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**Editor's Note:** The Secretary of State Index Department is providing this opportunity to remind you that the deadline to submit your January 2020 Regulatory Agenda will occur on Thursday, January 2, 2020.

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## INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State Agencies; is also published in the Register.

The Register is a weekly update of the Illinois Administrative Code (a compilation of the rules adopted by State agencies). The most recent edition of the Code, along with the Register, comprise the most current accounting of State agencies' rulemakings.

The *Illinois Register* is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1, et seq.].

## ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2019

<b>Issue#</b>	<b>Rules Due Date</b>	<b>Date of Issue</b>
1	December 26, 2018	January 4, 2019
2	December 31, 2018	January 11, 2019
3	January 7, 2019	January 18, 2019
4	January 14, 2019	January 25, 2019
5	January 22, 2019	February 1, 2019
6	January 28, 2019	February 8, 2019
7	February 4, 2019	February 15, 2019
8	February 11, 2019	February 22, 2019
9	February 19, 2019	March 1, 2019
10	February 25, 2019	March 8, 2019
11	March 4, 2019	March 15, 2019
12	March 11, 2019	March 22, 2019
13	March 18, 2019	March 29, 2019
14	March 25, 2019	April 5, 2019
15	April 1, 2019	April 12, 2019
16	April 8, 2019	April 19, 2019
17	April 15, 2019	April 26, 2019
18	April 22, 2019	May 3, 2019
19	April 29, 2019	May 10, 2019
20	May 6, 2019	May 17, 2019
21	May 13, 2019	May 24, 2019

22	May 20, 2019	May 31, 2019
23	May 28, 2019	June 7, 2019
24	June 3, 2019	June 14, 2019
25	June 10, 2019	June 21, 2019
26	June 17, 2019	June 28, 2019
27	June 24, 2019	July 5, 2019
28	July 1, 2019	July 12, 2019
29	July 8, 2019	July 19, 2019
30	July 15, 2019	July 26, 2019
31	July 22, 2019	August 2, 2019
32	July 29, 2019	August 9, 2019
33	August 5, 2019	August 16, 2019
34	August 12, 2019	August 23, 2019
35	August 19, 2019	August 30, 2019
36	August 26, 2019	September 6, 2019
37	September 3, 2019	September 13, 2019
38	September 9, 2019	September 20, 2019
39	September 16, 2019	September 27, 2019
40	September 23, 2019	October 4, 2019
41	September 30, 2019	October 11, 2019
42	October 7, 2019	October 18, 2019
43	October 15, 2019	October 25, 2019
44	October 21, 2019	November 1, 2019
45	October 28, 2019	November 8, 2019
46	November 4, 2019	November 15, 2019
47	November 12, 2019	November 22, 2019
48	November 18, 2019	December 2, 2019
49	November 25, 2019	December 6, 2019
50	December 2, 2019	December 13, 2019
51	December 9, 2019	December 20, 2019
52	December 16, 2019	December 27, 2019

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Child Care
- 2) Code Citation: 89 Ill. Adm. Code 50
- 3) Section Number: 50.235                      Proposed Action: Amendment
- 4) Statutory Authority: Implementing Articles I through IXA and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IXA and 12-13].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking adds earnings from the United States Census Bureau to the list of types of exempt income. As a result, clients will see a positive impact as their Child Care benefits will not be affected or reduced from receiving earned income from the United States Census Bureau.
- 6) Any published studies or reports, along with the sources of underlying data that were used when composing this rulemaking? None
- 7) Will this rulemaking replace an emergency rule currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
50.230	Amendment	43 Ill. Reg. 7594; July 12, 2019
50.320	Amendment	43 Ill. Reg. 7594; July 12, 2019

- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these amendments within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENT

Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
Harris Building, 3rd Floor  
Springfield IL 62762

217/785-9772

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: This rulemaking will not have an adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized on either of the two most recent regulatory agendas because the need for it was unanticipated.

The full text of the Proposed Amendment is identical to that of the Emergency Amendment for this rulemaking, and begins in this issue of the *Illinois Register* on page 14416:

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Temporary Assistance for Needy Families
- 2) Code Citation: 89 Ill. Adm. Code 112
- 3) 

<u>Section Number:</u>	<u>Proposed Action:</u>
112.140	Amendment
- 4) Statutory Authority: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking removes the 12-week in a calendar year exemption restriction regarding census employment. Earned income from the U.S. Census Bureau for temporary employment is no longer restricted to a 12-week exemption per calendar year. As a result, clients will see a positive impact as their TANF cash benefits will not be affected or reduced from receiving earned income from the United States Census 2020 as well as gaining work experience.
- 6) Any published studies or reports, along with the sources of underlying data that were used when composing this rulemaking? None
- 7) Will this rulemaking replace an emergency rule currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? Yes

<u>Section Number:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
112.251	Amendment	43 Ill. Reg. 11063; October 11, 2019
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this amendment within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENT

Tracie Drew, Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
Harris Building, 3rd Floor  
Springfield IL 62762

217/785-9772

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: This rulemaking will not have an adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized on either of the two most recent regulatory agendas.

The full text of the Proposed Amendment is identical to that of the Emergency Amendment for this rulemaking, and begins in this issue of the *Illinois Register* on page 11425.

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Aid to the Aged, Blind or Disabled
- 2) Code Citation: 89 Ill. Adm. Code 113
- 3) Section Number: 113.120                      Proposed Action:  
Amendment
- 4) Statutory Authority: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking removes the 12 weeks in a calendar year exemption restriction regarding census employment. Earned income from the U.S. Census Bureau for temporary employment is no longer restricted to the 12 weeks exemption per calendar year. As a result, clients will see a positive impact as their Aid to the Aged, Blind or Disabled (AABD) cash benefits will not be affected or reduced from receiving earned income from the United States Census 2020. They will also gain work experience.
- 6) Any published studies or reports, along with the sources of underlying data that were used when composing this rulemaking? None
- 7) Will this rulemaking replace an emergency rule currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this amendment within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief  
Bureau of Administrative Rules and Procedures

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENT

Department of Human Services  
100 South Grand Avenue East  
Harris Building, 3rd Floor  
Springfield IL 62762

217/785-9772

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: This rulemaking will not have an adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized on either of the two most recent regulatory agendas because the need for it was unanticipated.

The full text of the Proposed Amendment is identical to that of the Emergency Amendment for this rulemaking, and begins in this issue of the *Illinois Register* on page 14438.

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Supplemental Nutrition Assistance Program (SNAP)
- 2) Code Citation: 89 Ill. Adm. Code 121
- 3) Section Number: 121.50                      Proposed Action: Amendment
- 4) Statutory Authority: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking adds earned income from the U.S. Census 2020 to the list of earning considered exempt for the Supplemental Nutrition Assistance Program (SNAP). As a result, clients will see a positive impact as their SNAP benefits will not be affected or reduced by receiving earned income from the United States Census 2020. Clients may also gain valuable work experience.
- 6) Any published studies or reports, along with the sources of underlying data that were used when composing this rulemaking? None
- 7) Will this rulemaking replace an emergency rule currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? Yes

<u>Sections:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
121.63	Amendment	43 Ill. Reg. 11065; October 11, 2019
121.23	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.24	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.25	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.26	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.160	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.162	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.163	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.165	Amendment	43 Ill. Reg. 11905; October 18, 2019

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENT

121.167	Repealed	43 Ill. Reg. 11905; October 18, 2019
121.170	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.172	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.174	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.176	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.182	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.184	Repealed	43 Ill. Reg. 11905; October 18, 2019
121.186	Repealed	43 Ill. Reg. 11905; October 18, 2019
121.188	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.190	Repealed	43 Ill. Reg. 11905; October 18, 2019

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
Harris Building, 3rd Floor  
Springfield IL 62762

217/785-9772

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Small Business Impact Analysis: This rulemaking will not have an adverse impact on small businesses.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized on either of the two most recent regulatory agendas.

The full text of the Proposed Amendment is identical to that of the Emergency Amendments for this rulemaking, and begins in this issue of the Illinois Register on page 14449.

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF ADOPTED RULES

- 1) Heading of the Part: General Grantmaking of the Illinois Emergency Management Agency
- 2) Code Citation: 44 Ill. Adm. Code 7030
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
7030.10	New Section
7030.20	New Section
7030.30	New Section
7030.40	New Section
7030.50	New Section
- 4) Statutory Authority: Implementing and authorized by Section 50(a) of the Grant Accountability and Transparency Act [30 ILCS 708/50(a)].
- 5) Effective Date of Rules: December 2, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file at the Agency's headquarters located at 1035 Outer Park Drive, Springfield IL and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 43 Ill. Reg. 7903; July 26, 2019
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version:

Section 7030.20, change "1/et seq.]" to "].".

Section 7030.50, relabel the subsections as (1) through (8).

Section 7030.50, capitalize "section".

Section 7030.50, change "and" to "or".

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF ADOPTED RULES

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: As required by Section 50(a) of the Grant Accountability and Transparency Act (GATA) and pursuant to 44 Illinois Administrative Code 7000.200(b), IEMA is adopting this rulemaking to adopt 2 CFR 200 subparts B through F.
- 16) Information and questions regarding these adopted rules shall be directed to:

Traci Burton  
Paralegal Assistant  
Illinois Emergency Management Agency  
1035 Outer Park Drive  
Springfield IL 62704

217/785-9860  
217/524-3698

The full text of the Adopted Rules begins on the next page:

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF ADOPTED RULES

TITLE 44: GOVERNMENT CONTRACTS, GRANTMAKING,  
PROCUREMENT AND PROPERTY MANAGEMENT  
SUBTITLE F: GRANTMAKING  
CHAPTER IV: ILLINOIS EMERGENCY MANAGEMENT AGENCYPART 7030  
GENERAL GRANTMAKING OF THE  
ILLINOIS EMERGENCY MANAGEMENT AGENCY

Section	
7030.10	Scope
7030.20	Definitions
7030.30	Incorporations by Reference
7030.40	Grant Requirements
7030.50	Exceptions and Exemptions

**AUTHORITY:** Implementing and authorized by Section 50 of the Grant Accountability and Transparency Act [30 ILCS 708].

**SOURCE:** Adopted at 43 Ill. Reg. 14335, effective December 2, 2019.

**Section 7030.10 Scope**

This Part applies to all nonfederal entities that receive State and federal pass-through grant awards from the Agency. These requirements do not apply to private grant awards.

**Section 7030.20 Definitions**

"Agency" means the Illinois Emergency Management Agency.

"CFR" means Code of Federal Regulations.

"GATA" means the Grant Accountability and Transparency Act [30 ILCS 708].

"GATU" means the Grant Accountability and Transparency Unit within the Illinois Governor's Office of Management and Budget.

**Section 7030.30 Incorporations by Reference**

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF ADOPTED RULES

Copies of the rules that have been incorporated by reference in this Part are available on the Agency's website at <https://www2.illinois.gov/iema/laws/Pages/regs-GenAdmin.aspx> or from the Chief Accountability Officer at the Illinois Emergency Management Agency, 2200 South Dirksen Parkway, Springfield, Illinois 62703.

**Section 7030.40 Grant Requirements**

- a) Unless different provisions are required by law or an exception is granted by GATU in accordance with 44 Ill. Adm. Code 7000.60 or indicated in Section 7030.50, the following sections of 2 CFR 200 are applicable to all State and federal pass-through grants awarded by the Agency:
  - 1) Subpart B – General Provisions
  - 2) Subpart C – Pre-Federal Award Requirements and Contents of Federal Awards
  - 3) Subpart D – Post-Federal Award Requirements
  - 4) Subpart E – Cost Principles
  - 5) Subpart F – Audit Requirements
  - 6) Appendices (applicable sections)
    - A) Appendix I Notice of Funding Opportunity (Except section E)
    - B) Appendix II Contract Provisions for Non-Federal Entity Contracts Under Federal Awards
    - C) Appendix III Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs)
    - D) Appendix IV Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF ADOPTED RULES

- |    |               |   |
|----|---------------|---|
| E) | Appendix V    | State/Local Government-wide Central Service Cost Allocation Plans             |
| F) | Appendix VI   | Public Assistance Cost Allocation Plans                                       |
| G) | Appendix VII  | States and Local Government and Indian Tribe Indirect Cost Proposals          |
| H) | Appendix VIII | Nonprofit Organizations Exempted From Subpart E – Cost Principles of Part 200 |
| I) | Appendix IX   | Hospital Cost Principles  |
| J) | Appendix X    | Data Collection Form (Form SF-SAC)  |
| K) | Appendix XI   | Compliance Supplement   |
| L) | Appendix XII  | Award Term and Condition for Recipient Integrity and Performance Matters      |
- b) When applying 2 CFR 200 subparts D through F to State funded grants, the terminology equivalencies listed in 44 Ill. Adm. Code 7000.200(b)(1) shall be used.

**Section 7030.50 Exceptions and Exemptions**

- a) The following exceptions to 2 CFR 200 and GATA have been granted to the Agency by GATU:
- 1) Notice of Funding Opportunity (NOFO)
  - 2) Application
  - 3) Merit Based Review
  - 4) Use of the Uniform Intergovernmental Agreement in lieu of the complete Uniform Grant Agreement

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF ADOPTED RULES

- b) The exceptions identified in subsection (a) apply to the following Agency programs:
- 1) Flood Mitigation Assistance
  - 2) Hazard Mitigation Grant Program
  - 3) Pre-disaster Mitigation
  - 4) State Indoor Radon Grants
  - 5) State and Local Implementation Grant Program
  - 6) Interagency Hazardous Materials Public Sector Training & Planning Grants
  - 7) Emergency Management Performance Grant
  - 8) Homeland Security Grant Program
- c) The following Agency programs have been granted the exceptions identified in subsection (a) and also an exception to Indirect Cost Rates:
- 1) 9/11 Fund Grants
  - 2) Radiological Emergency Preparedness
- d) The following Agency programs are exempt from Uniform Guidance and GATA as granted by GATU:
- 1) Nonprofit Security Grant Program
  - 2) Public Assistance Program
  - 3) Individuals and Households Programs
  - 4) Crisis Counseling Program

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF ADOPTED RULES

- e) All exceptions and exemptions for Agency programs are recorded in the Catalog of State Financial Assistance (CFSA).
- f) The exceptions and exemptions in this Section have been granted by GATU for Agency grant programs. Requirements under State and federal law for those programs will be applicable in lieu of the excepted or exempted provisions.

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Uniform Penalty and Interest Act
- 2) Code Citation: 86 Ill. Adm. Code 700
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
700.100	Amendment
700.105	New Section
700.110	Amendment
700.200	Amendment
700.210	Amendment
700.220	Amendment
700.230	Amendment
700.300	Amendment
700.305	New Section
700.310	Amendment
700.315	New Section
700.320	Amendment
700.330	Amendment
700.340	Amendment
700.350	Amendment
700.400	Amendment
700.500	Amendment
- 4) Statutory Authority: 35 ILCS 735/3-1A, 3-2, 3-3, 3-4, 3-4.5, 3-5, 3-6, 3-7, 3-8 and 3-9
- 5) Effective Date of Rules: November 26, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 43 Ill. Reg. 9010, August 23, 2019
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

- 11) Differences between Proposal and Final Version: The Department made nonsubstantive corrections to grammar, punctuation and statutory references.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking updates the UPIA regulations to reflect amendments to the UPIA in PAs 91-203, 93-32, 93-1068, 98-425, and 99-335.
- 16) Information and questions regarding these adopted rules shall be directed to:

Brian Stocker  
Staff Attorney  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield IL 62796

217/782-2844

The full text of the Adopted Amendments begins on the next page:

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUEPART 700  
UNIFORM PENALTY AND INTEREST ACT

## SUBPART A: SCOPE AND APPLICATION OF THE ACT

Section	
700.100	Scope of the <a href="#">UPIA Act</a> and this Part ( <a href="#">UPIA Section 3-1A</a> )
<a href="#">700.105</a>	<a href="#">General Provisions</a>
700.110	Application of the Provisions of the <a href="#">UPIA Act</a> and this Part ( <a href="#">UPIA Section 3-9</a> )

## SUBPART B: INTEREST

<a href="#">Section</a>	
700.200	Interest Paid and Interest Charged ( <a href="#">UPIA Section 3-2</a> )
700.210	Interest Rate Calculation ( <a href="#">UPIA Section 3-2</a> )
700.220	Interest Charged Taxpayers ( <a href="#">UPIA Section 3-2</a> )
700.230	Interest Paid Taxpayers on Overpayments ( <a href="#">UPIA Section 3-2</a> )

## SUBPART C: PENALTIES

<a href="#">Section</a>	
700.300	Penalty for Late Filing or Failure to File ( <a href="#">UPIA Section 3-3(a), (a-5), (a-10) and (a-15)</a> ) <del>and Penalty for Late Payment of Tax</del>
<a href="#">700.305</a>	<a href="#">Penalty for Late Payment of Tax</a> ( <a href="#">UPIA Section 3-3(b), (b-5), (b-10), (b-15), and (b-20)</a> )
700.310	Penalty for Failure to File Correct Information Returns ( <a href="#">UPIA Section 3-4</a> )
<a href="#">700.315</a>	<a href="#">Collection Penalty</a> ( <a href="#">UPIA Section 3-4.5</a> )
700.320	Penalty for Negligence ( <a href="#">UPIA Section 3-5</a> )
700.330	Penalty for Fraud ( <a href="#">UPIA Section 3-6</a> )
700.340	Personal Liability Penalty ( <a href="#">UPIA Section 3-7</a> )
700.350	Bad Check Penalty ( <a href="#">UPIA Section 3-7.5</a> )

## SUBPART D: REASONABLE CAUSE

<a href="#">Section</a>	
700.400	Reasonable Cause ( <a href="#">UPIA Section 3-8</a> )

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

## SUBPART E: PAYMENT APPLICATION

Section700.500 Payment Application ([UPIA Section 3-9](#))

AUTHORITY: Implementing the Uniform Penalty and Interest Act [35 ILCS 735], and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505].

SOURCE: Adopted at 18 Ill. Reg. 1561, effective January 13, 1994; amended at 19 Ill. Reg. 1909, effective February 6, 1995; amended at 20 Ill. Reg. 14632, effective October 29, 1996; amended at 25 Ill. Reg. 5038, effective March 19, 2001; amended at 27 Ill. Reg. 9622, effective June 13, 2003; amended at 30 Ill. Reg. 10486, effective May 23, 2006; amended at 43 Ill. Reg. 14342, effective November 26, 2019.

## SUBPART A: SCOPE AND APPLICATION OF THE ACT

**Section 700.100 Scope of the ~~UPIA Act~~ and this Part ([UPIA Section 3-1A](#))**

The Uniform Penalty and Interest Act [35 ILCS 735] ("~~the Act~~" or "~~the UPIA~~") and this Part apply to all taxes administered by the Illinois Department of Revenue with the exception of the Racing Privilege Tax Act [230 ILCS 5], the Revenue Act of 1939 [35 ILCS 205], the Real Estate Transfer Tax Act [35 ILCS 305] and the Coin-Operated Amusement Device Tax [35 ILCS 510]. A specific provision of a particular act contrary to the requirements of the ~~UPIA Uniform Penalty and Interest Act~~ will control, as will a specific provision that may impose a penalty in addition to the penalties provided for in the UPIA. ([See UPIA Section 3-1A.](#))

EXAMPLE: Section 3 of the Cigarette Tax Act [35 ILCS 130/3] requires distributors of cigarettes to purchase cigarette tax stamps and affix those stamps to packages of cigarettes before delivering the cigarettes in this State to a purchaser. Section 3 of the Cigarette Tax Act allows distributors to purchase the tax stamps from the Department with post-dated drafts. Section 3 provides that *a distributor's failure to pay any ~~post-dated~~ draft when due, shall also make such distributor automatically liable to the Department for a penalty equal to 25% of the amount of such draft.* The 25% penalty is a penalty *otherwise provided for in a tax Act* that is in addition to the penalties imposed under the UPIA. ([See UPIA Section 3-1A](#))

(Source: Amended at 43 Ill. Reg. 14342, effective November 26, 2019)

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**Section 700.105 General Provisions**

- a) Definitions of Specific Terms. Except as otherwise expressly provided in the UPIA or in this Part, or as clearly appearing from the context, for purposes of this Part:

"Accelerated Tax Payment" means any deposit or payment of tax that is due prior to the unextended due date for filing of the return on which the tax liability is reported, and includes, without limitation:

payments of occupation, use and excise taxes due on the 7<sup>th</sup>, 15<sup>h</sup>, 22<sup>nd</sup> and last day of each month under Section 3 of the Retailers' Occupation Tax Act [35 ILCS 120] (ROTA) or any similar provision;

payments of estimated tax under IITA Section 803; and

monthly and semi-weekly deposits of income tax withholding under IITA Section 704 or IITA Section 704A.

"Admitted Liability" means a tax liability reported by the taxpayer on an original or amended return.

"Claim for Refund" includes an original or amended return on which an overpayment of tax is reported and a refund or credit of the overpayment is requested.

"Date of Overpayment" means the date on which the total amounts paid by or collected from the taxpayer with respect to a tax liability exceed the liability, net of allowable credits, provided that:

in the case of an overpayment attributable to the carryback of an Illinois net loss under IITA Section 207, the date of overpayment is the date on which the total payments and collections exceed the tax liability or the last day of the taxable year in which the loss was incurred, whichever is later (see UPIA Section 3-2(d));

in the case of an overpayment attributable to the carryback of a federal net operating loss or capital loss, the date of overpayment is the date on which the total payments and collections exceed the tax liability or the due date

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(without regard to extensions) for filing the federal income tax return for the taxable year in which the loss was incurred, whichever is later (see IRC section 6621(f)); and

in the case of an overpayment of Retailers' Occupation Tax attributable to a bad debt, the date of overpayment is the date on which the taxpayer files the original or amended federal income tax return on which the deduction for the bad debt is reported. (See 86 Ill. Adm. Code 130.1960(d)(2)(C) and (d)(5)(C).)

