revenue (IDOR) is required to identify areas of recurrent taxpayer non-compliances with rules or guidelines and to report its findings and recommendations concerning such non-compliance annually. The information provided on this webpage will be included in the Illinois Department of Revenue's Annual Report each year. Updates may be made prior to the annual reporting of this information if additional non-compliance issues arise that IDOR determines should be addressed.

### Income Tax

#### Apportionment Issues

In general, apportionment calculations seem to give taxpayers difficulty. On a recurring basis, auditors have identified compliance problems with taxpayers failing to correctly report both the numerator and denominator of the apportionment factor. Improper calculations can result in a smaller apportionment of income to Illinois.

- Numerator / Reversionary Sales - Auditors often find instances where the numerator does not include items of income apportionable to Illinois. This includes sales of services received in Illinois and sales of tangible personal property shipped into Illinois. Auditors have also noted instances where taxpayers are not including receipts from the sale of tangible personal property shipped from Illinois to states where they are not taxable. Per 35 ILCS 5/304(a)(3)(B)(ii), such sales should be included in the sales factor numerator.
- Apportionment Denominator - Auditors have discovered instances where taxpayers have added items into the calculation of the apportionment denominator that should not be included, as well as excluded figures from the denominator when they should be included. For example, auditors have discovered instances where the apportionment denominator includes items of income such as foreign dividends, tax exempt interest, etc. that are being subtracted during the computation of base income. Per *Continental Illinois Nat'l Bank & Trust Co. of Chicago v. Lenckos*, 102 Ill. 2d 210 (1984), any gross receipt excluded from base income or subtracted in the computation of base income must be excluded from the apportionment numerator and denominator.

#### PSI Reasonable Compensation Issues

Partnerships are improperly reporting the subtraction modification allowed under the Illinois Income Tax Act Section 203(d)(2)(H) for personal service income (PSI) or reasonable allowance for compensation paid to their partners. Taxpayers are using this subtraction to zero out their taxable income and eliminate their replacement tax liability. In many cases, they have not maintained proper documentation to substantiate the subtraction amount as reported. When supporting documentation is requested, they either do not have the documentation, or they attempt to find a calculation that justifies their subtraction amount.

#### Bonus Depreciation Issues

Taxpayers are not properly calculating their addition and subtraction modifications for bonus depreciation. While this is a timing issue, Illinois is not properly receiving tax revenues as would be expected under the law. Since Illinois is decoupled from federal bonus depreciation, many taxpayers simply calculate the modifications however they choose. In many cases, they are keeping separate calculations for state and federal depreciation. Illinois' calculations are more complex than those of other states, so taxpayers simply plug their figures into the IL-4562.

#### Schedule E / Schedule C (Hobby Loss) Issues

Individual taxpayers are improperly reporting income and expenses on Schedule C or Schedule E. The following are common issues the Illinois Department of Revenue continues to find:

- Hobby losses - Taxpayers are using hobby losses to reduce their overall liability when they do not actually have a business that they intend to run for a profit.
- Under-reporting of income – Taxpayers may not be reporting all income related to their business activities.
- Over-reporting of expenses - Auditors have noticed that taxpayers may be claiming a small amount of income but disproportionately large amounts of expenses. Taxpayers are also claiming wage expenses even though they are not paying withholding.

# Illinois Department of Revenue Recurrent Taxpayer Non-Compliance Issues - continued

- Claiming gambling losses in the improper place - There are instances where taxpayers are attempting to take gambling losses on the Schedule C, claiming they are professional gamblers, instead of properly claiming the losses on the Schedule A.

In each case, taxpayers are attempting to create a loss to offset other, unrelated income and reduce their tax liability. In some cases, the loss allows them to claim federal and state Earned Income Tax Credit (EITC).

## Replacement Tax Investment Credit Issues

Auditors have noted that some taxpayers are not primarily engaged in one of the qualifying activities required to claim the Replacement Tax Investment Credit. Auditors have also noted instances where the credit was claimed on non-qualified property, or the taxpayer has failed to report recapture credits from disqualified property. These errors all result in more credit being claimed than entitled.

## Non-Filer

One of the most prevalent compliance issues faced by IDOR is non-filed returns. This is a major issue, especially with individual income taxpayers. In accordance with information exchange agreements, IDOR receives information from the Illinois Comptroller's Office and the IRS regarding taxpayers that have Illinois sourced income but are found to have not filed the required Illinois returns. The Audit Bureau contacts these taxpayers and encourages them to file their state return or to provide supporting information that confirms they are not required to file with the State of Illinois. There have been over 102,000 non-filer taxpayers for individual income tax with more than \$244 million in liability established in the past fiscal year alone.

Non-filed business income tax returns are also problematic. In a recent non-filer project, the Audit Bureau has been encountering transportation companies that have revenue miles within Illinois, but they have not filed Illinois business income tax returns to apportion their income based upon Illinois revenue miles.