"Date of Underpayment" means the date on which a liability becomes both due and unpaid. (See Avon Products, Inc. v. United States, 588 F.2d 342 (2d Cir. 1978).) The due date for payment of a tax is determined without regard to any extensions of time for filing of a return. (See IITA Section 601(a).)

"Federal Change" means a change to a federal income tax item that is subject to the reporting provisions of IITA Section 506(b).

"Final Assessment" means a liability that has become final under ROTA Section 4 or any similar provision, after the conclusion of a hearing granted to a taxpayer who has protested a notice of tax liability or after the period for protesting a notice of tax liability has expired without a protest being filed. (See UPIA Section 3-3 (2).)

"Information Return" means any return required by a tax Act to be filed with the Department that does not, by law, require the payment of a tax liability. (UPIA Section 3-4(c))

"Notice and Demand" means a bill or other request for payment issued by the Department for an assessed amount of tax, penalty or interest.

"Notice of Arithmetic Error" means a notice of mathematical error issued under IITA Section 903(a)(1), ROTA Section 4, or any similar provision.

"Notice of Tax Liability" means:

a protestable notice issued by the Department that asserts an unpaid liability for tax, penalty, or interest that will become a final assessment if

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not protested or, if protested, after hearing, as provided in ROTA Section 4 or any similar provision; or

a protestable notice of deficiency issued under the IITA.

"Return" or "Tax Return" means a return required to be filed with the Department, other than an information return. The terms "return" and "tax return" refer only to an original return, and not an amended return. (See Badaracco v. Commissioner, 464 US 386 (1984) and Hillsboro National Bank v. Commissioner, 460 US 370 (1983).)

"Unprocessable Return" means any filing that purports to be a return, but is not on a form prescribed or approved by the Department for the tax liability being reported, is not signed by the person authorized by law, or does not contain all information, schedules, and support documents necessary to determine the tax due and to make allocations of tax as prescribed by law. (UPIA Section 3-2(d))

- b) Other Terms. Except as provided in subsection (a) or as clearly appearing from the context, any term used in this Part has the same meaning as when used in the act imposing the tax to which the this Part is being applied.
- c) Assessment, Protest, Collections and Refunds of Penalty and Interest. Except as otherwise expressly provided in the UPIA or in this Part, the procedures for assessments, protests, collections and refunds of any item of penalty or interest under the UPIA are the procedures for assessments, protests, collections and refunds of the tax to which the item of penalty or interest relates.

(Source: Added at 43 Ill. Reg. 14342, effective November 26, 2019)

**Section 700.110 Application of the Provisions of the UPIA Act and this Part (UPIA Section 3-9)**

- a) The UPIA Uniform Penalty and Interest Act and this Part are effective January 1, 1994 and the provisions of the UPIA Act and this Part *apply to the rates of interest for periods on and after the effective date of the UPIA Act and this Part. (UPIA Section 3-9(a))*
- b) Interest Charged

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- 1) For periods subsequent to the effective date of the UPIA Act, the initial rate charged taxpayers by the Department for failure to remit taxes when due is the interest rate in effect at the time the liability to the Department accrued, subject to ~~semiannual~~semi-annual adjustment pursuant to UPIA Section 3-2(b)~~of the UPIA~~. (See UPIA Section 3-9(6).)

EXAMPLE 1: A taxpayer is required to file a monthly return with the Department pursuant to the Automobile Renting Occupation and Use Tax Act [35 ILCS 155/4] on March 20, 1994 for rental receipts from rentals that were received in February 1994. The taxpayer ~~did~~does not remit the tax to the Department when due on March 20, 1994. The interest rate to be charged the taxpayer ~~is~~will be the interest rate in effect on March 20, 1994.

EXAMPLE 2: A taxpayer is required to file an income tax withholding return for the fourth quarter of 1993 ~~IL 944~~ with remittance ~~(income tax withholding)~~. The return is filed before the due date of January 30, 1994 but tax is not fully paid until March 15, 1994. The interest rate will be the rate in effect on January 30, 1994 and will accrue through March 15, 1994, when the tax is paid.

EXAMPLE 3: A taxpayer is required to file a first quarter of 1994 quarterly withholding return on or before April 30, 1994. The taxpayer ~~had~~has withholding during this period but ~~did~~does not remit the withholding payment to the Department until June 15, 1994. The interest rate to be charged the Taxpayer ~~is~~will be the interest rate in effect on April 30, 1994. This same rate ~~is~~will be charged through June 15, 1994, the date the tax ~~was~~is paid.

EXAMPLE 4: Assume the same fact situation as in Example 3, but payment is not received until August 15, 1994. The interest rate in effect on ~~April 30~~May 1, 1994 ~~is~~would be charged through June 30, 1994. A new rate ~~is~~would be charged from July 1, 1994 through August 15, 1994, the date the tax ~~was~~is paid.

EXAMPLE 5: ~~Corporation~~A calendar year, corporate taxpayer filed its calendar 1993 corporate income tax return ~~(IL 1120)~~ on October 15, 1994 (the extended due date of the return under

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Section 100.5020(b)) with a payment for the total tax liability shown on the return attached. No estimated payments had been made. The taxpayer ~~is~~would be charged interest on the underpayment of tax from March ~~15~~16, 1994 (the unextended due date of the return) through June 30, 1994 at the rate in effect for the first semiannual period of 1994 and from July 1, 1994 through October 15, 1994 at the rate in effect for the second semiannual period of 1994.

- 2) *Interest for periods prior to the effective date of the Act shall be computed at the rates in effect prior to that date. (UPIA Section 3-9(a) ~~of the Act~~)*

EXAMPLE 1: A taxpayer's Retailers' Occupation Tax return ~~taxpayer was required to file, but did not file, a return with the Department under the Retailers' Occupation Tax Act [35 ILCS 120/1 et seq.] on or before August 31, 1981~~ for the July 1981 month liability period was due August 31, 1981. The taxpayer was audited and an additional~~a~~ liability was assessed. The interest rate charged the taxpayer on this liability was 1% per month prior to September 17, 1981, and at the rate of 2% per month on and after September 17, 1981 and prior to January 1, 1987; and at the rate of 1.25% per month on and after January 1, 1987 and prior to January 1, 1994 (see ROTA Section 5, prior to amendment by P.A. 87-205); and at the semiannually adjusted daily interest rate imposed pursuant to the Act and this Part~~these rules~~ from January 1, 1994 through the date the tax is paid.

EXAMPLE 2: A taxpayer's Retailers' Occupation Tax return ~~taxpayer was required to file a return under the Retailers' Occupation Tax Act on or before the 20<sup>th</sup> day of November 1993~~ for the October 1993 liability period was due November 20, 1993. The return was filed and tax was paid on January 15, 1994. The interest rate charged on the liability was 1.25% per month for November 21, 1993 through December 20, 1993 and 1.25% for December 21, 1993 through December 31, 1993 (see ROTA Section 5, prior to amendment by P.A. 87-205); and at the semiannually adjusted daily interest rate imposed pursuant to the Act and this Part~~these rules~~ from January 1, 1994 through January 15, 1994, the date the tax was paid.

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EXAMPLE 3: A withholding tax agent has income tax withholding liability for the first quarter of 1986 that was due by April 30, 1986, but was not paid until August 15, 1994. The interest rate charged the taxpayer was 10% per annum for the period May 1, 1986 through June 30, 1986, 9% per annum for the period July 1, 1986 through December 31, 1993 (see IITA Section 1003, prior to amendment by P.A. 87-205), and at the semiannually adjusted interest rate imposed pursuant to the UPIA Act and this Part ~~these rules~~ from January 1, 1994 through August 15, 1994, the date the tax was paid.

EXAMPLE 4: ~~Corporation A~~ calendar year, corporate taxpayer filed its calendar 1992 corporate income tax return on October 15, 1993 (the extended due date of the return under Section 100.5020(b)). No estimated payments had been made and no payment accompanied the return. The taxpayer would be charged interest at a rate of 9% per annum from March ~~15~~, 1993 (the unextended due date of the return) through December 31, 1993 (see IITA Section 1003, prior to amendment by P.A. 87-205) and at the semiannual adjusted rate imposed pursuant to the UPIA Act and this Part from January 1, 1994 through the date paid.

- c) *Penalties shall be imposed at the rate and in the manner in effect at the time the tax liability became due. (UPIA Section 3-9(b) ~~of the Act~~)*

EXAMPLE 1: A taxpayer's Retailers' Occupation Tax return ~~retailer is required to file returns under the Retailers' Occupation Tax Act on a monthly basis, and is required to remit payment of the tax to the Department on a monthly basis. Tax is due from the retailer~~ for sales made during the month of December 1993 was due on the twentieth day of January 20, 1994. Penalties ~~imposed~~ for late payment or non-payment of the tax due are ~~shall be the penalties~~ imposed at the rate in effect on January 20, 1994, the time the tax liability became due.

EXAMPLE 2: A taxpayer's Retailers' Occupation Tax return ~~retailer is required to file returns under the Retailers' Occupation Tax Act on a monthly basis, and is required to remit payment of the tax to the Department on a monthly basis. Tax is due from the retailer~~ for sales made

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during the month of November 1993 ~~was due on the twentieth day of~~ December 20, 1993. However, the taxpayer does not file a return or pay tax for this period until January 15, 1994. Penalties ~~imposed~~ for failure to file the tax return when due and failure to pay tax when due ~~are~~ shall be the penalties imposed at the rates in effect on December 20, 1993, ~~;~~ the time the tax liability became due.

EXAMPLE 3: A corporate taxpayer has a federal tax year based on its fiscal year. Its federal income tax return ~~(1120)~~, and by virtue of IITA Section 505(a)(1), its Illinois income tax return ~~(IL-1120)~~, are both due on November 15. In 1993, the taxpayer is granted a 7 month extension of time in which to file its Illinois return. As a result, taxpayer's Illinois state return is due June 15, 1994. Taxpayer does not comply with IITA Section 602 and make payment of the amount of its properly estimated tax for the taxable year on November 15, 1993, nor does taxpayer file its Illinois income tax return by IL-1120 when due on June 15, 1994. Penalties ~~imposed~~ for failure to file the tax return when due and for failure to pay tax when due ~~are~~ shall be the penalties imposed at the rates in effect on November 15, 1993, the unextended due date for filing the return and the date on which ~~time~~ the tax liability became due.

~~EXAMPLE 4: A calendar year, corporate taxpayer files its 1993 IL-1120 on November 15, 1994 with a payment for the total amount of tax liability attached. Estimated payments were made throughout 1993 on the dates required by Section 803 of the Illinois Income Tax Act, but the taxpayer remitted only 75% of the estimated tax due for each installment. The penalties due for underpayment of estimated tax shall be imposed at the rate and in the manner in effect on March 15, 1994, because until the IL-1120 was due it was not determined that the estimated payments were in fact unpaid.~~

- d) *Interest shall not be paid on claims for refund filed after the effective date of the UPIAA and this Part except ~~such~~ interest which is paid in accordance with the UPIAA. (UPIA Section 3-9(c) ~~of the Act~~)*

EXAMPLE 1: A taxpayer files a claim for credit with the Department on January 15, 1994 for an overpayment of Use Tax. The overpayment occurred in October 1992 when the taxpayer self-assessed tax on a purchase of manufacturing machinery and equipment from an unregistered

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out-of-state retailer and then remitted the tax directly to the Department. The credit is issued on February 15, 1994. Interest shall be paid at the rate of 1% per month for the period from October 1992 through December 31, 1993 ([see Use Tax Act Section 19, prior to amendment by P.A. 87-205](#)); and at the semiannually adjusted interest rate imposed pursuant to the Act and these rules from January 1, 1994 through February 15, 1994, the date on which the claim was issued by the Department.

EXAMPLE 2: An individual taxpayer files his IL-1040 return on April 10, 1993. On May 1, 1994 the taxpayer files a claim for refund. If the claim for refund is approved, the taxpayer ~~is~~will be entitled to interest from April 16, 1993 through December 31, 1993, at an annual rate of 9% ([see IITA Section 1003, prior to amendment by P.A. 87-205](#)), and from January 1, 1994 through the date the refund was issued at the semiannually adjusted interest rate under the UPIA.

(Source: Amended at 43 Ill. Reg. 14342, effective November 26, 2019)

## SUBPART B: INTEREST

**Section 700.200 Interest Paid and Interest Charged ([UPIA Section 3-2](#))**

[UPIA Section 3-2](#) ~~of the Act~~ and this ~~Subpart Part~~ govern interest paid taxpayers and interest charged taxpayers by the Department.

(Source: Amended at 43 Ill. Reg. 14342, effective November 26, 2019)

**Section 700.210 Interest Rate Calculation ([UPIA Section 3-2](#))**

- a) ~~the~~For periods prior to January 1, 2004, and periods after December 31, 2013, the rate of interest to be paid to taxpayers and to be charged taxpayers is the underpayment rate established under IRC section 6621~~Section 6621 of the Internal Revenue Code. For periods after December 31, 2003, and prior to January 1, 2014, the rate of interest to be paid to taxpayers and to be charged taxpayers is, for the one-year period beginning with the date of underpayment or overpayment, the federal short-term rate established under IRC section 6621, and, for the period beginning the day after that one-year period, the underpayment rate established under IRC section 6621.~~ ([UPIA Section 3-2\(a\)](#))~~of the Act~~

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- b) This Section may be illustrated by the following examples:

EXAMPLE 1: Taxpayer is an individual whose taxable year is the calendar year. On April 15, 2003, Taxpayer timely filed her 2002 Illinois income tax return, but did not pay the tax shown due on the return. Under this subsection, interest on Taxpayer's underpayment for the period April 16, 2003 through December 31, 2003 is charged at the underpayment rate established under IRC section 6621. With respect to any portion of the underpayment that remains unpaid as of January 1, 2004, interest is charged at the federal short-term rate established under IRC section 6621 through April 15, 2004, one year after the April 15, 2003 date of underpayment. With respect to any portion of the underpayment that remains unpaid as of April 16, 2004, interest is charged at the underpayment rate established under IRC section 6621.

EXAMPLE 2: Corporation failed to pay its Illinois income tax liability for its calendar 2001 taxable year, due on March 15, 2002, before January 1, 2004. Under this subsection, for any portion of Corporation's underpayment that remains unpaid on and after January 1, 2004, interest is charged under this subsection at the underpayment rate established under IRC section 6621 because January 1, 2004 is more than one year after the March 15, 2002 date of underpayment.

EXAMPLE 3: Taxpayer is an individual who timely filed her calendar 2003 Illinois income tax return on the April 15, 2004 unextended due date, but did not pay the tax shown due on the return. Under this subsection, interest on the unpaid balance of Taxpayer's underpayment accrues for the period from April 16, 2004 through April 15, 2005 at the federal short-term rate established under IRC section 6621. With respect to any portion of the underpayment that remains unpaid on and after April 16, 2005, interest is charged at the underpayment rate established under IRC section 6621.

EXAMPLE 4. Taxpayer is an individual who timely filed his calendar 2004 Illinois income tax return on the April 15, 2005 unextended due date, showing an overpayment of \$400. Taxpayer requested a refund of the overpayment, which was paid on May 2, 2005. As the result of an audit by the Internal Revenue Service that was completed in 2007, Taxpayer's

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adjusted gross income for 2004 was increased, causing Taxpayer's Illinois income tax liability to increase by \$500. \$100 of Taxpayer's deficiency was unpaid as of April 15, 2005 and accrues interest at the federal short-term rate established under IRC section 6621 for the period from the April 16, 2005 date of underpayment through April 15, 2006. The remaining \$400 of the deficiency did not become unpaid until the refund was issued on May 2, 2005 and accrues interest at the federal short-term rate established under IRC section 6621 for the period from the May 3, 2005 date of underpayment through May 2, 2006.

EXAMPLE 5: Corporation failed to timely pay its Illinois income tax liability for its calendar 2012 taxable year, due on March 15, 2013. Under this subsection, the underpayment accrues interest at the federal short-term rate through December 31, 2013. For any portion of Corporation's underpayment that remains unpaid on and after January 1, 2014, interest is charged at the underpayment rate established under IRC section 6621 because interest is not computed using the federal short-term rate established under IRC section 6621 for any period after December 31, 2013.

- cb) The underpayment rate is the sum of the ~~federal~~Federal short-term rate plus 3 percentage points. The federal short-term rate is the rate determined by the Secretary of the Treasury based upon the average market yield (during any one month period selected by the Secretary of the Treasury and ending the calendar month in which the determination is made) on outstanding marketable obligations of the United States with remaining periods of maturity of 3 years or less. (See IRC section 6621.)
- de) *The interest rate shall be adjusted on a semiannual basis, on January 1 and July 1, based upon the underpayment rate or short-term federal rate going into effect on that January 1 or July 1 under IRC section 6621~~Section 6621 of the Internal Revenue Code.~~ (UPIA Section 3-2(b) of the Act)*
- ed) The Department will announce the interest rate and the semiannual adjustments of the interest rate to the public by publication on the Department's web site (www.iltax.com)~~in the Illinois Register and the State newspaper~~. Taxpayers may also contact the Department's Taxpayer Information Division for interest rate information.

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(Source: Amended at 43 Ill. Reg. 14342, effective November 26, 2019)

**Section 700.220 Interest Charged Taxpayers (UPIA Section 3-2)**

- a) Interest charged to taxpayers applicable for returns due on or before December 31, 2000 (without regard to extensions). *Interest shall be simple interest calculated on a daily basis. Interest shall accrue upon tax and penalty due. If notice and demand is made for the payment of any amount of tax due and if the amount due is paid within 30 days after the date of such notice and demand, interest under UPIA Section 3-2(c)~~this Section~~ on the amount so paid shall not be imposed for the period after the date of the notice and demand. (UPIA Section 3-2(c)~~of the Act~~)*
- b) Interest charged to taxpayers applicable for returns due on and after January 1, 2001 (without regard to extensions). *Interest shall be simple interest calculated on a daily basis. Interest shall accrue upon tax due. If notice and demand is made for the payment of any amount of tax due and if the amount due is paid within 30 days after the date of the notice and demand, interest under this UPIA Section 3-2(c) on the amount so paid shall not be imposed for the period after the date of the notice and demand. (UPIA Section 3-2(c)~~of the Act~~) Under this provision, interest shall not accrue on penalties.*

EXAMPLE: A taxpayer timely filed his individual income tax return on April 15, but because of an arithmetic error the taxpayer did not pay the entire amount of tax due. If the return was due prior to January 1, 2001, interest accrues on the unpaid tax liability and on any late payment penalty. If the return was due on or after January 1, 2001, interest accrues on the unpaid tax liability, but not on any late payment penalty. An assessment for tax due and late payment penalty imposed will be issued and showing interest calculated at the semiannually adjusted daily rate pursuant to the Act and this Section on the tax due only.

- c) Interest on tax shall accrue from the date of underpayment~~due date of the tax without regard to extensions of time for filing of returns.~~
- d) For returns due on or before December 31, 2000 (without regard to extensions), interest on any penalty shall accrue from the date the penalty is imposed.

EXAMPLE 1: Taxpayer's~~A taxpayer was required to file a return under~~

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~~the~~ Retailers' Occupation Tax ~~return~~Act on or before February 20, 1994 for the January 1994 liability period ~~was due February 20, 1994~~. The return was filed and tax was paid on May 25, 1994. ~~Interest is charged. An assessment will be issued with interest calculated at the semiannually adjusted daily rate pursuant to the Act and this Part on the tax due and penalty assessed from February 21, 1994 through May 25, 1994, the date the tax was paid, and on any penalty assessed from February 21, 1994 through the date the penalty is paid.~~

EXAMPLE 2: ~~Taxpayer's~~A taxpayer was required to file a return under ~~the~~ Retailers' Occupation Tax ~~return~~Act on or before December 20, 1993 for the November 1993 liability period ~~was due December 20, 1993~~. The return was filed and tax was paid on May 25, 1994. ~~Interest is charged on the tax due. An assessment will be issued with interest calculated at the 1.25% per month or fraction of month rate from December 21, 1993 to December 31, 1993 (see ROTA Section 5, prior to amendment by P.A. 87-205) and at the semiannually adjusted daily rate imposed pursuant to the UPIA and this Part. Act and these rules on the tax due, from January 1, 1994 through May 25, 1994, the date the tax was paid. No interest is shall be charged or accrued on the penalty assessed since the due date of the tax was before the effective date of the UPIA Uniform Penalty and Interest Act.~~

EXAMPLE 3: ~~Taxpayer's~~A taxpayer was required to make accelerated payments of the Public Utilities Tax ~~were due~~ on the 7<sup>th</sup>, 15<sup>th</sup>, 22<sup>nd</sup> and 31<sup>st</sup> of January 1994. Each payment should have been ~~\$3,000~~\$3000. ~~Taxpayer~~The taxpayer did not make ~~the~~ payment ~~due on the 31st day of~~ January ~~31~~, but ~~paid the \$3,000~~the taxpayer did pay \$3000 with the monthly return ~~that~~which was filed, when due, on February 15, 1994. The taxpayer will be charged a 15% late payment penalty under UPIA Section 3-3(b) because the last accelerated payment was not paid when due. ~~Interest is charged on the \$3,000 late payment. An assessment will be issued with interest calculated on the tax and penalty from February 1, 1994 through February 15, 1994, when the payment was received, and on the penalty from February 1, 1994 through the date the penalty is paid.~~

EXAMPLE 4: Corporation filed its calendar 1993 income tax return~~A corporate calendar year taxpayer (C corporation) files a return under the HTA on March 15, 1994, the unextended due date for its 1993 taxable~~

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~~year.~~ The corporation was liable for, but did not make, any estimated payments for the taxable year. The tax liability reported on the ~~return H-1120~~ was paid in full when the return was filed. ~~Upon the filing of the return the corporation will be assessed a late payment penalty for failure to make proper quarterly estimated payments.~~ Interest on the ~~late payment penalty for failure to make timely estimated tax payments accrues from March 15, 1994 through the date the penalty is paid will begin to accrue on the original due date of the return and will continue to accrue until the date paid.~~

EXAMPLE 5: ~~Corporation filed its calendar 1993 income tax return.~~ A corporate, calendar-year taxpayer files a return under the HTA on March 15, 1994, ~~the unextended due date for its 1993 taxable year.~~ The corporation properly made all estimated payments and paid the remainder of its tax liability when the return was filed. In 1997 an audit ~~was~~ completed on the corporation's 1993 return and additional liability ~~was~~ proposed. The corporation ~~agreed~~ agrees to the audit results but ~~did~~ does not pay the liability until 35 days after the Notice and Demand for payment ~~was~~ issued. A late payment penalty ~~was~~ will be assessed on the audit liability ~~under UPIA Section 3-3(b) and interest will accrue~~ on the penalty from ~~March 15, 1994 through the date the penalty is paid the original due date of the 1993 return until the date the penalty is paid.~~

(Source: Amended at 43 Ill. Reg. 14342, effective November 26, 2019)

**Section 700.230 Interest Paid Taxpayers on Overpayments (UPIA Section 3-2)**

- a) *No interest shall be paid upon any overpayment of tax if the overpayment is refunded or a credit approved within 90 days after the last date prescribed for filing the original return, or within 90 days of the receipt of the processable return, or within 90 days after the date of overpayment, whichever is latest, as determined without regard to processing time by the Comptroller or without regard to the date on which the credit is applied to the taxpayer's account. (UPIA Section 3-2(d) of the Act)*
  - 1) The reference to "credit" in UPIA Section 3-2 of the UPIA, and throughout this Section, is to claims for credit granted under the various tax Acts. ~~Under the claim for credit procedures, upon the filing of an amended return for the period at issue, if the return demonstrates~~

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~~overpayment of tax, a credit memorandum is issued to the taxpayer. This credit may then be applied to liabilities, or transferred with the permission of the Department.~~

- 2) Under ROTA Section 3 ~~of the Retailers' Occupation Tax Act~~, the Department has been granted the authority to issue verified credits. A verified credit is an amount of tax overpaid in a prior period that may be rolled over and applied to a tax liability. The verified credit mechanism authorizes this procedure without the necessity of the formalities involved in the claim for credit procedures. Interest is not paid on verified credits. They appear on the Statement of Account ~~(SOA)~~.
- b) For purposes of this Section, UPIA Section 3-2(d) ~~of the UPIA~~ provides that the date of overpayment shall mean the date tax was paid, the original due date of the return or the date a processable return was received, whichever is later.
- 1) ~~When~~Where a return is unprocessable, and the Department issues a notice of that fact to the taxpayer within 90 days ~~after~~ of the filing of the unprocessable return or within 90 days ~~after~~ of the due date (whichever is later), interest will be allowed on any overpayment ~~only~~ from the date the return was made processable by the taxpayer, but only if the refund or claim for credit on the overpayment is not approved within 90 days ~~after~~ of the date on which the return was made processable.
  - 2) ~~When~~Where a return is unprocessable and notice of that fact is not given to the taxpayer by the Department within 90 days ~~after~~ of the filing of the unprocessable return, interest will be allowed from the latter of the date the tax was paid, the original due date of the return or the date the unprocessable return was originally received until the date of notice to the taxpayer by the Department that the return is unprocessable. Additional interest will be allowed from the date the return was made processable until the date the refund or claim for credit on the overpayment is approved, but only if the refund or claim for credit is not approved within 90 days ~~after~~ of the date the return was made processable by the taxpayer. (See subsection (f) ~~below~~)
- c) For purposes of calculating interest on overpayments of tax, *a processable return is a return that;*

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- 1) *is in the form prescribed or approved by the Department;*
  - 2) *is signed by the person authorized by law; and*
  - 3) *contains all information, schedules, and support documents necessary to determine the tax due and to make allocations of tax as prescribed by law. (UPIA Section 3-2-~~of the Act~~)*
- d) Any unprocessable return ~~that~~which is not corrected and made processable within the time period identified on the Department's notice will be considered a nonfiled return, subject to any and all applicable penalties. Being considered a nonfiler for any given period will also result in an extended or open time period for issuance of a Notice of Deficiency or Notice of Tax Liability.
- e) *For the purpose of computing interest, a return shall be deemed processable unless the Department notifies the taxpayer that the return is not processable within 90 days after the receipt of the return; however, interest shall not accumulate for the period following this date of notice. (UPIA Section 3-2-~~of the Act~~)* Notice by the Department must be in writing and is effective on the date mailed to the taxpayer at the last known address for the taxpayer according to Department records.
- f) *Interest on amounts refunded or credited pursuant to the filing of an amended return or claim for refund shall be determined from the due date of the original return or the date of overpayment, whichever is later, to the date of the payment by the Department without regard to processing time by the Comptroller or the date of credit by the Department or without regard to the date on which the credit is applied to the taxpayer's account. (UPIA Section 3-2-~~(d)-of the Act~~)* Interest on overpayments due pursuant to the filing of an amended return or claim for credit will be allowed as specified in this ~~subsection (f)~~Section and subsection (b) except:
- 1) that interest will be allowed whether or not the overpayment is approved within the 90 day period after the amended return was filed (except if the refund or credit is issued within 90 days ~~after~~ receipt of the original processable return or the date of overpayment (see subsection (a) ~~above~~); or
  - 2) *If a claim for refund relates to an overpayment attributable to a net loss*

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carryback as provided by IITA Section 207 ~~of the Illinois Income Tax Act~~, the date of overpayment shall be the last day of the taxable year in which the loss was incurred. (UPIA Section 3-2 ~~of the Act~~) In this case interest ~~accrues will be allowed~~ only from the last day of the taxable year in which the loss was incurred.

- g) If the Department notifies the taxpayer that a return is unprocessable later than 90 days from the date the return is received, the Department will ~~only~~ be required to pay interest only from the due date of the original return to the date of the Department's notice to the taxpayer that the return is unprocessable.

EXAMPLE 1: A corporate income tax return ~~An IL-1120~~ reflecting a refund of \$10,000 for the taxable year ending December 31, 1994 was filed on March 15, 1995. On June 1, 1995, notice was given that the return is not processable. The taxpayer responded ~~responds~~ on July 1, 1995 with information suitable to process the return. If a refund is approved by October 1, 1995, no interest will be allowed because notice was given within 90 days after ~~of~~ the date the return was received and the refund was approved within 90 days after ~~of~~ the date the return was made processable.

EXAMPLE 2: Same facts as in the preceding example except that notice was not given until June 16, 1995. In this case, interest will be allowed from March 15, 1995 through June 16, 1995.

EXAMPLE 3: Same facts as in Example ~~example~~ 2 except that the refund is not approved until November 1, 1995. In addition to the interest provided in Example ~~example~~ 2, interest will also be allowed from July 1, 1995 through November 1, 1995.

(Source: Amended at 43 Ill. Reg. 14342, effective November 26, 2019)

## SUBPART C: PENALTIES

**Section 700.300 Penalty for Late Filing or Failure to File (UPIA Section 3-3(a), (a-5), (a-10), and (a-15)) and ~~Penalty for Late Payment of Tax~~**

- a) Late Filing Penalty ~~filing penalty~~ for ~~original~~ Returns Due ~~returns due~~ (without regard to extensions) On or After January 1, 1994, and Prior ~~prior~~ to January 1, 1996. A penalty of 5% of the tax required to be shown due on a return shall be

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*imposed for failure to file the tax return on or before the due date prescribed for filing determined with regard for any extension of time for filing (penalty for late filing or nonfiling). (UPIA Section 3-3(a))*

- 1) *If any unprocessable return is corrected and filed within 21 days after notice by the Department, the late filing or nonfiling penalty shall not apply. (UPIA Section 3-3(a) of the Act) This exception to the penalty applies only if the unprocessable return ~~was~~must have been filed on or before the due date prescribed for filing of that return, with regard for any extension of filing. In other words, a taxpayer ~~does not~~may not attempt to avoid the 5% penalty under this exception by the late filing of an unprocessable return that is then corrected within 21 days after notice by the Department.*
- 2) For purposes of this subsection (a), the "tax required to be shown due on a return" means the tax as properly computed, net of credits properly allowable, but without regard to any payment of the tax or any accelerated tax payments. A return, for purposes of the imposition of this penalty, is any return required by a tax Act to be filed with the Department that is not an information return as that term is defined in Section 3-4(c) of the Act.

~~EXAMPLE 1: A withholding agent files Form IL-941 (Employer's Quarterly Illinois Withholding Tax Return) for third quarter 1994 on November 1, 1994. The total Illinois tax withheld is \$500,000. The form was due on October 31, 1994. A late payment filing penalty is imposed as follows: Total Illinois tax withheld (\$500,000) times the 5% late filing penalty equals \$25,000.~~

~~EXAMPLE 2: A withholding agent files form IL-W-3 (Reconciliation of Illinois Income Tax Withheld and Transmittal of Income and Tax Statements) for tax year 1993 on March 1, 1994. The total Illinois tax withheld is \$1,000,000. The form was due on February 28, 1994. A late filing penalty is imposed as follows: Total Illinois tax withheld (\$1,000,000) times the 5% late filing penalty is \$50,000.~~

- 3) *If a penalty for late filing or nonfiling is imposed in addition to a penalty for late payment, the total penalty due shall be the sum of the late filing penalty and the applicable late payment penalty. (UPIA Section 3-3(a) of*

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~~the Act):~~

- 4) *In the case of any type of tax return for which filing is due more frequently than annually, when the failure to file the tax return on or before the date prescribed for filing (including any extensions) is shown to be nonfraudulent and no other failure to file has occurred in the two years immediately preceding the failure to file on the prescribed due date, the penalty imposed under this subsection (a) shall be abated. (UPIA Section 3-3(a))*
- b) Late Filing Penalty~~filing penalty for original Returns Due~~returns due (without regard to extensions) On or After~~after~~ January 1, 1996 and On or Before~~before~~ December 31, 2000-
- 1) Tier 1 Penalty. A penalty equal to 2% of the tax required to be shown due on a return, up to a maximum amount of \$250, determined without regard to any part of the tax that is paid on time or by any credit that was properly allowable on the date the return was required to be filed, shall be imposed for failure to file the tax return on or before the due date prescribed for filing determined with regard for any extension of time for filing. (UPIA Section 3-3(a-5)-of the Act)

EXAMPLE 1: Taxpayer's Retailers' Occupation Tax return was~~Your Form ST-1 is~~ due by April 20, 1996, but Taxpayer filed~~you file~~ it on May 17, 1996. The tax required to be shown due on~~theyour~~ return was~~is~~ \$10,000. Taxpayer~~You~~ timely paid the full \$10,000 in accelerated tax payments. A Tier 1 late filing~~We notify you that you owe a~~ penalty of \$200 (2% x \$10,000 = \$200; \$200 is less than the \$250 maximum Tier 1 penalty, and so the penalty is;~~therefore you owe \$200) is imposed because the return was not filed~~and interest because you did not file your return by the April 20 due date. ~~If you do not pay the \$200 penalty and interest within 30 days after the date of our notice, additional interest will accrue on the \$200 penalty.~~

EXAMPLE 2: Individual's Illinois income tax return was~~Your Form IL-1040 is~~ due by April 15, 1996, with an automatic extension of time to file until October 15 granted by 86 Ill. Adm. Code 100.5020(b), but Individual filed~~you file~~ it on November 10,

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~~1996 (after the extended due date). The tax required to be shown due on the your return was \$2,000 is \$1,500. Individual's Your employer withheld \$1,200 for Illinois income tax Income Tax, and Individual you timely paid \$500 us \$400 in estimated tax payments during the year. The remaining \$300 was paid with the return. A Tier 1 late filing penalty of \$40 (2% x \$2,000, the tax required to be shown due on the return without regard to credits or timely payments = \$40, which is less than the \$250 maximum Tier 1 penalty) is imposed because the return was not filed by the October 15 due date. You have overpaid your tax by \$100 (\$1,500 - \$1,200 - \$400 = \$100). We notify you that you owe a penalty of \$30 (2% x \$1,500 = \$30; \$30 is less than \$250, therefore you owe \$30) because you did not file your return by the due date. We reduce your refund by the \$30 penalty and issue you a check for \$70.~~

~~EXAMPLE 3: Corporation's Illinois income tax return was due by March 15, 1996, with an automatic extension of time to file until October 15 granted by 86 Ill. Adm. Code 100.5020(b), but Corporation filed it on November 10, 1996. The tax shown due on the return was \$1,500. On the return, Corporation failed to claim a research and development credit of \$700. Corporation subsequently filed an amended return, claiming the \$700 credit and showing a liability of \$800. The Tier 1 late filing penalty is \$30 (2% x \$1,500, the amount of tax required to be shown due on the return without regard to credits or timely payments = \$30, which is less than the \$250 maximum Tier 1 penalty). Your Form RHM-1 is due by September 30, but you do not file it. We send you a notice of nonfiling asking you to respond within 30 days. You file your return 25 days after our notice and pay the total tax due of \$18,500. We notify you that you owe a penalty of \$250 (2% x \$18,500 = \$370; \$370 is greater than \$250, therefore you owe \$250) and interest because you did not file your return by the September 30 due date.~~

~~EXAMPLE 4: Your Form IL-1120 is due by March 15 but you file it on December 20 (after the extended due date). The income tax shown on the return is \$6,000 and the replacement tax shown on the return is \$3,125. An Enterprise Zone Investment Credit of \$2,000 is claimed against your income tax liability. You have~~

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~~timely paid \$7,500 in estimated payments. You have overpaid your tax liability by \$375  $((\$2,000 + \$7,500) - (\$6,000 + \$3,125) = \$375)$ . We notify you that you owe a penalty of \$182.50  $(\$9,125 \times 2\% = \$182.50)$ ; \$182.50 is less than \$250, therefore you owe \$182.50) because you did not file your return by the due date. We reduce your refund by \$182.50 and issue you a check for \$192.50.~~

- 2) Tier 2 Penalty. *If any return is not filed within 30 days after notice of nonfiling mailed by the Department to the last known address of the taxpayer contained in Department records, an additional penalty amount shall be imposed equal to the greater of \$250 or 2% of the tax shown on the return. ~~The maximum amount of~~ However, the additional penalty ~~is~~ amount may not exceed \$5,000. The amount of the additional penalty ~~and~~ is determined without regard to any part of the tax that is paid on time or by any credit that was properly allowable on the date the return was required to be filed (penalty for late filing or nonfiling) (UPIA Section 3-3(a-5) of the Act).*

EXAMPLE: Taxpayer's Retailers' Occupation Tax return was due by April 20, 1996, but Taxpayer did not file it. The Department issued a notice of nonfiling asking Taxpayer to file a return or to explain why no return was required. Taxpayer filed the return 45 days after the notice. The tax shown on the return was \$18,000. Taxpayer timely paid the full \$18,000 in accelerated tax payments. A Tier 1 penalty is imposed in the amount of \$250 (2% of \$18,000 in tax required to be shown due on the return without regard to timely payments = \$360, which is greater than the \$250 maximum Tier 1 penalty). A Tier 2 penalty is imposed in the amount of \$360 (2% of \$18,000 in tax due without regard to timely payments = \$360, which is greater than the \$250 minimum Tier 2 penalty and less than the \$5,000 maximum) because Taxpayer did not file the return within 30 days after the notice of nonfiling. Your Form RHM-1 is due by September 30, but you do not file it. We send you a notice of nonfiling asking you to respond within 30 days. You file your return 45 days after our notice and pay the total tax due of \$18,500. You owe a penalty of \$250  $(2\% \times \$18,500 = \$370)$ ; \$370 is greater than \$250, therefore you owe \$250) and interest because you did not file your return by the September 30 due date. You also owe an additional penalty of \$370  $(2\% \times$

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~~\$18,500 = \$370; \$370 is greater than \$250 and less than \$5,000, therefore you owe \$370) and interest because you did not respond within 30 days after our notice. Your total penalties for late filing are \$620 (\$250 + \$370 = \$620). You will also owe a late payment penalty for not paying your tax by the due date. Interest will continue to accrue on unpaid tax and penalties until you fully pay the total amount you owe.~~

- 3) *If any unprocessable return is corrected and filed within 30 days after notice by the Department, the late filing or nonfiling penalty shall not apply. (UPIA Section 3-3(a-5)) This exception to the penalty applies only if the*~~The unprocessable return wasmust have been filed on or before the due date prescribed for filing of that return, with regard for any extension of filing. In other words, a taxpayer does notmay not attempt to avoid the penalty under this exception by the late filing of an unprocessable return which is then corrected within 30 days after notice by the Department.~~
  - 4) *In the case of any type of tax return required to be filed more frequently than annually, when the failure to file the tax return on or before the date prescribed for filing (including any extensions) is shown to be nonfraudulent and no other failure to file has occurred in the two years immediately preceding the failure to file on the prescribed due date, the penalty imposed under this subsection (b) does not apply by Section 3-3(a-5) shall be abated. (UPIA Section 3-3(a-5))This two year "good filing" history abatement is effective for returns due on and after August 18, 1995 (the effective date of P.A. 89-379).*
- c) Late Filing Penalty~~filing penalty~~ for original Returns Due~~returns due~~ (without regard to extensions) On~~on~~ or After~~after~~ January 1, 2001-
- 1) Tier 1 Penalty. *A penalty equal to 2% of the tax required to be shown due on a return, up to a maximum amount of \$250, reduced by any tax that is paid on time or by any credit that was properly allowable on the date the return was required to be filed, shall be imposed for failure to file the tax return on or before the due date prescribed for filing determined with regard for any extension of time for filing. (UPIA Section 3-3(a-10)-of the Act)*

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EXAMPLE 1: Taxpayer's Retailers' Occupation Tax return was ~~Your Form ST-1 is~~ due by April 20, 2001, but Taxpayer filed ~~you do not file it on May 17, 2001. We send you a notice of nonfiling asking you to respond within 30 days. You file your return 20 days after our notice.~~ The tax required to be shown due on the ~~your~~ return was \$10,000 ~~is \$20,000.~~ Taxpayer ~~You~~ timely paid the full \$10,000 ~~\$20,000~~ in accelerated tax payments. A penalty of 2% of the tax required to be shown due on the return is applicable for the late filing of the ~~your~~ return but no penalty is assessed because, after taking into account the tax paid on time, the ~~your~~ tax liability was ~~is~~ zero.

EXAMPLE 2: Individual's Illinois income tax return was ~~Your Form IL-1040 is~~ due by April 15, 2001, with an automatic extension of time to file until October 15 granted by 86 Ill. Adm. Code 100.5020(b), but Individual filed ~~you file it on November 10, 2001 (after the extended due date).~~ The tax required to be shown due on the ~~your~~ return was ~~is~~ \$2,000. Individual's ~~Your~~ employer withheld \$1,200 ~~\$1,250~~ for Illinois Income Tax, and Individual ~~you~~ timely paid \$500 ~~us \$150~~ in estimated tax payments during the year. The remaining \$300 was paid with the return. A Tier 1 late filing penalty of \$6 ~~Tax owed with the return is \$600 (\$2,000 - \$1,250 - \$150 = \$600). We notify you that you owe a penalty of \$12 (2% x \$300, the tax required to be shown due on the return reduced by credits and timely payments = \$6, which \$600 = \$12; \$12 is less than the \$250 maximum Tier 1 penalty) is imposed because the return was not filed by the October 15 extended due date, therefore you owe \$12)~~ because you did not file your return on time.

EXAMPLE 3: Corporation's Illinois income tax return was ~~Your Form IL-1120 is~~ due by March 15, 2001, with an automatic extension of time to file until October 15 granted by 86 Ill. Adm. Code 100.5020(b), but Corporation filed ~~you file it on November 10, 2001.~~ The tax liability shown on the return was \$1,500. On the return, Corporation failed to claim a research and development credit of \$700. Corporation subsequently filed an amended return, claiming the \$700 credit and showing a liability of \$800. The Tier 1 late filing penalty is \$16 (2% x \$800, the amount of tax required

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~~to be shown due on the return reduced by credits and timely payments = \$16, which is less than the \$250 maximum Tier 1 penalty). December 20 (after the extended due date). The income tax required to be shown due on the return is \$20,000 and the replacement tax required to be shown due on the return is \$12,500. An Enterprise Zone Investment Credit of \$2,000 is claimed against your income tax liability. You have timely paid \$17,000 in estimated payments. Taxed owed with the return is \$13,500  $((\$20,000 + \$12,500) - (\$2,000 + \$17,000) = \$13,500)$ . We notify you that you owe a penalty of \$250  $(\$13,500 \times 2\% = \$270; \$270$  is more than \$250, therefore you owe \$250) because you did not file your return on time.~~

- 2) Tier 2 Penalty. *If any return is not filed within 30 days after notice of nonfiling mailed by the Department to the last known address of the taxpayer contained in Department records, an additional penalty amount shall be imposed equal to the greater of \$250 or 2% of the tax shown on the return. However, the additional penalty amount may not exceed \$5,000 and the penalty is determined without regard to any part of the tax that is paid on time or by any credit that was properly allowable on the date the return was required to be filed (penalty for late filing or nonfiling). (UPIA Section 3-3(a-10) ~~of the Act~~)*

EXAMPLE: ~~Taxpayer's Retailers' Occupation Tax return was Your Form ST-1 is due by April 20, 2001, but Taxpayer did you do not file it. The Department issued We send you a notice of nonfiling asking Taxpayer to file a return or to explain why no return was due. Taxpayer filed they you to respond within 30 days. You file your return 45 days after the our notice. The tax liability shown on the your return was \$18,000. Taxpayer You timely paid the full \$18,000 in accelerated tax payments. No Tier 1 Although you did not file your return by the due date, no first tier late filing penalty is assessed because, after taking into account the tax paid on time, the your tax liability was zero. A Tier 2 penalty is imposed in the amount You do, however, owe an additional second tier late filing penalty of \$360 (2% of \$18,000 in tax due without regard to timely payments = \$360, which; \$360 is greater than the \$250 minimum Tier 2 Penalty and less than the \$5,000 maximum, therefore you~~

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~~owe \$360~~) because Taxpayer did not file the return~~you did not respond~~ within 30 days after the~~our~~ notice of nonfiling.