## Unreported Revenue Auditor Report (RAR) Changes

When taxpayers are audited by the IRS, the federal audit results often include changes that would result in increased Illinois tax liability. Taxpayers are required to report these changes from the federal Revenue Auditor's Report (RAR) to Illinois within 120 days of the federal finalization date. Taxpayers often fail to report federal changes that affect their Illinois returns, so the Audit Bureau must contact them to make the required changes. This applies to several taxes including individual income tax, business income tax, and withholding tax. (See 35 ILCS 5/506(b).)

## Residency Issues

Some taxpayers are trying to avoid Illinois taxation by filing as residents of states with no income tax, such as Florida, while still maintaining residences in Illinois. The Audit Bureau is receiving referrals from the Individual Processing Division, the Federal State Exchange Unit, and the Bureau of Criminal Investigations for situations that appear questionable. Rules for residency can be found in (See 86 Ill. Adm. Code 100.3020.)

## Sales Tax

### Leveling the Playing Field and Marketplace Facilitator Issues

The Audit Bureau continues to see issues with taxpayers complying with the rules associated with the Leveling the Playing Field for Illinois Retail Act. Examples of these issues include the following:

Taxpayers meeting specific tax remittance thresholds are failing to register and subsequently failing to remit retailers' occupation taxes. (See 86 Ill. Adm. Code 131.125, 86 Ill. Adm. Code 131.145, and PIO-113, Out-of-State Seller and Remote Retailer Registration Flowchart.)

Registered taxpayers are reporting use taxes instead of the correct retailers' occupation taxes. In some cases, they are reporting use taxes simply to make it easier to prepare tax returns. In other cases, they are making questionable nexus claims in an attempt to qualify as having a physical presence in order to avoid a retailers' occupation tax liability in many different taxing jurisdictions. (See 86 Ill. Adm. Code 131.110, 86 Ill. Adm. Code 131.130, and PIO-104, Leveling the Playing Field for Illinois Retail Act Flowchart.)

Many marketplace facilitators are not providing their marketplace sellers with a certification that notifies them that the marketplace facilitator is collecting and remitting the tax. This makes it challenging for the sellers to determine if they owe tax on their marketplace sales. (See 86 Ill. Adm. Code 131.145 and CRT-63, Sales Through Marketplace Facilitator Certificate.)

## **Illinois Department of Revenue Recurrent Taxpayer Non-Compliance Issues - continued**

Some remote retailers and marketplace facilitators are not retaining enough documentation to allow the Audit Bureau to verify the correct location of the sale. This makes it difficult to ensure the collected taxes are allocated to the proper local governments and the appropriate tax rate was applied. (See 86 Ill. Adm. Code 131.125 and 86 Ill. Adm. Code 131.145.)

Some remote retailers and marketplace facilitator filers are not properly determining whether their shipping charges are taxable. (See 86 Ill. Adm. Code 130.415.)

### **Cash Business Issues**

Audits of cash businesses such as bars, restaurants, liquor stores, tobacco stores, grocery stores, convenience stores, and fuel stations continue to show compliance problems.

Audited taxpayers are failing to keep or produce records. The records produced are often insufficient to verify taxable sales. Failure to maintain proper records and production of insufficient records causes delays in the audit process which results in taxpayers postponing making payments for established liabilities. (See 86 Ill. Adm. Code 130.801.)

Some cash businesses are overreporting their sales subject to the low rate of tax in an effort to reduce their tax liability while still reporting the correct amount of total sales. (See 86 Ill. Adm. Code 130.310 and 86 Ill. Adm. Code 130.311.)

Some fuel stations are incorrectly reporting taxable fuel as exempt fuel. (See 86 Ill. Adm. Code 130.320.)

### **Selling Price Issues**

Retailers are increasingly adding additional charges to their sales invoices such as credit card transaction fees and banquet room fees. They often fail to collect taxes on these fees even though these fees are costs of doing business that are subject to tax. (See 86 Ill. Adm. Code 130.410, 86 Ill. Adm. Code 130.2145, and CA-2012-11.)

Retailers are also having trouble determining the tax impact of locally imposed liquor and food and beverage taxes. Depending on the legal incidence of the local tax, it should either be includable in gross receipts and subject to ROT or deductible and not subject to ROT. For example, the Chicago Restaurant Tax should be included in gross receipts and is subject to ROT, but some Chicago restaurants are failing to include the Chicago Restaurant Tax in gross receipts. For the taxes that are deductible, some retailers fail to keep records showing they remitted the taxes to the local government. (See 86 Ill. Adm. Code 130.435.)