- 3) *If any unprocessable return is corrected and filed within 30 days after notice by the Department, the late filing or nonfiling penalty shall not apply. (UPIA Section 3-3(a-10) of the Act). This exception to the penalty applies only if theThe unprocessable return ~~was~~must have been filed on or before the due date prescribed for filing of that return, with regard for any extension for filing. In other words, a taxpayer does not~~may not attempt to~~ avoid the penalty under this exception by the late filing of an unprocessable return that is then corrected within 30 days after notice by the Department.*
- 4) *In the case of any type of tax return required to be filed more frequently than annually, when the failure to file the tax return on or before the date prescribed for filing (including any extensions) is shown to be nonfraudulent and has not occurred in the 2 years immediately preceding the failure to file on the prescribed due date, the penalty imposed by this subsection (c)~~Section 3-3(a-10)~~ shall be abated. (UPIA Section 3-3(a-10) of the Act). This two year “good filing” history abatement is effective for returns due on and after August 18, 1995 (the effective date of P.A. 89-379).*
- d) *A penalty of \$100 shall be imposed for failure to file a transaction reporting return required by ROTA Section 3 and UTA Section 9 on or before the date the return is required to be filed; provided, however, that this penalty shall be imposed only if the return, when properly prepared and filed, would not result in the imposition of a tax. If the transaction reporting return would result in the imposition of a tax when properly prepared and filed, then that return is subject to the provisions of subsection (c). (UPIA Section 3-3(a-15)) The penalty imposed under this subsection (d) does not apply to returns due, without regard to extensions, after August 10, 2015 (the effective date of P.A. 99-335).~~For returns due before January 1, 1998, a penalty of 15% of the tax shown on the return or the tax required to be shown due on the return shall be imposed for failure to pay:~~*
- 1) *~~the tax shown due on the return on or before the due date prescribed for payment of that tax, an amount of underpayment of estimated tax, or an amount that is reported in an amended return other than an amended return timely filed as required by subsection (b) of Section 506 of the~~*

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*Illinois Income Tax Act (penalty for late payment or nonpayment of admitted liability); or*

~~EXAMPLE 1: Your Form IL-1120 is due by March 15. You timely file your return on March 15, but you only made your first estimated payment of \$337.50; you were required to make 4 estimated payments. The total tax shown due on your return is \$1,500. You pay the remaining \$1,162.50 you owe with your return. We notify you that you owe a penalty of \$151.88 ( $\$1,500 \text{ tax} \times 90\%$  required to be paid timely =  $\$1,350$  to be made in 4 equal installments.  $\$1,350$  divided by 4 estimated payments =  $\$337.50$  per payment.  $\$337.50 \times 3$  unpaid quarters =  $\$1,012.50$  estimated tax that was due.  $\$1,012.50 \times 15\%$  penalty =  $\$151.88$  late payment penalty) and interest because you did not pay the required amount due for each estimated payment. If you do not pay the  $\$151.88$  penalty and interest within 30 days after our notice, additional interest will accrue on the penalty.~~

~~EXAMPLE 2: Same facts as in Example 1 above except that your return was timely filed between March 16 and October 15 and you paid the remaining \$150 tax you owed with your return. In this situation, your return was timely filed by virtue of the automatic extension for filing, but you owe a late payment penalty on the \$150 paid with the return because that amount of tax was not paid on or before the original due date of the return. There would be an additional penalty as prescribed by UPIA Section 3-3(b)(1) of  $\$22.50$  ( $\$1,500 - \$1,350 = \$150 \times 15\% = \$22.50$ ) for failure to pay the total tax by March 15.~~

- 2) ~~*the full amount of any tax required to be shown due on a return and which is not shown (penalty for late payment or nonpayment of additional liability), within 30 days after a notice of arithmetic error, notice and demand, or a final assessment is issued by the Department. In the case of a final assessment arising following a protest and hearing, the 30-day period shall not begin until all proceedings in court for review of the final assessment have terminated or the period for obtaining a review has expired without proceedings for a review having been instituted. In the case of a notice of tax liability that becomes a final assessment without a protest and hearing, the penalty provided in this Section shall be imposed*~~

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~~at the expiration of the period provided for the filing of a protest. (Section 3-3(b) of the Act) The 30-day period for providing payment in response to Department notices and final assessments is effective for notices and assessments issued on or after January 1, 1996. Taxpayers must respond to notices and assessments issued prior to January 1, 1996 within 21 days.~~

~~EXAMPLE: Your Form ST-1 is due by August 20. You timely file your return but do not pay the \$10,750 tax shown due until September 27. We notify you that you owe a penalty of \$1,612.50 ( $15\% \times \$10,750 = \$1,612.50$ ) and interest. If you do not pay the \$1,612.50 penalty and interest within 30 days after the date of our notice, additional interest will accrue on the penalty.~~

- e) ~~For returns due on and after January 1, 1998 and on or before December 31, 2000, a penalty of 20% of the tax shown on the return or the tax required to be shown due on the return shall be imposed for failure to pay:~~
- 1) ~~the tax shown due on the return on or before the due date prescribed for payment of that tax, an amount of the underpayment of estimated tax, or an amount that is reported in an amended return other than an amended return timely filed as a requirement of subsection (b) of Section 506 of the Illinois Income Tax Act (penalty for late payment or nonpayment of admitted liability); or~~

~~EXAMPLE: Your Form IL-1040 is due by April 15, but you file your return on October 15 (by the extended filing date) with tax due of \$1,000. You were required to make timely quarterly estimated income tax payments but you only made your first quarter estimated payment of \$225. You paid the remaining balance you owe of \$775 with the return. We notify you that you owe late payment penalties for late payment of estimated tax and late payment of total tax due by April 15 in the total amount of \$155.~~

~~The penalty for late payment of estimated tax is calculated as follows: \$1,000 tax x 90% required to be paid timely = \$900 to be made in 4 equal installments. \$900 divided by 4 = \$225 per quarterly payment. \$225 x 3 unpaid quarters = \$675 estimated~~

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~~paid late.  $\$675 \times 20\%$  penalty =  $\$135$  late payment penalty for failure to pay estimated taxes.~~

~~The penalty for late payment of total tax due by April 15 is calculated as follows:  $\$1,000 - \$900 = \$100$  tax due with the return and paid late.  $\$100 \times 20\% = \$20$  late payment penalty for failure to pay tax due by April 15.~~

- 2) ~~the full amount of the tax required to be shown due on a return and which is not shown (penalty for late payment or nonpayment of additional liability), within 30 days after a notice of arithmetic error, notice and demand, or a final assessment is issued by the Department. In the case of a final assessment arising following a protest and hearing, the 30-day period shall not begin until all proceedings in court for review of the final assessment have terminated or the period for obtaining a review having been instituted. In the case of a notice of tax liability that becomes a final assessment without a protest and hearing, the penalty provided in this subsection (e)(2) shall be imposed at the expiration of the period provided for the filing of a protest. (Section 3-3(b-5) of the Act).~~

~~EXAMPLE: Corporate Taxpayer timely files its IL-1120 for tax year 1997 by the March 15, 1998 due date for calendar year filers. Corporate Taxpayer properly made all estimated tax payments and paid the remainder of its tax liability with the return. In 2000, the Department completes an audit of Corporate Taxpayer's 1997 return and an additional liability of \$5,000 is proposed. Corporate Taxpayer agrees to the audit findings but does not pay the additional liability until 60 days after notice and demand for payment is issued. A penalty of \$1,000 ( $\$5,000 \times 20\% = \$1,000$ ) is assessed against Corporate Taxpayer for late payment of additional liability.~~

- f) ~~For returns due on and after January 1, 2001, a penalty shall be imposed for failure to pay:~~

- 1) ~~the tax shown due on a return on or before the due date prescribed for payment of that tax, an amount of underpayment of estimated tax, or an amount that is reported in an amended return other than an amended return timely filed as required by subsection (b) of Section 506 of the~~

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*Illinois Income Tax Act (penalty for late payment or nonpayment of admitted liability). The amount of the penalty imposed shall be:*

- A) *2% of any amount that is paid no later than 30 days after the due date,*
- B) *5% of any amount that is paid later than 30 days after the due date and not later than 90 days after the due date,*
- C) *10% of any amount that is paid later than 90 days after the due date and not later than 180 days after the due date, and*
- D) *15% of any amount that is paid later than 180 days after the due date.*

*Effective July 25, 2002, if notice and demand is made for the payment of any amount of tax due and if the amount due is paid within 30 days after the date of the notice and demand, then the penalty for late payment or nonpayment of admitted liability under this subsection (f)(1)(A) through (D) on the amount so paid shall not accrue for the period after the date of the notice and demand (Section 3-3(b-10)(1) of the Act).*

**EXAMPLE 1:** Your Form IL-1040 is due by April 15, but you file your return on May 15 (within the extension for time to file) showing total tax due of \$1,000. You were required to make quarterly estimated income tax payments but you only made your first quarter estimated payment of \$225. You paid the remaining balance you owe of \$775 with the return. We notify you that you owe interest on the late tax, plus late payment penalties for late payment of estimated tax and late payment of total tax due by April 15 in the amount of \$92.

The penalty for late payment of estimated tax and late payment of tax due with the return is based on the number of days the payment is late. Your second quarter payment was made more than 180 days late, your third quarter payment was made more than 180 days late, and your fourth quarter payment was made more than 90 days but

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~~less than 180 days late. Your payment due with your return was paid 30 days late.~~

~~The late payment of estimated tax penalty is calculated as follows: \$1,000 tax x 90% required to be paid timely = \$900 to be made in 4 equal installments. \$900 divided by 4 = \$225 per quarterly payment. Second quarter penalty (\$225 x 15% = \$33.75) + Third quarter penalty (\$225 x 15% = \$33.75) + Fourth quarter penalty (\$225 x 10% = \$22.50) = \$90 late payment penalty for failure to pay estimated taxes.~~

~~The penalty for late payment of total tax due by April 15 is calculated as follows: \$1,000 - \$900 = \$100 tax due with the return and paid late. \$100 x 2% = \$2 late payment penalty for failure to pay tax due by April 15.~~

~~EXAMPLE 2: Your Form ST-1 is due on June 20<sup>th</sup>. You were required to make quarter monthly accelerated tax payments of the Retailers' Occupation Tax on the 7<sup>th</sup>, 15<sup>th</sup>, 22<sup>nd</sup>, and 31<sup>st</sup> of May. Each payment should have been \$4,500. You did not make any accelerated payments and instead paid the total tax due when you timely filed your return on June 20<sup>th</sup>. We notify you that you owe a late payment penalty for failing to make timely accelerated tax payments.~~

~~The May 7 and May 15 payments are more than 30 days but less than 90 days late, therefore subject to the 5% penalty. The May 22 and May 31 payments are no more than 30 days late, and therefore subject to the 2% penalty. Your late payment penalty is \$630 ((\$4,500 x 5% = \$225) + (\$4,500 x 5% = \$225) + (\$4,500 x 2% = \$90) + (\$4,500 x 2% = \$90) = \$630).~~

~~EXAMPLE 3: Your ST-1 form, due on January 20, was filed but no payment was made. The Department issues you a notice and demand dated February 16. You pay the tax due on March 9. Although the payment was made more~~

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~~than 30 days after the due date, you incur a 2% penalty because the amount was paid within 30 days after the date of the Department's notice and demand. See subsection (f)(1)(E), above.~~

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

~~EXAMPLE: Corporate Taxpayer timely files its IL-1120 for tax year 2000 by the March 15, 2001 due date for calendar year filers. Corporate Taxpayer properly made all estimated tax payments and paid the remainder of its tax liability with the return. In 2003, the Department completes an audit of Corporate Taxpayer's 2000 return and an additional liability of \$5,000 is proposed. Corporate Taxpayer agrees to the audit findings but does not pay the additional liability until 60 days after notice and demand for payment is issued. A penalty of \$1,000 ( $\$5,000 \times 20\% = \$1,000$ ) is assessed against Corporate Taxpayer for late payment of additional liability.~~

- g) ~~*For purposes of the late payment penalties, the basis of the penalty shall be the tax shown or required to be shown on the return, whichever is applicable, reduced by any part of the tax which is paid on time and by any credit which was properly allowable on the date the return was required to be filed. (Section 3-3(e) of the Act)*~~ The amount of the late payment penalty, unlike some late payment penalties that were imposed prior to the adoption of the Uniform Penalty and Interest Act, does not change over time for returns due on or before December 31, 2000. The late payment penalty is the same whether payment is

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~~one day late or one year late. For returns due on and after January 1, 2001, however, the late payment penalty is a graduated penalty that increases as the time period during which the tax liability remains unpaid increases. It is only after the tax liability has remained unpaid for more than 180 days that the late payment penalty caps at 15% and remains at that such rate until the tax liability is paid.~~

- h) ~~A penalty shall be applied to the tax required to be shown even if that amount is less than the tax shown on the return. (Section 3-3(d) of the Act)~~

~~EXAMPLE: A rentor of automobiles for periods of one year or less has tax due under the Automobile Renting Occupation and Use Tax for the rental receipts received during the month of June 1994 on July 20, 1994. The tax shown on the return filed on July 20, 1994 is \$500, but the taxpayer remits no payment of the tax when the return is filed. On August 1, 1994 the taxpayer files an amended return reducing tax liability to \$400 and also remits \$400. Assuming that the \$400 amount shown on the amended return is correct, the taxpayer owes a late payment penalty on \$400, the amount required to be shown on the original return, not the \$500 amount that was shown on the original return.~~

- i) ~~If both a subsection (b)(1) or (b-5)(1) penalty and a subsection (b)(2) or (b-5)(2) penalty are assessed against the same return, the subsection (b)(2) or (b-5)(2) penalty shall be assessed against only the additional tax found to be due. (Section 3-3(e) of the Act) For returns due on and after January 1, 2001, if a subsection (b-10)(1) penalty and a subsection (b-10)(2) penalty are assessed against the same return, the subsection (b-10)(2) penalty shall be assessed against only the additional tax found to be due. (Section 3-3(e-5) of the Act)~~

~~EXAMPLE 1: A withholding tax agent has tax due for the third quarter of 1994. The return is filed timely, with tax withheld of \$20,000, but on time payments only equal \$15,000, leaving a tax balance due of \$5,000. The late payment penalty applicable on November 1, 1994 is \$750. Full payment of tax is made on March 15, 1995. On October 1, 1997, an audit is completed increasing tax to \$30,000. The withholding agent agrees to the audit finding. An additional late payment penalty of \$1,500 ( $\$30,000 - \text{the original } \$20,000 = \$10,000 \text{ tax due times } 15\% = \$1,500 \text{ late payment penalty}$ ) will be assessed if the withholding agent does not pay the additional tax liability within 30 days after notice and demand for payment of the additional liability.~~

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~~EXAMPLE 2: Corporate Taxpayer timely files its IL-1120 for the 2000 tax year on March 15, 2001 showing total tax due of \$30,000. Corporate Taxpayer properly made all estimated tax payments but fails to pay the \$3,000 tax balance due with the return. Corporate Taxpayer pays the \$3,000 tax due on June 15, 2001, later than 90 days but no later than 180 days after the due date. The penalty for late payment of tax due is \$300 (\$3,000 x 10%). In 2003, the Department completes an audit of Corporate Taxpayer's 2000 return increasing the tax due to \$36,000. Corporate Taxpayer agrees to the audit finding but does not pay the additional liability until 45 days after notice and demand is issued. Corporate Taxpayer is assessed an additional late payment penalty of \$1,200 (\$36,000 - \$30,000 original liability = \$6,000 additional tax due x 20% = \$1,200).~~

- j) ~~If the taxpayer has failed to file the return, the Department shall determine the correct tax according to its best judgment and information, which amount shall be prima facie evidence of the correctness of the tax due. (Section 3-3(f) of the Act)~~
- k) ~~The time within which to file a return or pay an amount of tax due without imposition of a penalty does not extend the time within which to file a protest to a notice of tax liability or a notice of deficiency. (Section 3-3(g) of the Act)~~

(Source: Amended at 43 Ill. Reg. 14342, effective November 26, 2019)

**Section 700.305 Penalty for Late Payment of Tax (UPIA Section 3-3(b), (b-5), (b-10), (b-15), and (b-20))**

- a) Late Payment Penalty for Returns Due (without regard to extensions) On or After January 1, 1994 and On or Before January 1, 1998. For returns due on or after January 1, 1994, and on or before January 1, 1998, a penalty of 15% of the tax shown on the return or the tax required to be shown due on the return shall be imposed:
- 1) For failure to pay the tax shown due on the return on or before the due date prescribed for payment of that tax, an amount of underpayment of estimated tax, or an amount that is reported in an amended return other than an amended return timely filed as required by IITA Section 506(b)

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(penalty for late payment or nonpayment of admitted liability). (UPIA Section 3-3(b)(1))

EXAMPLE 1: Individual's income tax return for calendar year 1994 was due (without regard to extensions) by April 15, 1995, and his liability after credits was \$1,500. Individual owed 4 estimated tax installment payments of \$337.50 each, which were due on April 15, June 15 and September 15 of 1994 and January 15 of 1995, but made only the first payment of \$337.50 in a timely manner. Individual filed his return on April 15, and paid the remaining \$1,162.50 liability with the return. Individual owes a penalty of \$151.88 ( $\$337.50 \times 3$  unpaid installments = \$1,012.50 estimated tax that was due, and  $\$1,012.50 \times 15\%$  penalty = \$151.88 late payment penalty) because Individual failed to pay the amounts due for each estimated tax installment.

EXAMPLE 2: Same facts as in Example 1 except that the return was filed on October 1 and the remaining \$1,162.50 tax owed by Individual was paid with the return. In this situation, the return was timely filed by virtue of the automatic extension until October 15 of the due date for filing the return granted by 86 Ill. Adm. Code 100.5020(b), but Individual owes a late payment penalty for failure to pay the unpaid \$1,012.50 in estimated tax installments and the remaining \$150 of his total liability because that amount of tax was not paid on or before the unextended due date of the return. Individual owes a late payment penalty of \$174.38. The penalty for failure to timely pay the unpaid \$1,012.50 in estimated tax installments is the \$151.88 amount computed in Example 1. Failure to timely pay the remaining \$150 that was shown due on the original return date is subject to penalty as prescribed by UPIA Section 3-3(b)(1) of \$22.50 ( $\$1,500 - \$1,350 = \$150 \times 15\% = \$22.50$ ) for failure to pay the total tax by April 15.

- 2) For failure to pay the full amount of any tax required to be shown due on a return and that is not shown (penalty for late payment or nonpayment of additional liability), within 30 days after a Notice of Arithmetic Error, Notice and Demand, or Final Assessment is issued by the Department. In the case of Final Assessment arising following a protest and hearing, the 30-day period shall not begin until all proceedings in court for review of

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the final assessment have terminated or the period for obtaining a review has expired without proceedings for a review having been instituted. In the case of a notice of tax liability that becomes a final assessment without a protest and hearing, the penalty provided in this subsection (a)(2) shall be imposed at the expiration of the period provided for the filing of a protest. (UPIA Section 3-3(b)(2)) For purposes of this subsection (a)(2):

- A) An amount of tax that was paid prior to the due date for payment is a timely payment of tax, even if some or all of that amount was refunded or credited to the taxpayer as a result of an overpayment reported on an original or amended return. (Compare UPIA Section 3-3(b-2) with 3-3(b-20)(2).)
- B) The 30-day period for providing payment in response to Department notices and final assessments is effective for notices and assessments issued on or after January 1, 1996. Payments in response to notices and assessments issued prior to January 1, 1996 were due within 21 days (the effective date of P.A. 89-436).

EXAMPLE 1: Corporation timely filed its income tax return for calendar year 1994 by the March 15, 1995 unextended due date for calendar year filers. Corporation properly made all estimated tax payments and paid the remainder of its tax liability with the return. In 1997, the Department completed an audit of Corporation's 1994 return and issued a notice of deficiency for an additional liability of \$5,000. Corporation protested the notice of deficiency, which was ultimately upheld by the courts. Corporation is subject to the late payment penalty of \$750 (15% of \$5,000) only if it does not pay the additional liability within 30 days after the Department has issued a Notice and Demand for Payment.

EXAMPLE 2: The facts are the same as in Example 1, except that the additional liability of \$5,000 assessed in 1997 is the result of a federal change. If Corporation timely reported the federal change liability, it is not subject to late payment penalty under subsection (a)(1) and is subject to the late payment penalty under subsection (a)(2) only if it

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does not pay the additional liability before the Department has issued a Notice and Demand for Payment of the liability and 30 days have passed. If Corporation files its report of the federal change liability after the due date, it is immediately subject to late payment penalty under subsection (a)(1).

EXAMPLE 3: Corporation timely filed its income tax return for calendar year 1993 by the March 15, 1994 unextended due date. Corporation properly made all estimated tax payments and paid the remainder of its tax liability with the return. In 1995, the Department completed an audit of Corporation's 1994 return and issued a Notice of Deficiency for an additional liability of \$5,000. Corporation agreed to the additional liability and the Department issued a Notice and Demand for the additional liability. If the Notice and Demand was issued prior to January 1, 1996, Corporation is subject to the late payment penalty under subsection (a)(2) only if it does not pay the additional liability within 21 days. If the Notice and Demand was issued on or after January 1, 1996, Corporation is subject to the late payment penalty under subsection (a)(2) only if it does not pay the additional liability within 30 days.

- b) Late Payment Penalty for Returns Due (without regard to extensions) On or After January 1, 1998 and On or Before December 31, 2000. For returns due on and after January 1, 1998 and on or before December 31, 2000, a penalty of 20% of the tax shown on the return or the tax required to be shown due on the return shall be imposed:
- 1) For failure to pay the tax shown due on the return on or before the due date prescribed for payment of that tax, an amount of the underpayment of estimated tax, or an amount that is reported in an amended return other than an amended return timely filed as a requirement of IITA Section 506(b) (penalty for late payment or nonpayment of admitted liability). (UPIA Section 3-3(b-5)(1))

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EXAMPLE 1: Individual's income tax return for calendar 1997 was due (without regard to extensions) by April 15, 1998, and his liability after credits was \$1,500. Individual owed 4 estimated tax installment payments of \$337.50 each, which were due on April 15, June 15 and September 15 of 1997 and January 15 of 1998, but made only the first payment of \$337.50 in a timely manner. Individual filed his return on April 15 and paid the remaining \$1,162.50 liability with the return. Individual owes a penalty of \$202.50 ( $\$337.50 \times 3$  unpaid installments = \$1,012.50 estimated tax that was due, and  $\$1,012.50 \times 20\%$  penalty = \$202.50 late payment penalty) because Individual failed to pay the amounts due for each estimated tax installment.

EXAMPLE 2: Same facts as in Example 1 except that the return was filed on October 1 and the remaining \$1,162.50 tax owed by Individual was paid with the return. In this situation, the return was timely filed by virtue of the automatic extension until October 15 of the due date for filing the return granted by 86 Ill. Adm. Code 100.5020(b), but Individual owes a late payment penalty for failure to pay the unpaid \$1,012.50 in estimated tax installments and the remaining \$150 of his total liability because that amount of tax was not paid on or before the unextended due date of the return. Individual owes a late payment penalty of \$232.50. The penalty for failure to timely pay the unpaid \$1,012.50 in estimated tax installments is the \$202.50 amount computed in Example 1. Failure to timely pay the remaining \$150 that was shown due on the original return date is subject to penalty as prescribed by UPIA Section 3-3(b)(1) of \$30.00 ( $\$1,500 - \$1,350 = \$150 \times 20\% = \$30.00$ ) for failure to pay the total tax by April 15.

- 2) For failure to pay the full amount of the tax required to be shown due on a return and that is not shown (penalty for late payment or nonpayment of additional liability) within 30 days after a Notice of Arithmetic Error, Notice and Demand, or Final Assessment is issued by the Department. In the case of a Final Assessment arising following a protest and hearing, the 30-day period shall not begin until all proceedings in court for review of the final assessment have terminated or the period for obtaining a review has expired without a proceeding having been instituted. In the case of a Notice of Tax Liability that becomes a Final Assessment without a protest

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*and hearing, the penalty provided in this subsection (b) shall be imposed at the expiration of the period provided for the filing of a protest. (UPIA Section 3-3(b-5)(2))*

EXAMPLE 1: Corporation timely filed its income tax return for calendar year 1997 by the March 15, 1998 unextended due date for calendar year filers. Corporation properly made all estimated tax payments and paid the remainder of its tax liability with the return. In 2000, the Department completed an audit of Corporation's 1997 return and issued a Notice of Deficiency for an additional liability of \$5,000. Corporation protested the Notice of Deficiency, which was ultimately upheld by the courts. Corporation is subject to the late payment penalty of \$1,000 (20% of \$5,000) only if it does not pay the additional liability within 30 days after the Department has issued a Notice and Demand for Payment.

EXAMPLE 2: The facts are the same as in Example 1, except that the additional liability of \$5,000 assessed for 1997 was the result of a federal change. If Corporation timely reported the federal change liability, it is not subject to late payment penalty under subsection (b)(1) and is subject to the late payment penalty under subsection (b)(2) only if it does not pay the additional liability before the Department has issued a Notice and Demand for Payment of the liability and 30 days have passed. If Corporation filed its report of the federal change liability after the due date, it is immediately subject to late payment penalty under subsection (b)(1).

- 3) For purposes of this subsection (b), an amount of tax that was paid prior to the due date for payment is a timely payment of tax, even if some or all of that amount was refunded or credited to the taxpayer as a result of an overpayment reported on an original or amended return. (Compare UPIA Section 3-3(b-5)(2) with 3-3(b-20)(2).)
- c) Late Payment Penalty for Returns Due (without regard to extensions) On or After January 1, 2001 and On or Before December 31, 2003. For returns due on and after January 1, 2001 and on or before December 31, 2003, a penalty is imposed:

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- 1) For failure to pay the tax shown due on a return on or before the due date prescribed for payment of that tax, an amount of underpayment of estimated tax, or an amount that is reported in an amended return other than an amended return timely filed as required by IITA Section 506(b) (penalty for late payment or nonpayment of admitted liability).
- A) The amount of the penalty imposed shall be:
- i) 2% of any amount that is paid no later than 30 days after the due date;
- ii) 5% of any amount that is paid later than 30 days after the due date and not later than 90 days after the due date;
- iii) 10% of any amount that is paid later than 90 days after the due date and not later than 180 days after the due date; and
- iv) 15% of any amount that is paid later than 180 days after the due date.
- B) Effective July 25, 2002, if Notice and Demand is made for the payment of any amount of tax due and if the amount due is paid within 30 days after the date of the Notice and Demand, then the penalty for late payment or nonpayment of admitted liability under subsection (c)(1)(A) on the amount so paid shall not accrue for the period after the date of the Notice and Demand (UPIA Section 3-3(b-10)(1)).

EXAMPLE 1: Individual's income tax return for calendar year 2000 was due (without regard to extensions) by April 15, 2001, and his liability after credits was \$1,500. Individual owed 4 estimated tax installment payments of \$337.50 each, which were due on April 15, June 15 and September 15 of 2000 and January 15 of 2001, but made only the first payment of \$337.50 in a timely manner. Individual filed his return on April 15, 2001 and paid the remaining \$1,162.50 liability with the return. Individual owes a penalty for late payment of estimated tax of

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\$118.14. Because all payments, other than the first estimated tax installment, were made on April 15, the second and third installment payments were made more than 180 days late, and the fourth installment payment was made 90 days late. The late payment of estimated tax penalty is calculated as follows: second installment penalty ( $\$337.50 \times 15\% = \$50.63$ ) + third installment penalty ( $\$337.50 \times 15\% = \$50.63$ ) + fourth installment penalty ( $\$337.50 \times 5\% = \$16.88$ ) = \$118.14 late payment penalty for failure to pay estimated taxes.

EXAMPLE 2: Same facts as in Example 1 except that the return was filed on October 1 and the remaining \$1,162.50 tax owed by Individual was paid with the return. In this situation, the return was timely filed by virtue of the automatic extension, until October 15, 2001, of the due date for filing the return granted by 86 Ill. Adm. Code 100.5020(b), but Individual owes a late payment penalty for failure to pay the unpaid \$1,012.50 in estimated tax installments and the remaining \$150 of his total liability because that amount of tax was not paid on or before the unextended due date of the return. Individual owes penalties for late payment of estimated tax and late payment of tax due with the return totaling \$166.89. Because all the estimated tax installments, other than the first, were made on October 1, the second, third and fourth installment payments were made more than 180 days late. The remaining \$150 was due on April 15 and was paid more than 90 but not more than 180 days late. The late payment of estimated tax penalty is calculated as follows for each of the 3 late estimated tax installments:  $\$337.50 \times 15\% = \$50.63$ , times 3 = \$151.89 late payment penalty for failure to pay estimated taxes. The penalty for late payment of the tax due with the return is calculated as follows:  $\$1,500 - \$1,350$  (the amount of estimated taxes due) = \$150 tax due with the return and paid late.  $\$150 \times 10\% = \$15$  late payment penalty for failure to pay tax due by April 15.

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EXAMPLE 3: Taxpayer's Form ST-1 for May 2001 was due on June 20, 2001. Taxpayer's quarter-monthly accelerated tax payments of the Retailers' Occupation Tax were due on May 7, 15, 22 and 31. The amount of each accelerated payment due was \$4,500. Taxpayer did not make any accelerated payments and instead paid the total tax due with its timely filed return on June 20. Taxpayer is subject to penalty for failing to make timely accelerated tax payments. The May 7 and May 15 payments were more than 30 days but less than 90 days late, and are therefore subject to the 5% penalty. The May 22 and May 31 payments were no more than 30 days late, and are therefore subject to the 2% penalty. The late payment penalty is \$630: the \$4,500 due on May 7 x 5%, or \$225; the \$4,500 due on May 15 x 5%, or \$225; the \$4,500 due on May 22 x 2%, or \$90; plus the \$4,500 due on May 31 x 2%, or \$90. If the amount of each accelerated payment due is subsequently increased or decreased as the result of an audit or amendment to the return, the penalty under this subsection (c)(1)(B) is computed using the corrected amount.

EXAMPLE 4: Taxpayer's Form ST-1 for July, 2002, due on August 20, 2002, was timely filed but no payment was made. The Department issued Taxpayer a Notice and Demand dated September 15, 2002. Taxpayer paid the tax due on October 9, 2002. The penalty is 2% of the tax shown due on the return. Although payment was made later than 30 days after the due date, a Notice and Demand was issued on September 15, and the penalty does not increase for the period after the date of a Notice and Demand when the tax is paid within 30 days after the Notice and Demand is issued.

- 2) *For failure to pay the full amount of any tax required to be shown due on a return and that is not shown (penalty for late payment or nonpayment of additional liability) within 30 days after a Notice of Arithmetic Error, Notice and Demand, or Final Assessment is issued by the Department. In the case of a Final Assessment arising following a protest and hearing, the*

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30-day period shall not begin until all proceedings in court for review of the Final Assessment have terminated or the period for obtaining a review has expired without proceedings for a review having been instituted. The amount of penalty imposed is 20% of any amount that is not paid within the 30-day period. In the case of a notice of tax liability that becomes a Final Assessment without a protest and hearing, the penalty imposed under UPIA Section 3-3(b-10)(2) shall be imposed at the expiration of the period provided for the filing of a protest. (UPIA Section 3-3(b-10)(2))

EXAMPLE 1: Corporation timely filed its Form IL-1120 for calendar year 2000 by the March 15, 2001 unextended due date. Corporation properly made all estimated tax payments and paid the remainder of its reported tax liability with the return. In 2003, the Department completed an audit of Corporation's 2000 return and issued a notice of deficiency for an additional liability of \$5,000. Corporation protested the Notice of Deficiency, which was ultimately upheld by the courts. Corporation is subject to the late payment penalty of \$1,000 (20% of \$5,000) only if it does not pay the additional liability within 30 days after the Department has issued a Notice and Demand for Payment.

EXAMPLE 2: The facts are the same as in Example 1, except that the additional liability of \$5,000 assessed for 2000 is the result of a federal change. If Corporation timely reported the federal change liability, it is not subject to late payment penalty under subsection (c)(1) and is subject to the late payment penalty under subsection (c)(2) only if it does not pay the additional liability before the Department has issued a Notice and Demand for Payment of the liability and 30 days have passed. If Corporation files its report of the federal change liability after the deadline, it is immediately subject to late payment penalty under subsection (c)(1).

- 3) For purposes of this subsection (c), an amount of tax that was paid prior to the due date for payment is a timely payment of tax, even if some or all of that amount was refunded or credited to the taxpayer as a result of an overpayment reported on an original or amended return. (Compare UPIA Section 3-3(b-10)(2) with 3-3(b-20)(2).)

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- d) Late Payment Penalty for Returns Due (without regard to extensions) On or After January 1, 2004 and On or Before December 31, 2004. For returns due on or after January 1, 2004, and on or before December 31, 2004, UPIA Section 3-3(b-15) imposes a penalty for failure to pay the tax shown due on a return, or the tax required to be shown due on a return, including tax shown on an amended return, on or before the due date prescribed for payment of the tax, or imposes a penalty for an amount of underpayment of estimated tax.
- 1) The amount of the penalty imposed is determined according to the following schedule:
    - A) 2% of the amount paid not later than 30 days after the due date prescribed for payment of the tax;
    - B) 10% of the amount paid later than 30 days after the due date, but not later than 90 days after the due date prescribed for payment of the tax;
    - C) 15% of the amount paid later than 90 days after the due date, but not later than 180 days after the due date prescribed for payment of the tax; and
    - D) 20% of any amount that is paid later than 180 days after the due date prescribed for payment of the tax.
  - 2) Notwithstanding subsection (d)(1), if an amount of tax is paid no later than 30 days after the date of a Notice and Demand issued with respect to that tax, the penalty imposed under this subsection (d) with respect to the amount so paid shall not increase over the penalty applicable as of the date of the Notice and Demand. (UPIA Section 3-3(b-15))
  - 3) For purposes of this subsection (d), an amount of tax that was paid prior to the due date for payment is a timely payment of tax, even if some or all of that amount was refunded or credited to the taxpayer as a result of an overpayment reported on an original or amended return. (Compare UPIA Section 3-3(b-15)(2) with 3-3(b-20)(2).)
  - 4) No penalty is imposed under this subsection (d) for failure to timely pay the tax shown due on an amended federal change return timely filed

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pursuant to IITA Section 506(b), but only to the extent the failure relates to the federal change reported under that Section.

- 5) The provisions of this subsection (d) may be illustrated by the following examples:

EXAMPLE 1: Individual's income tax return for calendar year 2003 was due (without regard to extensions) by April 15, 2004, and the liability after credits was \$1,500. Individual owed 4 estimated tax installment payments of \$337.50 each, which were due on April 15, June 15 and September 15 of 2003 and January 15 of 2004, but made only the first payment of \$337.50 in a timely manner. Individual filed his return on April 15, 2004, and paid the remaining \$1,162.50 liability with the return. Individual owes a penalty for late payment of estimated tax of \$185.63. Because all payments other than the first estimated tax installment were made on April 15, the second and third installment payments were made more than 180 days late, and the fourth installment payment was made 91 days late. The late payment of estimated tax penalty is calculated as follows: second installment penalty ( $\$337.50 \times 20\% = \$67.50$ ) + third installment penalty ( $\$337.50 \times 20\% = \$67.50$ ) + fourth quarter penalty ( $\$337.50 \times 15\% = \$50.63$ ) = \$185.63 late payment penalty for failure to pay estimated taxes.

EXAMPLE 2: Same facts as in Example 1 except that the return was filed on October 1, 2004, and the remaining \$1,162.50 tax owed by Individual was paid with the return. In this situation, the return was timely filed, by virtue of the automatic extension until October 15, 2001, on the due date for filing the return granted by 86 Ill. Adm. Code 100.5020(b), but Individual owes a late payment penalty for failure to pay the unpaid \$1,012.50 in estimated tax installments and the remaining \$150 of his total liability because that amount of tax was not paid on or before the unextended due date of the return. The penalty owed by Individual for late payment of estimated tax and late payment of tax due with the return is \$225. Because all the estimated tax installments, other than the first, were made on October 1, the second, third and fourth installment payments were made more than 180 days late. The remaining \$150 was due on April 15 and was paid more than 90

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but not more than 180 days late. The late payment of estimated tax penalty is calculated as follows for each of the 3 late estimated tax installments:  $\$337.50 \times 20\% = \$67.50$ , times 3 =  $\$202.50$  late payment penalty for failure to pay estimated taxes. The penalty for late payment of the tax due with the return is calculated as follows:  $\$1,500 - \$1,350$  (the amount of estimated taxes due) =  $\$150$  tax due with the return and paid late.  $\$150 \times 15\% = \$22.50$  late payment penalty for failure to pay tax due by April 15.

EXAMPLE 3: Taxpayer's Form ST-1 for May 2004 was due June 20, 2004. Taxpayer's quarter-monthly accelerated tax payments of the Retailers' Occupation Tax were due on May 7, 15, 22 and 31. The amount of each accelerated payment due was  $\$4,500$ . Taxpayer did not make any accelerated payments and instead paid the total tax due with its timely filed return on June 20. Taxpayer is subject to penalty for failing to make timely accelerated tax payments. The May 7 and May 15 payments were made later than 30 days after the due date, but not later than 90 days after the due date. The May 22 and May 31 payments were made not later than 30 days after the due date. The late payment penalty is  $\$1,080$ : the  $\$4,500$  due on May 7 times 10%, or  $\$450$ ; the  $\$4,500$  due on May 15 times 10%, or  $\$450$ ; the  $\$4,500$  due on May 22 times 2%, or  $\$90$ ; plus the  $\$4,500$  due on May 31 times 2%, or  $\$90$ . If the amount of each accelerated payment due is subsequently increased or decreased as the result of an audit or amendment to the return, the penalty under this subsection (d) is computed using the corrected amount.

EXAMPLE 4: Taxpayer's Form ST-1 for July 2004, due on August 20, 2004, was timely filed. No accelerated payments were due and none was made, and no payment was made with the return. The Department issued Taxpayer a Notice and Demand dated September 15, 2004. Taxpayer paid the tax due on October 9, 2004. The penalty is 2% of the tax shown due on the return. Although payment was made later than 30 days after the due date, a Notice and Demand was issued on September 15, and the penalty does not increase for the period after the date of a Notice and Demand when the tax is paid within 30 days after the Notice and Demand is issued.

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- e) Late Payment Penalty for Returns Due (without regard to extensions) On or After January 1, 2005. For returns due on or after January 1, 2005, UPIA Section 3-3(b-20) imposes underpayment penalties as follows:
- 1) Failure to Make Accelerated Tax Payments. UPIA Section 3-3(b-20)(1) imposes a penalty for failure to pay, prior to the due date for payment, any amount of tax the payment of which is required to be made prior to the filing of a return or without a return (penalty for late payment or nonpayment of estimated or accelerated tax). The penalty is imposed at the rate of:
- A) 2% of any amount that is paid no later than 30 days after the due date; and
- B) 10% of any amount that is paid later than 30 days after the due date. (UPIA Section 3-3(b-20)(1))
- 2) Failure to Pay Tax. UPIA Section 3-3(b-20)(2) imposes a penalty for failure to pay the tax shown due or required to be shown due on a return on or before the due date prescribed for payment of that tax or an amount that is reported in an amended return (penalty for late payment or nonpayment of tax). The penalty is imposed at the rate of:
- A) 2% of any amount that is paid no later than 30 days after the due date;
- B) 10% of any amount that is paid later than 30 days after the due date and prior to the date the Department has initiated an audit or investigation of the taxpayer; and
- C) 20% of any amount that is paid after the date the Department has initiated an audit or investigation of the taxpayer. (UPIA Section 3(b-20)(2))
- i) The rate imposed under this subsection (e)(2)(C) shall be reduced to 15% if the entire amount due on an amended return (following completion of an occupation, use or excise tax audit) or a form for waiver of restrictions on

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assessment (following completion of an income tax audit) is paid not later than 30 days after the Department has provided the taxpayer with the amended return or form for waiver of restrictions. (UPIA Section 3-3(b-20)(2)) For purposes of this subsection (e)(2)(C), the "entire amount due" on an amended return or waiver of restrictions on assessment means the tax, including any reduction in vendor's discount resulting from late payment of taxes, but does not include any interest, penalty or excess sales tax collected from customers and not refunded.

ii) The reduction of the rate to 15% is allowed for occupation, use or excise taxes only if, in addition to paying the tax, the taxpayer signs and returns the amended return not later than 30 days after it has been provided to the taxpayer by the Department.

iii) The reduction of the rate to 15% shall be rescinded if the taxpayer makes any claim for refund or credit of the tax liability, penalties or interest determined to be due upon audit, except in the case of a claim based on a carryover of a loss or credit, the availability of which was not determined in the audit. (UPIA Section 3-3(b-20)(2)) The rescission of the 15% rate applies only to the amount of the refund or credit that is claimed and that is finally disallowed.

3) Special Provisions. For purposes of imposing the penalty under subsection (e)(2):

A) Any overpayment reported on an original return that has been allowed as a refund or credit to the taxpayer shall be deemed to have not been paid on or before the due date for payment. (UPIA Section 3-3(b-20)(2)) However, an amount of tax that was paid prior to the due date for payment is a timely payment of tax, even if some or all of that amount was refunded or credited to the taxpayer as a result of an overpayment reported on an amended return.

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- B) Federal Change Returns Filed Under IITA Section 506(b)
- i) The penalty under subsection (e)(2) is not imposed on an amount shown due on an amended federal change return timely filed pursuant to IITA Section 506(b), but only to the extent that amount results from the federal change being timely reported.
  - ii) The filing of a claim for refund pursuant to IITA Section 506(b) does not cause the reduction of the penalty rate to 15% to be rescinded pursuant to subsection (e)(2)(C)(iii).
- C) Protest Act Payments. Any amount paid under protest pursuant to the provisions of the State Officers and Employees Money Disposition Act (Protest Act) [30 ILCS 230] shall be deemed to have been paid after the Department has initiated an audit and more than 30 days after the Department has provided the taxpayer with an amended return (following completion of an occupation, use or excise tax audit) or a form for waiver of restrictions on assessment (following completion of an income tax audit). (UPIA Section 3-3(b-20)(2)) Subsection (e)(2)(C) applies only to payments that are not timely. A payment made under the Protest Act on or before the date the payment was due is not deemed to have been paid late.
- D) Initiation of an Audit or Investigation. For purposes of subsection (e)(2)(d):
- i) An "audit" refers to actions taken by the Audit Bureau of the Department.
  - ii) An "investigation" refers to actions taken by the Bureau of Criminal Investigation of the Department.
  - iii) An audit or investigation is initiated on the date a representative of the Department first contacts the taxpayer, whether by telephone, mail, email or otherwise, informing the taxpayer that the Department is reviewing the

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taxpayer's return, failure to file a return, or identified transactions for the period at issue.