### **Exemption Documentation Issues**

Retailers are failing to obtain or keep the documentation required to demonstrate that a sale qualifies for an exemption. Examples of frequently missing exemption documentation include resale certificates, farm machinery and equipment exemption certificates, building materials exemption certificates, marketplace facilitator certificates, and exemption documentation for sales to governmental, charitable, religious, or educational organizations. This failure to obtain or keep documentation leads to delays in completing audits as the taxpayers must then gather the documentation after the audit starts. (See PIO-101, Illinois Sales & Use Tax Matrix, for guidance on different types of exemption documentation required to be obtained by retailers.)

Some retailers obtain exemption certificates but do not retain the documentation required to tie those certificates to specific sales nor do they maintain proof that payment was made by the exempt organization. A retailer must identify the sales made to the specific exempt organization in their books and records and provide proof payment was made by the exempt organization. If they fail to do so, IDOR must disallow the exemptions. (See 86 Ill. Adm. Code 130.2081.)

### **Durable Medical Equipment and Other Tangible Personal Property Issues**

Retailers and servicepeople are not remitting Retailers' Occupation Tax or Service Occupation Tax for durable medical equipment and other tangible personal property transferred to Medicare beneficiaries under Medicare Parts A and B and paid for by Medicare Administrative Contractors. (See CA-2024-01, Sales Made to Medicare Administrative Contractors.)

# Illinois Department of Revenue Recurrent Taxpayer Non-Compliance Issues - continued

## International Fuel Tax Agreement (IFTA) Issues

The Audit Bureau has identified a variety of compliance issues related to the International Fuel Tax Agreement: Taxpayers covered by the International Fuel Tax Agreement are failing to keep or produce the documentation required to verify the amounts claimed on their returns. These taxpayers are not properly maintaining logs or other support to document their miles driven, are not keeping fuel purchase receipts, and are not adequately keeping track of the fuel withdrawn from bulk fuel storage tanks.

IFTA taxpayers are not keeping copies of their system generated Electronic Logging Device (ELD) daily log details which are needed for verification on completeness of the trips taken. These taxpayers are only keeping copies of the mileage state summaries. ELD systems' reports are normally only accessible for the previous six months, which is problematic when auditing periods prior to that timeframe. (See the MFUT-53, Illinois IFTA Carrier Compliance Manual and 86 Ill. Adm. Code 500.345.)

IFTA taxpayers are purchasing more decals than their reported active trucks and are unable to show the copies of any unused decals after the year ends. This makes it difficult to determine whether the taxpayer is using those decals with vehicles not reported in their records.

## Transactional Return Issues

The Audit Bureau has identified a variety of compliance issues related to the purchases of aircraft, watercraft, and vehicles. Major issues include the following:

Taxpayers continue to claim the rolling stock exemption on non-qualifying vehicles such as trucks that do not exceed the 16,000 pounds gross vehicle weight rating (GVWR) and vehicles improperly claimed to be used as limousines. (See 86 Ill. Adm. Code 130.340.)

Illinois residents are purchasing vehicles from Illinois dealers claiming the exemption available for out-of-State\* residents from reciprocal states. There is a similar issue with Illinois residents establishing out-of-State LLCs in order to improperly claim a nonresident exemption on vehicles intended to be used in Illinois. (See 86 Ill. Adm. Code 130.605.)

Taxpayers are claiming the farm machinery and equipment exemption on purchases of equipment such as ATVs, UTVs, and mowers which frequently do not qualify for the exemption. These taxpayers are failing to keep usage logs which makes verifying that the items are used in an exempt manner difficult during an audit. (See 86 Ill. Adm. Code 130.305.)

Purchasers of watercraft from private parties are listing a price below the actual purchase price in order to reduce the tax due on the purchase. (See 86 Ill. Adm Code 153.110.)

Out-of-State residents who hangar or primarily use aircraft in Illinois are failing to file returns and pay the applicable use taxes due. (See 86 Ill. Adm. Code 150.310.)

## Leasing Company Issues

Leasing companies - either Illinois leasing companies or leasing companies outside of Illinois – selling items coming off a lease in Illinois where the item must be titled or registered by an agency of Illinois state government (e.g., motor vehicles, watercraft, aircraft, and trailers), are not properly determining whether they are considered to be selling such items at retail in Illinois. Leasing companies engaged in the business of leasing or renting first division motor vehicles, aircraft, or watercraft to others and who, in connection with such business, sell any used first division motor vehicle, aircraft, or watercraft to a purchaser for use and not for the purpose of resale, is a retailer engaged in the business of selling that item at retail. Leasing companies selling second division motor vehicles or trailers off-lease are also considered to be selling such items at retail if they are otherwise engaged in selling that type of property at retail. These leasing companies must register with IDOR and are obligated to collect Illinois Sales Tax and report these sales on Form ST-556, Sales Tax Transaction Return. (See 86 Ill. Adm. Code 130.2013(e).)



IDORRPT1-ANNUAL (12/2024)

P.O. 2250136, Printed by the authority of the state of Illinois - 30 copies, \$0.07 per copy - and posted to the website [tax.illinois.gov](http://tax.illinois.gov)