- iv) An audit or investigation is not initiated by a communication regarding a mathematical error or suspected mathematical error on the taxpayer's original or amended return, or regarding the failure of the taxpayer to sign or include all necessary attachments to an original or amended return that has been filed.
  - v) The Department has the burden of providing evidence that an audit or investigation of a tax period was initiated prior to the date a specific payment of tax for that period was made.
  - vi) The initiation of an income tax audit or investigation of a partnership, Subchapter S corporation, trust or estate also serves as the initiation of an income tax audit or investigation of the partners, shareholders or beneficiaries, but only with respect to any income tax liability arising from those entities' interest in the partnership, Subchapter S corporation, trust or estate.
- E) Provision of a Waiver of Restrictions on Assessment or Amended Return After Completion of an Audit or Investigation. For purposes of subsection (e)(2)(E):
- i) A waiver of restrictions on assessment or an amended return is presented to the taxpayer when mailed or, if delivered by another means, when received by the taxpayer or by an authorized representative of the taxpayer.
  - ii) If a taxpayer is entitled to request review of an audit by the Informal Conference Board, the audit is not completed until a waiver of restrictions on assessment or an amended return is presented to the taxpayer on a date that is after the date on which:

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- : the Informal Conference Board issues its final Action Decision to the taxpayer: or
- : if the taxpayer fails to request review, the taxpayer's right to request review by the Informal Conference Board expires.

F) IITA Section 704A(c)(1), (2) and (3) provide that payments of income taxes withheld by an employer from employee compensation are due before the return reporting the withholding is due. However, IITA Section 704A(c)(4) provides that payment of any tax that was withheld or required to be withheld during the period for which the return is due, and that had not previously been paid to the Department, was due on the due date of the return. Accordingly, any amount of withholding that is not paid by the due date of the return is subject to penalty under subsection (e)(2).

- 4) The penalty imposed under subsection (e)(2) shall be deemed assessed at the time the tax upon which the penalty is computed is assessed, except that, if the reduction of the penalty rate to 15% is rescinded under subsection (e)(2)(C)(iii) because a claim for refund or credit has been filed, the increase in penalty shall be deemed assessed at the time the claim for refund or credit is filed. (UPIA Section 3-3(b-20)(3))
- 5) The provisions of this subsection (e) may be illustrated by the following additional examples.

EXAMPLE 1: Individual's income tax return for calendar year 2004 was due (without regard to extensions) by April 15, 2005, and the liability after credits was \$1,500. Individual owed 4 estimated tax installment payments of \$337.50 each, which were due on April 15, June 15 and September 15 of 2004 and January 15 of 2005, but made only the first payment of \$337.50 in a timely manner. Individual filed his return on April 15, 2005 and paid the remaining \$1,162.50 liability with the return. Individual owes penalties for late payment of estimated tax and late payment of tax due with the return of \$101.25. Because all payments, other than the first estimated tax installment, were made on April 15, the second, third and fourth installment payments were made more

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than 30 days late. The late payment of estimated tax penalty is calculated as follows: 3 late installments each incur a penalty of  $\$337.50 \times 10\% = \$33.75$ , times 3 =  $\$101.25$  late payment penalty for failure to pay estimated taxes.

EXAMPLE 2: Same facts as in Example 1 except that the return was filed on October 1, 2005, and the remaining  $\$1,162.50$  tax owed by Individual was paid with the return. In this situation, the return was timely filed, by virtue of the automatic extension, until October 15, 2005, of the due date for filing the return granted by 86 Ill. Adm. Code 100.5020(b), but Individual owes a late payment penalty for failure to pay the unpaid  $\$1,012.50$  in estimated tax installments and the remaining  $\$150$  of his total liability because that amount of tax was not paid on or before the unextended due date of the return. Individual owes the same  $\$101.25$  penalty for late payment of estimated tax, and the late payment of tax due with the return is  $\$15$ . The penalty for late payment of the tax due with the return is calculated as follows:  $\$1,500 - \$1,350$  (the amount of estimated taxes due) =  $\$150$  tax due with the return and paid late. The payment was made more than 30 days late, but before the Department had initiated an audit or investigation, so the penalty is  $\$150 \times 10\% = \$15$  for failure to pay tax due by April 15.

EXAMPLE 3: Taxpayer, a corporation, is a calendar year taxpayer. For its 2004 taxable year, Taxpayer made timely installment payments of estimated tax of  $\$50,000$  each quarter. On March 15, 2005, Taxpayer filed its calendar 2004 Illinois income tax return, showing total tax imposed of  $\$180,000$  (net of Article 2 credits). Taxpayer's return requested that the  $\$20,000$  overpayment be applied against its estimated tax payment obligation for 2005. After an audit by the Department in 2006, it was determined that the taxpayer owed additional tax of  $\$120,000$ , or a total of  $\$300,000$ . Taxpayer is not subject to penalty under this subsection (e) for failure to make timely payment of estimated taxes because each of its timely payments exceeded 25% of the  $\$180,000$  tax shown due on its return. Taxpayer is subject to penalty under this subsection (e) for failure to timely pay the tax required to be shown due on the return. The amount that was paid late was the  $\$300,000$  owed minus the  $\$180,000$  liability shown on the original return, or

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\$120,000. The \$20,000 overpayment shown on the original return was not timely paid because it was credited against the taxpayer's 2005 estimated tax payment obligation. Because the tax was paid after the initiation of an audit, the penalty is \$24,000 (\$120,000 times 20%).

EXAMPLE 4: The facts are the same as in Example 3 except that the additional \$120,000 in tax due was paid within 30 days after the Department issued to Taxpayer, after completion of the audit, a Form IL-870, Waiver of Restrictions, showing the \$120,000 in additional tax due. The penalty is \$18,000 (\$120,000 times 15%).

EXAMPLE 5: The facts are the same as in Example 3 except that the additional \$120,000 in tax due was reported by Taxpayer on an amended return that was timely filed pursuant to IITA Section 506(b). Taxpayer is not subject to penalty for failure to timely pay the additional tax because the tax was reported on a timely-filed federal change return.

EXAMPLE 6: Taxpayer's Form ST-1 for May 2005 is due June 20, 2005. Taxpayer's quarter-monthly accelerated tax payments of the Retailers' Occupation Tax were due on May 7, 15, 22 and 31. The amount of each accelerated payment due was \$4,500. Taxpayer did not make any accelerated payments and instead paid the total tax due upon the timely filing of its return on June 20. Taxpayer is subject to penalty under subsection (e)(1) for failure to pay accelerated payments of the tax shown on the return on or before the due dates prescribed for payment. The May 7 and May 15 payments were made later than 30 days after the due date. The May 22 and May 31 payments were made not later than 30 days after the due date. Taxpayer's late payment penalty is therefore \$1,080: the \$4,500 due on May 7 times 10%, or \$450; the \$4,500 due on May 15 times 10%, or \$450; the \$4,500 due on May 22 times 2%, or \$90; plus the \$4,500 due on May 31 times 2%, or \$90. If the amount of each accelerated payment due is subsequently increased or decreased as the result of an audit or amendment to the return, the penalty under this subsection (e)(5) is computed using the corrected amount.

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EXAMPLE 7: Taxpayer's Form ST-1 for July 2005, due on August 20, 2005, was timely filed. No accelerated payments were required or made, and no payment was made with the return. The Department issued Taxpayer a Notice and Demand dated September 16, 2005, Taxpayer paid the tax due on October 9, 2005. The penalty is 10% of the tax shown due on the return because the payment was made more than 30 days after the due date for payment on the Notice and Demand. Unlike the penalty imposed under subsection (d), the penalty imposed under this subsection (e) may increase after a Notice and Demand has been issued, even if the taxpayer pays the entire amount due before the date for payment indicated in the Notice and Demand. The Notice and Demand is not the initiation of an audit or an investigation, so the penalty under subsection (e)(2) does not apply.

EXAMPLE 8: Upon completion of an audit, the Department determines that Taxpayer has underpaid its 2005 income tax liability by \$10,000. At the request of Taxpayer, the Department presents Taxpayer with a Form IL-870, Waiver of Restrictions, showing an underpayment of \$8,000 and a Notice of Deficiency for the remaining \$2,000. Taxpayer immediately signs the Form IL-870 and pays the \$8,000 in tax shown due on that form. Taxpayer files a protest of the Notice of Deficiency. After an administrative hearing, the Department determines that the \$2,000 shown on the Notice of Deficiency was not due. The 15% penalty rate applies to the \$8,000 deficiency conceded by Taxpayer, because it paid that entire deficiency within 30 days after receiving the Form IL-870.

EXAMPLE 9: If, in Example 8, it is ultimately determined that Taxpayer owed \$500 of the \$2,000 deficiency it protested, the 20% rate will apply only to the \$500 liability that was not paid within 30 days after the taxpayer received the Form IL-870.

EXAMPLE 10: After the audit in Example 8, the Department presents Taxpayer with a Form IL-870 showing the entire underpayment of \$10,000. Taxpayer immediately signs the Form IL-870 and pays the tax due. Taxpayer subsequently files a refund claim for \$2,000, of which \$1,500 is allowed. The 15% penalty

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rate will be rescinded only with respect to the \$500 refund claim that is disallowed, and not to the \$8,000 for which no refund was claimed or to the \$1,500 for which the refund claim was allowed.

- f) Unless a specific provision of the UPIA or a tax Act provides otherwise:
- 1) For purposes of the late payment penalties imposed under this Section, the basis of the penalty shall be the tax shown or required to be shown on the return, whichever is applicable, reduced by any part of the tax that is paid on time and by any credit that was properly allowable on the date the return was due. (UPIA Section 3-3(c))
  - 2) For purposes of this Section, the maximum amount of Manufacturer's Purchase Credit that is allowable on the date a return is due for a tax period is the amount actually claimed on a timely-filed return for that tax period.
  - 3) If a penalty is imposed on the basis of the tax required to be shown on a return, the penalty shall be applied to the tax required to be shown even if that amount is less than the tax shown on the return. (UPIA Section 3-3(d))

EXAMPLE 1: A renter of automobiles for periods of one year or less has tax due under the Automobile Renting Occupation and Use Tax for the rental receipts received during the month of June 1994 on July 20, 1994. The tax shown on the return filed on July 20, 1994 is \$500, but the taxpayer remits no payment of the tax when the return is filed. On August 1, 1994 the taxpayer files an amended return reducing its tax liability to \$400 and also remits \$400. Assuming that the \$400 amount shown on the amended return is correct, the taxpayer owes a late payment penalty on the \$400, the amount required to be shown on the original return, not the \$500 amount that was shown on the original return.

EXAMPLE 2: The penalty for failure to make timely payments of estimated tax under IITA Section 804 is imposed on the required installment, which is defined in IITA Section 804(c)(1)(A) as 25% of the required annual payment, which is defined in IITA Section 804(c)(1)(B)(i) as 90% of the tax shown on the return for the

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taxable year, or if no return is filed, 90% of the tax for that year. Accordingly, if a return is filed for a taxable year, and the alternative computations of the required annual payment under IITA Section 804(c)(1)(B)(ii) and (iii) do not apply, any penalty for failure to make timely payments of estimated taxes will be computed on the basis of the tax shown on the original return, regardless of whether the tax required to be shown is greater or less than the tax shown.

- g) If both a penalty under subsection (a)(1) or (b)(1) and a penalty under subsection (a)(2) or (b)(2) are assessed against the same return, the penalty imposed under subsection (a)(2) or (b)(2) shall be assessed against only the additional tax found to be due. (UPIA Section 3-3(e)) If both a penalty under subsection (c)(1) and a penalty under subsection (c)(2) are assessed against the same return, the penalty under subsection (c)(2) shall be assessed against only the additional tax found to be due. (UPIA Section 3-3(e-5))

EXAMPLE 1: An employer has withholding tax due for the third quarter of 1994. The return is filed timely, reporting tax withheld of \$2,000, but timely payments total only \$1,500, leaving a tax balance due of \$500. The late payment penalty under subsection (a)(1) equal to \$75 (15% of the \$500 underpayment) is assessed. The employer does not pay the additional liability within 30 days after Notice and Demand for Payment. Although the total tax that was not paid on time was \$1,200, the penalty under subsection (a)(2) is imposed only on the \$700 additional tax due, and not the \$500 underpayment on which the penalty under subsection (a)(1) was imposed.

EXAMPLE 2: Corporation timely files its income tax return for calendar year 2000 on March 15, 2001 showing total tax due of \$30,000. Corporation timely made \$27,000 in estimated tax payments, but failed to pay the \$3,000 tax balance due with the return. Corporation pays the \$3,000 tax due on June 15, 2001, later than 90 days but not later than 180 days after the due date. The penalty for late payment of tax due under subsection (c)(1) is \$300 (\$3,000 x 10%). In 2003, the Department completes an audit of Corporation's 2000 return, increasing the tax due to \$36,000. Corporation agrees to the audit finding but does not pay the additional liability until 45 days after Notice and Demand is issued.

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Corporation is assessed an additional late payment penalty under subsection (c)(2) of \$1,200 (the \$6,000 in additional tax due x 20%).

- h) If the taxpayer has failed to file a return, and the Department determines the correct amount of tax according to its best judgment and information, that amount shall be prima facie evidence of the correctness of the tax due. (UPIA Section 3-3(f))
- i) The time within which to file a return or pay an amount of tax due without imposition of a penalty does not extend the time within which to file a protest to a Notice of Tax Liability or a Notice of Deficiency. (UPIA Section 3-3(g))

(Source: Added at 43 Ill. Reg. 14342, effective November 26, 2019)

**Section 700.310 Penalty for Failure to File Correct Information Returns (UPIA Section 3-4)**

- a) *An information return is any return required by a tax Act to be filed with the Department that does not, by law, require the payment of a tax liability. (UPIA Section 3-4(c) ~~of the Act~~)* Examples of information returns are the information returns that the Department may require of retailers pursuant to ROTA Section 3 of the Retailers' Occupation Tax Act. An information return is not a tax return with a zero balance. For example, the filing of a Form ST-1 by a retailer who had no gross receipts for the period covered by the filing of the return is not an information return. Similarly, the filing of Form IL-941, IL-W-3 or RC-6 is not an information return as defined in UPIA Section 3-4(c) ~~of the Act~~.
- b) *Unless otherwise provided in a tax Act, in the case of a failure, described in subsection (c) ~~of this Section~~, by any person with respect to an information return, that person shall pay a penalty of \$5 for each return or statement with respect to which the failure occurs, but the total amount imposed on that person for all ~~such~~ failures under this Section during any calendar year shall not exceed \$25,000. (UPIA Section 3-4(a)(1) ~~of the Act~~)*
- c) *The following failures are subject to the \$5 penalty:*
- 1) *Any failure to file an information return with the Department on or before the due date for filing; required filing date, or*

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- 2) *Any failure to include all of the information required to be shown on the return or the inclusion of incorrect information. (UPIA Section 3-4(a)(2) of the Act)*
- d) *If any failure described in subsection (c) is corrected within 60 days after the due date for filing required filing date:*
- 1) *The penalty imposed by the Act, and quoted in subsection (c) ~~above~~, shall be reduced to \$2.50 for each failure by 50%; and*
- 2) *The maximum amount of penalty total amount imposed on the person for ~~all such~~ failures under this Section during any calendar year ~~that which~~ are so corrected is \$12,500 shall not exceed 50% of the maximum prescribed in subsection (b)(2). (UPIA Section 3-4(b) ~~of the Act~~)*
- e3) A corrected information return is a return that includes all information required to be included on the return, and on which all the information is correct.
- f4) A corrected information return will be deemed to have been filed with and received by the Department within 60 days after the due date for filing if the date shown by the post office cancellation mark stamped upon the envelope or other appropriate wrapper containing the return is dated within 60 days after of the due date of the return, or actual receipt by the Department if deliveries are made by means other than the U.S. Postal Service.

(Source: Amended at 43 Ill. Reg. 14342, effective November 26, 2019)

**Section 700.315 Collection Penalty (UPIA Section 3-4.5)**

- a) Penalty Imposed. The collection penalty is imposed under UPIA Section 3-4.5 when payment of any liability subject to the provisions of the UPIA is not received by the Department prior to the 31<sup>st</sup> day after a Notice and Demand, Notice of Additional Tax Due, or Request for Payment of Final Liability is issued by the Department with respect to that liability. (UPIA Section 3-4.5(b)) The collection penalty only applies to liabilities with respect to returns due (without regard to extensions) on or after July 31, 2003. The collection penalty is deemed assessed upon imposition, and is considered additional tax assessed under the Act under which the tax liability giving rise to that penalty was assessed.

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- b) Amount of Collection Penalty
- 1) \$30 Penalty. If the amount of liability (including penalties and interest) that is not timely paid in accordance with this Section is less than \$1,000, the collection penalty is \$30. (See UPIA Section 3-4.5(c)(1).)
  - 2) \$100 Penalty. If the amount of liability (including penalties and interest) that is not timely paid in accordance with this Section is \$1,000 or more, the collection penalty is \$100. (See UPIA Section 3-4.5(c)(2).)
- c) The collection penalty imposed under this Section is not imposed more than once with respect to the liability for a particular tax (including any related penalties and interest) for a given tax period.
- d) UPIA Section 3-8 (abatement of penalties when the taxpayer has reasonable cause for its delinquency) does not apply to the collection penalty.
- e) The provisions of this Section may be illustrated by the following examples.

EXAMPLE 1: On August 15, 2004, the Department issues Taxpayer a Notice and Demand for Payment of \$2,000 (including tax, interest and penalty) with respect to Taxpayer's 2003 Illinois income tax liability. On September 16, 2004, Taxpayer mails a check for the amount of \$2,000 in satisfaction of the Department's Notice and Demand. Taxpayer is subject to a collection penalty of \$100 because payment of the liability shown on the Notice and Demand was not received by the Department prior to the 31<sup>st</sup> day after the Notice and Demand was issued. The penalty applies even if Taxpayer had reasonable cause for the failure.

EXAMPLE 2: The facts are the same as in Example 1 except that, on September 15, 2004, Taxpayer mails a check for \$1,500 with respect to the Notice and Demand. No additional payment is made. Taxpayer is subject to a collection penalty of \$30 because the amount of the liability shown on the Notice and Demand that was not paid prior to the 31<sup>st</sup> day after the Notice and Demand was issued is only \$500.

EXAMPLE 3: If, in either Example 1 or Example 2, Taxpayer receives a subsequent Notice and Demand for the amount of penalty imposed in those examples, or for any liability for the same tax for the same taxable

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period, or any interest or penalty related to that liability, no additional penalty is imposed under this Section.

EXAMPLE 4: The facts are the same as in Example 1 except that, on April 15, 2006, the Department receives Taxpayer's amended return for its 2003 taxable year. That amended return indicates that the tax actually due on Taxpayer's 2003 return was \$0, as the result of taking into account subtraction modifications Taxpayer had failed to claim on its original return. The Department accepts Taxpayer's amended return. Taxpayer is not subject to a collection penalty with respect to the Notice and Demand issued August 15, 2004 because no liability remained unpaid by the 31<sup>st</sup> day after issuance of the Notice and Demand. If Taxpayer had paid the collection penalty prior to filing the amended return, the amended return is a claim for refund of the collection penalty previously assessed. Because the penalty did not apply, failure of the Taxpayer to timely pay an amount shown due on a subsequent Notice and Demand may be subject to penalty under this Section.

EXAMPLE 5: The facts are the same as in Example 4 except that Taxpayer's amended return relates to the carryback of a federal net operating loss incurred in the taxable year ending December 31, 2005. Taxpayer remains subject to a collection penalty of \$100 because payment of the liability shown on the Notice and Demand was not received by the Department prior to the 31<sup>st</sup> day after the Notice and Demand was issued. If a liability is reduced by a carryback, that reduction does not affect the computation of interest or penalties for any period before the carryback arises. (See *Manning v. Seeley Tube & Box Co. of New Jersey*, 70 S.Ct. 386 (1949).)

(Source: Added at 43 Ill. Reg. 14342, effective November 26, 2019)

**Section 700.320 Penalty for Negligence (UPIA Section 3-5)**

- a) *If any return or amended return is prepared negligently, but without intent to defraud, and filed, in addition to any penalty imposed under UPIA Section 3-3 of ~~this Act~~, a penalty shall be imposed in an amount equal to 20% of any resulting deficiency. (UPIA Section 3-5(a))*
- b) *Negligence includes any failure to make a reasonable attempt to comply with the*

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*provisions of any tax Act and includes careless, reckless, or intentional disregard of the law or rules. (UPIA Section 3-5(b) of the Act)*

- c) *Penalty for negligence shall not apply where an assessment results from a reasonable difference of opinion as to taxability. (UPIA Section 3-5 of the Act)*  
A reasonable difference as to taxability may be established by evidence that shows that the issue in dispute between the taxpayer and the Department is:
- 1) not resolved by the plain language of the statute;
  - 2) an issue about which the Department has not adopted a rule of general applicability; and
  - 3) an issue about which the Illinois Supreme Court has not ruled and there are no opinions or inconsistent opinions of the Illinois Appellate Courts.
- d) In computing the penalty under this Section for income tax purposes, the amount shown as the tax by the taxpayer upon the return is taken into account in determining the amount of the deficiency only if the return was filed on or before the last day prescribed by law for the filing of the return, including any extensions of the time for the filing. (ITA Section 1002(f))

(Source: Amended at 43 Ill. Reg. 14342, effective November 26, 2019)

**Section 700.330 Penalty for Fraud (UPIA Section 3-6)**

- a) *If any return or amended return is filed with intent to defraud, in addition to any penalty imposed under UPIA Section 3-3 of this Act, a penalty ~~is~~ will be imposed in an amount equal to 50% of any resulting deficiency. (UPIA Section 3-6(a))*
- b) *If any claim is filed with intent to defraud, a penalty ~~is~~ shall be imposed in an amount equal to 50% of the amount fraudulently claimed for credit or refund. (UPIA Section 3-6 of the Act)*
- c) By way of illustration and not by way of limitation, intent to defraud may ~~will~~ be inferred from conduct such as keeping a double set of books, making false entries or alterations, or false invoices of documents, destruction of books or records, concealment of assets or covering up sources of income, handling of one's affairs to avoid compiling the records usual in transactions of the like kind, or any other

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conduct, the likely effect of which would be to mislead or conceal.

- d) In computing the penalty under this Section for income tax purposes, the amount shown as the tax by the taxpayer upon the return shall be taken into account in determining the amount of the deficiency only if the return was filed on or before the last day prescribed by law for the filing of the return, including any extensions of the time for the filing. (IITA Section 1002(f))

(Source: Amended at 43 Ill. Reg. 14342, effective November 26, 2019)

**Section 700.340 Personal Liability Penalty (UPIA Section 3-7)**

- a) *Any officer or employee of any taxpayer subject to the provisions of a tax Act administered by the Department who has control, supervision or responsibility of filing returns and making payment of the amount of any trust tax imposed in accordance with that Act and who willfully fails to file the return or make the payment to the Department or willfully attempts in any other manner to evade or defeat the tax shall be personally liable for a penalty equal to the total amount of tax unpaid by the taxpayer including interest and penalties thereon. (UPIA Section 3-7(a) ~~of the Act~~)*
- b) The term willful "has generally been defined as involving intentional, knowing and voluntary acts or, alternatively, reckless disregard for obvious or known risks. [Relevant] cases specifically find that according other corporate creditors preferential treatment over governmental tax obligation constitutes wilful behavior. Further, they find that, in a civil action, wilful conduct does not require bad purpose or intent to defraud the government." (Department of Revenue v. Heartland Investments, Inc., 106 Ill. 2d 19 (1985))~~means a voluntary, conscious and intentional act on the part of the officer or employee. It may consist of a voluntary, conscious and intentional failure to file the required return or make the payment to the Department or a voluntary, conscious and intentional attempt to take any other action to evade or defeat the tax.~~
- c) *The Department shall issue a notice of penalty liability for the amount claimed by the Department pursuant to this Section~~Section 3-7 of the Act~~. Procedures for protest and review of a Notice of Penalty Liability issued pursuant to this Section and assessment of the penalty shall be the same as those prescribed for protest and review of a Notice of Tax Liability or a Notice of Deficiency, as the case may be, and the assessment of tax liability under the Act imposing that liability. (UPIA*

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Section 3-7(b)~~of the Act~~)

- d) *The personal liability imposed by UPIA Section 3-7~~of the Act shall~~ survive the dissolution of a partnership or corporation. (UPIA Section 3-7(c))*
- e) *In addition to any other remedy provided for by the laws of this State, and provided that no hearing or proceeding for review is pending, any Section of a tax Act ~~that~~which provides a means for collection of taxes shall in the same manner and to the same extent provide a means for the collection of the penalty imposed by this Section. (UPIA Section 3-7(d))*
- f) *Officer or employee of any taxpayer includes a partner~~member~~ of a partnership, a manager or member of a limited liability company, and a member of a registered limited liability partnership. (UPIA Section 3-7~~(e) of the Act~~)*
- g) *A trust tax is any tax for which an amount is collected or withheld by a taxpayer from another person, and any tax for which an amount is required to be collected or withheld by a taxpayer from another person, regardless of whether it is in fact collected or withheld. (UPIA Section 3-7~~(f) of the Act~~)*
- h) *The personal liability imposed by this Section is in addition to liability incurred by a partner of a partnership or limited liability partnership resulting from the issuance of a notice of tax liability issued to the partnership or limited liability partnership. (UPIA Section 3-7(g))*
- i) *In addition to any other basis for imposition of liability under the UPIA, including under subsection (a), any person who collects, withholds, or receives a tax, or any amount represented to be a tax, from another person holds the amount so collected or withheld in special trust for the benefit of the Department and is liable to the Department for the amount so withheld or collected plus accrued interest and penalty on that amount. For purposes of this subsection (i), "person" has the same definition as provided in ROTA Section 1. (UPIA Section 3-7(h))*  
*Under ROTA Section 1, "person" means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian or other representative appointed by order of any court.*

(Source: Amended at 43 Ill. Reg. 14342, effective November 26, 2019)

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**Section 700.350 Bad Check Penalty (UPIA Section 3-7.5)**

*In addition to any other penalty provided in the UPIA Act, a penalty of \$25 ~~is shall be~~ imposed on any person who issues a check or other draft to the Department that is not honored upon presentment. The penalty imposed under this Section shall be deemed assessed at the time of presentment of the check or other draft and shall be treated for all purposes, including collection and allocation, as part of the tax or other liability for which the check or other draft represented payment. (UPIA Section 3-7.5 of the Act) The failure of the bank or financial institution to pay to the Department the full face amount of the instrument (for example, because of the imposition of a processing fee) is a dishonor of the check subject to penalty under this Section. The bad check penalty is applicable to any payment received in the form of a check, money order, cashier's check or other written order to pay money and that is not honored for any reason by the bank or financial institution upon which it is drawn. The bad check penalty is assessed on a per check basis, therefore, for every check or draft issued to the Department that is not honored when presented to the bank upon which it is drawn a separate \$25 penalty will be assessed against the drawer of the check or draft.*

EXAMPLE: Taxpayer's ST-1 is due on April 20. Taxpayer does not file the return until May 1 and pays the tax due of \$2,000 with a check submitted with the return. Taxpayer's check is dishonored. The Department assesses Taxpayer with penalties totaling \$105. The penalties assessed include the following: a late filing penalty of \$40 ( $\$2,000 \times 2\% = \$40$ ) for filing the return late, a late payment penalty of \$40 ( $\$2,000 \times 2\% = \$40$ ) for failing to pay the tax by the due date, and a bad check penalty of \$25 for making payment to the Department with a bad check.

(Source: Amended at 43 Ill. Reg. 14342, effective November 26, 2019)

## SUBPART D: REASONABLE CAUSE

**Section 700.400 Reasonable Cause (UPIA Section 3-8)**

- a) *The penalties imposed under the provisions of UPIA Sections 3-3, 3-4, 3-5 and 3-7.5 and Sections 700.300, 700.305, 700.310, 700.320 and 700.350 of this Part of the Act shall not apply if the taxpayer shows that ~~the~~his failure to file a return or pay tax at the required time was due to reasonable cause. Reasonable cause ~~is shall be~~ determined in each situation in accordance with this Section. (UPIA Section 3-8 of the Act)*
- b) The determination of whether a taxpayer acted with reasonable cause shall be

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made on a case by case basis taking into account all pertinent facts and circumstances. The most important factor to be considered in making a determination to abate a penalty will be the extent to which the taxpayer made a good faith effort to determine ~~thehis~~ proper tax liability and to file returns and pay ~~thehis~~ proper liability in a timely fashion.

- c) A taxpayer will be considered to have made a good faith effort to determine and file and pay ~~thehis~~ proper tax liability if ~~the taxpayerhe~~ exercised ordinary business care and prudence in doing so. A determination of whether a taxpayer exercised ordinary business care and prudence is dependent upon the clarity of the law or its interpretation and the taxpayer's experience, knowledge, and education. Accordingly, reliance on the advice of a professional does not necessarily establish that a taxpayer exercised ordinary business care and prudence, nor does reliance on incorrect facts such as an erroneous information return.
- d) A taxpayer's history of compliance is also a factor to be considered~~The Department will also consider a taxpayer's filing history~~ in determining whether the taxpayer acted in good faith in determining and paying ~~thehis~~ tax liability. Isolated computational or transcriptional errors will not generally indicate a lack of good faith in the preparation of a taxpayer's return.
- e) Examples of Reasonable Cause. The following is a non-exclusive list of situations in which a taxpayer had~~will constitute~~ reasonable cause for purposes of the abatement of penalties:
- 1) Reasonable cause for abatement of penalty will exist if a liability results from amendments made by the Department to regulations or formal administrative policies or positions after the return on which the liability was computed was filed.
  - 2) Reasonable cause for abatement may also be based on the death, incapacity or serious illness of the taxpayer (or ~~the taxpayer'shis~~ tax return preparer) or a death or serious illness in ~~the taxpayer'shis or her~~ immediate family ~~thatwhich~~ causes a late filing or lateand payment of tax due. In the case of a corporation, estate, trust, etc., the death, incapacity, or serious illness ~~must have been~~ of an individual having sole authority to file the return (not the individual preparing the return) or to make the deposit/payment, or a member of ~~thatsuch~~ individual's immediate family, may be reasonable cause for abatement.

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- 3) An unavoidable absence of a taxpayer (or tax preparer) due to circumstances unforeseeable by a reasonable person may also constitute reasonable cause for purposes of abatement of the penalty. An unavoidable absence does not include a planned absence such as a vacation. In the case of a corporation, estate, trust, etc., the absence ~~must have been~~ of an individual having sole authority to file the return (not the individual preparing the return) or make the deposit/payment may be reasonable cause for purposes of abatement.
- 4) Inability to timely obtain records necessary to determine the amount of tax due to reasons beyond the taxpayer's control. For example, some taxpayers, particularly those with income from banks, partnerships, trusts, estates or Subchapter S corporations, must secure information from those entities in order to properly compute the amount of tax due.
- 5) Factors beyond the taxpayer's control such as destruction by fire, other casualty or civil disturbance, of the taxpayer residence or place of business records.
- 6) Taxpayer mailed the return or payment to the Department in time to reach the Department on or before the due date, given the normal handling of the mail. However, through no fault of the taxpayer, the return or payment was not delivered within the prescribed time period. This fact situation would constitute reasonable cause for abatement of the penalty.
- 7) Reasonable cause will exist for purposes of abatement of the penalty if a taxpayer makes an honest mistake, such as inadvertently mailing a Department of Revenue check to a local government, another state's Department of Revenue, or to the Internal Revenue Service.
- 8) An Illinois appellate court decision, a U.S. appellate court decision, or an appellate court decision from another state (provided that the appellate court case in the other state is based upon substantially similar statutory or regulatory law) ~~that which~~ supports the taxpayer's position will ordinarily provide a basis for a reasonable cause determination.
- 9) The Department gave erroneous information, or delayed a process under its control. In making ~~the such a~~ determination of whether the taxpayer

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had reasonable cause for purposes of abatement, the following factors are relevant~~the Department will consider:~~

- A) Did the taxpayer provide accurate information upon which to base the tax?
  - B) Was the information requested by the taxpayer easily available in instructions or bulletins?
  - C) Did the taxpayer rely on the advice?
  - D) Did an employee who was acting in an official capacity and was authorized to provide assistance provide the advice?
  - E) Was the taxpayer's reliance upon the advice reasonable?
- 10) Taxes withheld by an employer for the wrong state. An employee might~~A taxpayer may~~ not realize that withholding taxes are being withheld and remitted to the wrong state until the end of the taxable year when the employee~~he or she~~ receives a W-2. If the employee can~~The taxpayer will be required to produce all documentation necessary to~~ demonstrate that he or she had a reasonable belief that taxes were being withheld for the proper state, the penalty shall be abated.
- 11) Embezzlement or employee fraud not reasonably within the knowledge of the taxpayer.
- 12) The following occurrences are situations involving reasonable cause with respect to the imposition of the Tier 2 late filing penalty:
- A) Taxpayer demonstrates that he or she did not receive the penalty notice. If the taxpayer can show that he or she filed a change of address card, tax return, payment or letter with the Department and the Department still sent the notice to the wrong address, penalty abatement may be warranted.
  - B) Taxpayer was on active duty in the military. Taxpayers serving in the military may find themselves in situations in which~~where~~ it takes an extraordinary length of time to receive and respond to a

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notice.

- 13) Extensions of Time to File Returns or Pay Tax Granted by the Internal Revenue Service. In cases in which the Internal Revenue Service has granted the taxpayer an extension of time to file a return or pay a tax (for example, because of a natural disaster), for any equivalent Illinois return or payment that is due (including any extensions) from that taxpayer under the IITA on or after the due date (without regard to extensions) for the federal filing or payment, if the taxpayer files that Illinois return or makes that payment on or before the extended due date granted by the Internal Revenue Service, the taxpayer has reasonable cause for not timely making that Illinois filing or payment.
- f) Relevant ~~Factors~~factors ~~Used~~used by the Department in ~~Determining~~determining the ~~Existence~~existence of ~~Reasonable Cause~~reasonable cause.
- 1) Could the taxpayer's federal filing status have caused confusion about his or her Illinois filing requirements? Under Illinois law, many taxpayers that are not required to file with the Internal Revenue Service are required to file with the Department.
  - 2) Does the ~~taxpayer's~~taxpayer's reason address the penalty assessed? For example, if a taxpayer was assessed both a late filing and late payment penalty for the same return, the taxpayer's explanation of the failure to file and pay may apply to one penalty, but not the other.
  - 3) Does the length of time between the reason cited and the actual violation support abatement? If the taxpayer cites a specific event or set of events (e.g., illness, unexpected absence, or natural disaster) or set of events that led to the imposition of the penalty, ~~are the Department will determine whether~~ those events ~~are~~ directly related to failure to file the return or make the payment under review?
  - 4) Could the event cited have been reasonably anticipated? Was the event one that should have been anticipated (e.g., a vacation or scheduled absence) or was it unexpected, unavoidable, or otherwise unplanned (e.g., an emergency or disaster)?
  - 5) ~~Were~~Was ordinary business care and prudence exercised? In the absence

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of new or unusual circumstances, most filing and payment requirements are common knowledge or are readily available to most taxpayers. If the taxpayer did all that could be reasonably expected of him or her and was still unable to file or pay on time, reasonable cause may be present.

(Source: Amended at 43 Ill. Reg. 14342, effective November 26, 2019)

## SUBPART E: PAYMENT APPLICATION

**Section 700.500 Payment Application (UPIA Section 3-9)**

- a) *Payments received from a taxpayer shall be applied against the outstanding liability of the taxpayer, or to an agreed portion of the outstanding portion of the outstanding liability, in the following order: the principal amount of the tax, then penalty, and then interest. (UPIA Section 3-9(d)-of-the-Act)*
- b) A taxpayer may direct payment to a particular liability at the time payment is made to the Department by indicating the tax type and the tax period for which the payment is made, in writing on the check or other draft by which the payment is made, in a writing accompanying that check or other draft, or, in the case of an electronic payment, in the manner prescribed for identifying the specific method of payment. If a taxpayer has multiple liabilities to the Department, either based upon multiple taxes or multiple reporting periods, the taxpayer should make separate payments of each liability and identify the liability to which payment is to be directed. The excess of any payment over the amount of the liability to which the payment is directed shall be treated as a payment for which no direction was provided.
- c) In the absence of direction from the taxpayer as to which of a taxpayer's outstanding liabilities a payment is to be applied~~made~~, the payment shall be applied~~Department will direct payments made by taxpayers~~ to the ~~oldest~~ outstanding liability that became due and payable first, with payment applied~~directed~~ first to the principal amount of the liability and any excess then applied~~directed~~ to penalty and then to interest. If there remain funds after application of the payment to the oldest outstanding liability ~~in the manner noted above~~, the remainder shall then be applied~~will be directed~~ to the ~~next oldest~~ liability that next became due and payable, in the same manner. For purposes of this subsection, the determination of when a liability is due and payable shall be made without regard to due dates for accelerated payments.

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- d) Application of Overpayments of Tax
- 1) Section 2505-275 of the Department of Revenue Law ~~of the Civil Administrative Code of Illinois~~ [20 ILCS 2505] provides that:-
- A) ~~In~~ *the case of overpayment of any tax liability arising from an Act administered by the Department, the Department may credit the amount of the overpayment and any interest thereon against any final tax liability arising under that or any other Act administered by the Department.*
- B) *The Department may enter into agreements with the Secretary of the Treasury of the United States (or his or her delegate) to offset all or part of an overpayment of such a tax liability against any liability arising from a tax imposed under Title 26 of the United States Code.*
- 2) *Section 2505-650 of the Department of Revenue Law provides that, upon certification of past due child support amounts from the Department of Healthcare and Family Services, the Department of Revenue may collect the delinquency in any manner authorized for the collection of any tax administered by the Department of Revenue.*
- 3) *Section 2505-655 of the Department of Revenue Law provides that, upon certification by the Clerk of the Circuit Court of the amounts of delinquent court fees, the Department of Revenue may collect the past due fees by intercepting the tax refund of any person owing the fees.*
- 4) *Section 10 of the Illinois State Collection Act of 1986 [30 ILCS 210/40] provides that the Department's Debt Collection Bureau shall serve as the primary debt collecting entity for the State and in that role shall collect debts on behalf of agencies of the State, using all legal authority available to the Department to collect debt referred to it by other agencies of this State.*
- 5) IITA ~~Section 911.2 of the Illinois Income Tax Act (IITA) [35 ILCS 5]~~ provides that a tax officer of another state of the United States may request that the Department withhold payment of a refund claimed by a taxpayer

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under the IITA for application against a delinquent income tax liability owed by the taxpayer to that state.

e) Order of Application of Tax Overpayments. IITA Section 911.3 provides ~~standards~~rules for determining in which order an overpayment will be applied when more than one of ~~the~~these provisions in subsection (d) is applicable. Pursuant to these provisions:

- 1) In the case of an overpayment for which the taxpayer has requested a refund or credit, the Department may credit the overpayment against any final tax liability arising under any Act administered by the Department. ~~The Department will apply any~~ overpayment shall be applied first to the ~~oldest~~ outstanding final liability arising under the same Act as the overpayment that first became due and payable, with payment ~~applied~~directed first to the principal amount of the liability and any excess then ~~applied~~directed to penalty and then to interest, and ~~shall apply~~ any remaining amount of the overpayment shall then be applied to the ~~next oldest~~ final liability arising under the same Act as the overpayment that next became due and payable, in the same manner, until all ~~those~~such liabilities are paid or the entire amount of the overpayment has been used.
- 2) Any amount of overpayment remaining after application of subsection (d)(1) shall then be applied first to the ~~oldest~~ unpaid final tax liability arising under any other Act that first became due and payable, first to the liability, then to penalty, and then to interest, and then to the ~~next oldest~~ unpaid final tax liability that next became due and payable in the same manner, until all ~~those~~such liabilities are paid or the entire amount of the overpayment has been used. ~~For purposes of this subsection (d)(2), the determination of which liability is oldest shall be based upon the date on which payment of the liability was due without regard to due dates for accelerated or estimated payments.~~
- 3) For purposes of this subsection (e), the determination of when a liability is due and payable shall be made without regard to due dates for accelerated payments.
- 4) Any amount of overpayment remaining after application of subsections (d)(1) and (2) ~~is~~shall be applied in the following order:

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- A) against any existing, applicable request to withhold a refund to collect certified past due child support amounts under Section 2505-650 of the Department of Revenue Law;
- B) against any existing, applicable request to withhold a refund to collect any debt owed to the State;
- C) against any existing, applicable request made by the Secretary of the Treasury of the United States, or his or her delegate, to withhold a refund to collect any tax liability arising from Title 26 of the United States Code;
- D) against any refund withholding request made by the Secretary of the Treasury of the United States, or his or her delegate, to collect any nontax debt owed to the United States as authorized under Section 10(i-1) of the Illinois State Collection Act of 1986;
- E) against any existing, applicable refund withholding request made pursuant to IITA Section 911.2; and
- FE) against any existing, applicable request to withhold a refund to collect certified past due fees owed to the Clerk of the Circuit Court as authorized under Section 2505-655 of the Department of Revenue Law.

(Source: Amended at 43 Ill. Reg. 14342, effective November 26, 2019)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Child Care
- 2) Code Citation: 89 Ill. Adm. Code 50
- 3) Section Number: 50.235                      Emergency Action:  
Amendment
- 4) Statutory Authority: Implementing Articles I through IXA and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IXA and 12-13].
- 5) Effective Date of Rule: November 26, 2019
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency amendment will expire at the end of the 150-day period, or upon adoption of permanent rules, whichever comes first.
- 7) Date Filed with the Index Department: November 26, 2019
- 8) A copy of the emergency amendments, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The U.S. Constitution requires that every person living in the United States is counted every ten years. The 2020 census is approaching, and the Census Bureau will be conducting nationwide hiring shortly. An accurate count of Illinois' population is essential to ensure that the State receives the funding it needs to properly care for its residents and provide critical services and programs. The failure to count every Illinois resident would have devastating effects on Illinois' ability to meet the needs of its residents. This rulemaking will allow CCAP participants to exempt earned income from the U.S. Census Bureau for temporary census employment. By disregarding the income that CCAP recipients receive as census employees in CCAP benefit calculations, CCAP recipients would continue to receive child care benefits without reduction while helping the Census Bureau and gaining work experience. This rule is proposed as an emergency rule because it addresses a threat to the public interest, safety and welfare of the citizens of Illinois.
- 10) A Complete Description of the Subjects and Issues Involved: This rulemaking adds earnings from the United States Census Bureau to the list of types of exempt income. As a result, clients will see a positive impact as their Child Care benefits will not be affected or reduced from receiving earned income from the United States Census Bureau.

## DEPARTMENT OF HUMAN SERVICES

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- 11) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
50.230	Amendment	43 Ill. Reg. 7594; July 12, 2019
50.320	Amendment	43 Ill. Reg. 7594; July 12, 2019

- 12) Statement of Statewide Policy Objective (if applicable): This rulemaking does not create or expand a State mandate.

- 13) Information and questions regarding this emergency rule shall be directed to:

Tracie Drew, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
Harris Bldg., 3rd Floor  
Springfield IL 62762

217/785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

The full text of the Emergency Amendment begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

PART 50  
CHILD CARE

SUBPART A: GENERAL PROVISIONS

- Section  
50.101 Incorporation by Reference  
50.105 Definitions  
50.110 Participant Rights and Responsibilities  
50.120 Notification of Available Services  
50.130 Child Care Overpayments and Recoveries

SUBPART B: APPLICABILITY

- Section  
50.210 Child Care  
50.220 Method of Providing Child Care  
50.230 Child Care Eligibility  
50.235 Income Eligibility Criteria  
EMERGENCY  
50.240 Qualified Provider (Repealed)  
50.250 Additional Service to Secure or Maintain Child Care  
50.260 Job Search (Repealed)

SUBPART C: PAYMENT FEES

- Section  
50.310 Fees for Child Care Services  
50.320 Maximum Monthly Income and Parent Fee by Family Size, Income Level and Number of Children Receiving Full-time Care

SUBPART D: PROVIDER REQUIREMENTS

- Section  
50.400 Purpose

DEPARTMENT OF HUMAN SERVICES

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- 50.410 Qualified Provider
- 50.420 Provider Registration and Certification Requirements
- 50.430 Provider Background Checks
- 50.440 Payment for Child Care Services

SUBPART E: GREAT START PROGRAM

- Section
- 50.510 Great START Program
- 50.520 Method of Providing the Wage Supplement
- 50.530 Eligibility
- 50.540 Employer Responsibility
- 50.550 Notification of Eligibility
- 50.560 Phase-in of Wage Supplement Scale
- 50.570 Wage Supplement Scale
- 50.580 Evaluation

SUBPART F: CHILD CARE COLLABORATION PROGRAM

- Section
- 50.610 Child Care Collaboration Program
- 50.620 Approvable Models of Collaboration
- 50.630 Requirements for Approval in the Child Care Collaboration Program
- 50.640 Notification of Eligibility
- 50.650 Rules and Reporting for the Child Care Collaboration Program

SUBPART G: GATEWAYS TO OPPORTUNITY CREDENTIALS

- Section
- 50.710 Gateways to Opportunity, the Illinois Professional Development System
- 50.720 Gateways to Opportunity Credentials
- 50.730 Application for Credentials
- 50.740 Framework for Gateways to Opportunity Credentials
- 50.750 Professional Knowledge
- 50.760 Gateways to Opportunity Registry

SUBPART H: STAFF QUALIFICATIONS AND TRAINING STANDARDS

Section

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF EMERGENCY AMENDMENT

50.800	Purpose
50.810	Applicability
50.820	Staff Qualifications for License Exempt School-Age Providers
50.830	Training Standards for License Exempt School-Age Providers

**AUTHORITY:** Implementing Articles I through IXA and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IXA and 12-13].

**SOURCE:** Emergency rules adopted at 21 Ill. Reg. 9502, effective July 1, 1997, for a maximum of 150 days; adopted at 21 Ill. Reg. 14961, effective November 10, 1997; emergency amendment at 22 Ill. Reg. 12816, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 21037, effective November 27, 1998; emergency amendment at 23 Ill. Reg. 10875, effective August 20, 1999, for maximum of 150 days; amended at 24 Ill. Reg. 1058, effective January 10, 2000; emergency amendment at 24 Ill. Reg. 6604, effective April 5, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 13987, effective September 1, 2000; amended at 24 Ill. Reg. 15423, effective October 10, 2000; emergency amendment at 25 Ill. Reg. 2735, effective February 5, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 8176, effective June 23, 2001; emergency amendment at 25 Ill. Reg. 8443, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 14854, effective October 31, 2001; emergency amendment at 25 Ill. Reg. 16116, effective December 1, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 7113, effective April 25, 2002; amended at 27 Ill. Reg. 12090, effective July 14, 2003; amended at 27 Ill. Reg. 18411, effective November 24, 2003; amended at 28 Ill. Reg. 6895, effective April 23, 2004; emergency amendment at 28 Ill. Reg. 10121, effective July 1, 2004, for a maximum of 150 days; emergency expired November 27, 2004; amended at 29 Ill. Reg. 2687, effective February 4, 2005; emergency amendment at 29 Ill. Reg. 13253, effective August 11, 2005, for a maximum of 150 days; emergency expired January 7, 2006; amended at 30 Ill. Reg. 11190, effective June 6, 2006; amended at 31 Ill. Reg. 12584, effective August 20, 2007; emergency amendment at 31 Ill. Reg. 13350, effective September 10, 2007, for a maximum of 150 days; emergency expired February 6, 2008; amended at 32 Ill. Reg. 6048, effective March 31, 2008; emergency amendment at 32 Ill. Reg. 6652, effective April 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 9604, effective June 20, 2008; amended at 32 Ill. Reg. 14742, effective August 28, 2008; amended at 33 Ill. Reg. 8195, effective June 8, 2009; emergency amendment at 33 Ill. Reg. 15889, effective November 1, 2009, for a maximum of 150 days; emergency amendment at 33 Ill. Reg. 16517, effective November 1, 2009, for a maximum of 150 days; emergency expired March 30, 2010; amended at 34 Ill. Reg. 5275, effective March 29, 2010; emergency amendment at 34 Ill. Reg. 8619, effective June 16, 2010, for a maximum of 150 days; emergency expired on November 12, 2010; amended at 34 Ill. Reg. 10512, effective July 8, 2010; amended at 34 Ill. Reg. 19539, effective December 6, 2010; amendment at 35 Ill. Reg. 1397, effective January 6, 2011; amended at 35 Ill. Reg. 3993, effective February 25, 2011;

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emergency amendment at 35 Ill. Reg. 6583, effective April 1, 2011, for a maximum of 150 days; emergency expired August 28, 2011; amended at 35 Ill. Reg. 8878, effective May 25, 2011; amended at 36 Ill. Reg. 1564, effective January 17, 2012; amended at 36 Ill. Reg. 12104, effective July 10, 2012; amended at 36 Ill. Reg. 14513, effective September 12, 2012; amended at 36 Ill. Reg. 16085, effective October 29, 2012; amended at 38 Ill. Reg. 18490, effective August 22, 2014; amended at 38 Ill. Reg. 19513, effective September 17, 2014; emergency amendment at 39 Ill. Reg. 10072, effective July 1, 2015, for a maximum of 150 days; emergency rule modified in response to JCAR objection at 39 Ill. Reg. 15158, effective November 9, 2015, for the remainder of the 150 days; amended at 39 Ill. Reg. 15540, effective November 23, 2015; emergency amendment at 41 Ill. Reg. 12890, effective October 1, 2017, for a maximum of 150 days; amended at 42 Ill. Reg. 3745, effective February 7, 2018; amended at 42 Ill. Reg. 8491, effective May 8, 2018; emergency amendment at 42 Ill. Reg. 13898, effective July 1, 2018, for a maximum of 150 days; amended at 42 Ill. Reg. 22555, effective November 27, 2018; emergency amendment at 43 Ill. Reg. 7632, effective July 1, 2019, for a maximum of 150 days; amended at 43 Ill. Reg. 11338, effective October 1, 2019; emergency amendment at 43 Ill. Reg. 14416, effective November 26, 2019, for a maximum of 150 days.

## SUBPART B: APPLICABILITY

**Section 50.235 Income Eligibility Criteria****EMERGENCY**

A family is considered "income eligible" when the combined gross monthly base income (earned and unearned) (see subsection (a)) of all family members is at or below the amounts listed in Section 50.230 for the corresponding family size. In 2 parent families, both incomes must be combined to determine eligibility. Two-parent families include those with 2 or more adults living in the home, such as the applicant and his or her spouse or parents of a common child in the home. Eligibility is determined on the basis of gross monthly base income. To convert weekly income into monthly base income, multiply weekly income by 4.333. To convert bi-weekly income into monthly base income, multiply bi-weekly income by 2.1666. To convert twice monthly income into monthly base income, multiply twice monthly income by 2. Documentation must be secured for all income and maintained in the family eligibility file prior to approval for child care payments.

- a) Income Included (Non-Exempt)
  - 1) gross base wages and salary;
  - 2) net income from farm self-employment;

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- 3) net income from non-farm self-employment;
  - 4) dividends, interest, net rental income and royalties;
  - 5) pensions and annuities;
  - 6) alimony;
  - 7) child support received by the family;
  - 8) ongoing monthly adoption assistance payments from DCFS;
  - 9) veteran's pensions;
  - 10) unemployment compensation;
  - 11) worker's compensation;
  - 12) public assistance and welfare payments;
  - 13) social security payments for all family members, including Supplemental Security Income (SSI) and pensions;
  - 14) survivor's benefits, permanent disability payments, and railroad retirement benefits from the federal government.
- b) Exempt Income
- 1) per capita payments to or funds held in trust for any individual in satisfaction of the Indian Claims Commission or the Court of Claims;
  - 2) payments made pursuant to the Alaska Native Claims Settlement Act to the extent such payments are exempt from taxation under Section 21(a) of the Act (43 USC 1620(a));
  - 3) money received from sale of property, such as stocks, bonds, a house, or a car (unless the person was engaged in the business of selling such property, in which case the net proceeds would be counted as income from

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self-employment);

- 4) non-recurrent or inconsistent pay for overtime, incentives, bonuses, sick, vacation, travel reimbursements or other types of non-recurrent or inconsistent income that is not part of the family's base income;
- 5) money borrowed, including educational loans to a student who is included in the family unit as authorized in Section 50.210(c);
- 6) withdrawals of bank deposits;
- 7) tax refunds, or any Earned Income Tax Credit (EITC) payments;
- 8) gifts;
- 9) lottery winnings or proceeds obtained by gambling;
- 10) lump sum inheritances or insurance payments;
- 11) capital gains;
- 12) the value of the coupon allotment or Supplemental Nutrition Assistance Program (SNAP) benefits under the Food Stamp Act of 1977 (PL 95-113) or the Food and Nutrition Act of 2008 (PL 110-246), as amended;
- 13) the value of United States Department of Agriculture (USDA) donated foods;
- 14) the value of supplemental food assistance under the Child Nutrition Act of 1966 (42 USC 1771 et seq.) and the special food service for children under the National School Lunch Act (42 USC 1751 et seq.), as amended;
- 15) any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (42 USC 4651);
- 16) earnings of a child under age 21 (unless that child is the applicant);
- 17) grants such as scholarships, obtained and used by a student who is included in the family unit as authorized in Section 50.210(c);

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- 18) any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Commission of Education under the Higher Education Act of 1965 (20 USC 1001 et seq.);
- 19) home produce utilized for household consumption;
- 20) energy grants or allowances received through the Low-Income Energy Assistance Program authorized by the Low-Income Home Energy Assistance Act of 1981 (42 USC 8625);
- 21) any DCFS foster care board payments or clothing allowance; ~~and~~
- 22) child support paid out of the family's income; ~~and~~
- 23) earned income from the U.S. Census Bureau for temporary census employment.

(Source: Amended by emergency rulemaking at 43 Ill. Reg. 14416, effective November 26, 2019, for a maximum of 150 days)

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- 1) Heading of the Part: Temporary Assistance for Needy Families
- 2) Code Citation: 89 Ill. Adm. Code 112
- 3) Section Number: 112.140                      Emergency Action: Amendment
- 4) Statutory Authority: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].
- 5) Effective Date of Rule: November 26, 2019
- 6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency rule will expire at the end of the 150-day period, or upon adoption of permanent rules, whichever comes first.
- 7) Date Filed with the Index Department: November 26, 2019
- 8) A copy of the emergency rulemaking, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The U.S. Constitution requires that every person living in the United States is counted every ten years. The 2020 census is approaching, and the Census Bureau will be conducting nationwide hiring shortly. An accurate count of Illinois' population is essential to ensure that the State receives the funding it needs to properly care for its residents and provide critical services and programs. The failure to count every Illinois resident would have devastating effects on Illinois' ability to meet the needs of its residents. In the past, the Census Bureau has successfully recruited Temporary Assistance for Needy Families (TANF) participants to help fill these vacancies and wishes to do so again for the upcoming census. By disregarding the income that TANF recipients receive as census employees in TANF benefit calculations, TANF recipients would continue to receive TANF without reduction while helping the Census Bureau and gaining work experience. This rule is proposed as an emergency rule because it addresses a threat to the public interest, safety and welfare of the citizens of Illinois.
- 10) A Complete Description of the Subjects and Issues Involved: This rulemaking removes the 12-week in a calendar year exemption restriction regarding census employment. Earned income from the U.S. Census Bureau for temporary employment is no longer restricted to a 12-week exemption per calendar year. As a result, clients will see a

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positive impact as their TANF cash benefits will not be affected or reduced from receiving earned income from the United States Census 2020 as well as gaining work experience.

- 11) Are there any other rulemakings pending on this Part? Yes

<u>Section Number:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
112.251	Amendment	43 Ill. Reg. 11063; October 11, 2019

- 12) Statement of Statewide Policy Objective (if applicable): This rulemaking does not create or expand a State mandate.

- 13) Information and questions regarding this emergency rule shall be directed to:

Tracie Drew, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
Harris Bldg., 3rd Floor  
Springfield IL 62762

217/785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

The full text of the Emergency Amendment begins on the next page:

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TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER b: ASSISTANCE PROGRAMSPART 112  
TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

## SUBPART A: GENERAL PROVISIONS

## Section

112.1	Description of the Assistance Program and Time Limit
112.2	Time Limit on Receipt of Benefits for Clients Enrolled in Post-Secondary Education
112.3	Receipt of Cash Benefits Beyond the 60 Month Lifetime Limit
112.5	Incorporation by Reference
112.6	The Family Violence Option

## SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

## Section

112.8	Caretaker Relative
112.9	Client Cooperation
112.10	Citizenship
112.20	Residence
112.30	Age
112.40	Relationship
112.50	Living Arrangement
112.52	Social Security Numbers
112.54	Assignment of Medical Support Rights
112.55	Electronic Benefits Transfer (EBT) Restrictions
112.60	Basis of Eligibility
112.61	Death of a Parent (Repealed)
112.62	Incapacity of a Parent (Repealed)
112.63	Continued Absence of a Parent (Repealed)
112.64	Unemployment of the Parent (Repealed)
112.65	Responsibility and Services Plan
112.66	Alcohol and Substance Abuse Treatment
112.67	Restriction in Payment to Households Headed by a Minor Parent
112.68	School Attendance Initiative

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112.69 Felons and Violators of Parole or Probation

## SUBPART C: TANF EMPLOYMENT AND WORK ACTIVITY REQUIREMENTS

## Section

- 112.70 Employment and Work Activity Requirements
- 112.71 Individuals Exempt from TANF Employment and Work Activity Requirements
- 112.72 Participation/Cooperation Requirements
- 112.73 Adolescent Parent Program (Repealed)
- 112.74 Responsibility and Services Plan
- 112.75 Teen Parent Personal Responsibility Plan (Repealed)
- 112.76 TANF Orientation
- 112.77 Reconciliation and Fair Hearings
- 112.78 TANF Employment and Work Activities
- 112.79 Sanctions
- 112.80 Good Cause for Failure to Comply with TANF Participation Requirements
- 112.81 Responsible Relative Eligibility for JOBS (Repealed)
- 112.82 Supportive Services
- 112.83 Teen Parent Services
- 112.84 Employment Retention and Advancement Project
- 112.85 Four Year College/Vocational Training Demonstration Project (Repealed)

## SUBPART E: PROJECT ADVANCE

## Section

- 112.86 Project Advance (Repealed)
- 112.87 Project Advance Experimental and Control Groups (Repealed)
- 112.88 Project Advance Participation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
- 112.89 Project Advance Cooperation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
- 112.90 Project Advance Sanctions (Repealed)
- 112.91 Good Cause for Failure to Comply with Project Advance (Repealed)
- 112.93 Individuals Exempt From Project Advance (Repealed)
- 112.95 Project Advance Supportive Services (Repealed)

## SUBPART F: EXCHANGE PROGRAM

## Section

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112.98 Exchange Program (Repealed)

## SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

## Section

- 112.100 Unearned Income
- 112.101 Unearned Income of Parent
- 112.105 Budgeting Unearned Income
- 112.106 Budgeting Unearned Income of Applicants
- 112.107 Initial Receipt of Unearned Income
- 112.108 Termination of Unearned Income
- 112.110 Exempt Unearned Income
- 112.115 Education Benefits
- 112.120 Incentive Allowances
- 112.125 Unearned Income In-Kind
- 112.126 Earmarked Income
- 112.127 Lump-Sum Payments
- 112.128 Protected Income (Repealed)
- 112.130 Earned Income
- 112.131 Earned Income Tax Credit
- 112.132 Budgeting Earned Income
- 112.133 Budgeting Earned Income of Employed Applicants
- 112.134 Initial Employment
- 112.135 Budgeting Earned Income For Contractual Employees
- 112.136 Budgeting Earned Income For Non-contractual School Employees
- 112.137 Termination of Employment
- 112.138 Transitional Payments (Repealed)
- 112.140 Exempt Earned Income

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- 112.141 Earned Income Exemption
- 112.142 Exclusion from Earned Income Exemption
- 112.143 Recognized Employment Expenses
- 112.144 Income from Work-Study and Training Programs
- 112.145 Earned Income From Self-Employment
- 112.146 Earned Income From Roomer and Boarder
- 112.147 Income From Rental Property
- 112.148 Payments from the Illinois Department of Children and Family Services
- 112.149 Earned Income In-Kind
- 112.150 Assets

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- 112.151 Exempt Assets (Repealed)
- 112.152 Asset Disregards (Repealed)
- 112.153 Deferral of Consideration of Assets (Repealed)
- 112.154 Property Transfers (Repealed)
- 112.155 Income Limit
- 112.156 Assets for Independence Program

## SUBPART H: PAYMENT AMOUNTS

- Section
- 112.250 Grant Levels
- 112.251 Payment Levels
- 112.252 Payment Levels – All Counties
- 112.253 Payment Levels in Group II Counties (Repealed)
- 112.254 Payment Levels in Group III Counties (Repealed)
- 112.255 Limitation on Amount of TANF Assistance to Recipients from Other States (Repealed)

## SUBPART I: OTHER PROVISIONS

- Section
- 112.300 Persons Who May Be Included in the Assistance Unit
- 112.301 Presumptive Eligibility
- 112.302 Reporting Requirements for Clients with Earnings
- 112.303 Budgeting
- 112.304 Budgeting Schedule
- 112.305 Strikers
- 112.306 Foster Care Program
- 112.307 Responsibility of Sponsors of Non-Citizens Entering the Country Prior to 8/22/96
- 112.308 Responsibility of Sponsors of Non-Citizens Entering the Country On or After 8/22/96
- 112.309 Institutional Status
- 112.310 Child Care for Representative Payees
- 112.315 Young Parents Program (Renumbered)
- 112.320 Redetermination of Eligibility
- 112.330 Extension of Medical Assistance Due to Increased Income from Employment
- 112.331 Four Month Extension of Medical Assistance Due to Child Support Collections
- 112.332 Extension of Medical Assistance Due to Loss of Earned Income Disregard (Repealed)

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112.340 New Start Payments to Individuals Released from Department of Corrections Facilities (Repealed)

## SUBPART J: CHILD CARE

## Section

112.350 Child Care (Repealed)  
112.352 Child Care Eligibility (Repealed)  
112.354 Qualified Provider (Repealed)  
112.356 Notification of Available Services (Repealed)  
112.358 Participant Rights and Responsibilities (Repealed)  
112.362 Additional Service to Secure or Maintain Child Care Arrangements (Repealed)  
112.364 Rates of Payment for Child Care (Repealed)  
112.366 Method of Providing Child Care (Repealed)  
112.370 Non-JOBS Education and Training Program (Repealed)

## SUBPART K: TRANSITIONAL CHILD CARE

## Section

112.400 Transitional Child Care Eligibility (Repealed)  
112.404 Duration of Eligibility for Transitional Child Care (Repealed)  
112.406 Loss of Eligibility for Transitional Child Care (Repealed)  
112.408 Qualified Child Care Providers (Repealed)  
112.410 Notification of Available Services (Repealed)  
112.412 Participant Rights and Responsibilities (Repealed)  
112.414 Child Care Overpayments and Recoveries (Repealed)  
112.416 Fees for Service for Transitional Child Care (Repealed)  
112.418 Rates of Payment for Transitional Child Care (Repealed)

**AUTHORITY:** Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].

**SOURCE:** Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg.

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33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; preemptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; preemptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; preemptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; preemptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; preemptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; preemptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; preemptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; preemptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; preemptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 11, 1983; rules repealed and new rules adopted and codified at 7 Ill. Reg. 2720, effective February 28, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 11284, effective August 26, 1983; amended at 7 Ill. Reg. 13920, effective October 7, 1983; amended at 7 Ill. Reg. 15690, effective November 9, 1983; amended (by adding Sections being

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codified with no substantive change) at 7 Ill. Reg. 16105; amended at 7 Ill. Reg. 17344, effective December 21, 1983; amended at 8 Ill. Reg. 213, effective December 27, 1983; emergency amendment at 8 Ill. Reg. 569, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4176, effective March 19, 1984; amended at 8 Ill. Reg. 5207, effective April 9, 1984; amended at 8 Ill. Reg. 7226, effective May 16, 1984; amended at 8 Ill. Reg. 11391, effective June 27, 1984; amended at 8 Ill. Reg. 12333, effective June 29, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17894; preemptory amendment at 8 Ill. Reg. 18127, effective October 1, 1984; preemptory amendment at 8 Ill. Reg. 19889, effective October 1, 1984; amended at 8 Ill. Reg. 19983, effective October 3, 1984; emergency amendment at 8 Ill. Reg. 21666, effective October 19, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21621, effective October 23, 1984; amended at 8 Ill. Reg. 25023, effective December 19, 1984; amended at 9 Ill. Reg. 282, effective January 1, 1985; amended at 9 Ill. Reg. 4062, effective March 15, 1985; amended at 9 Ill. Reg. 8155, effective May 17, 1985; emergency amendment at 9 Ill. Reg. 10094, effective June 19, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11317, effective July 5, 1985; amended at 9 Ill. Reg. 12795, effective August 9, 1985; amended at 9 Ill. Reg. 15887, effective October 4, 1985; amended at 9 Ill. Reg. 16277, effective October 11, 1985; amended at 9 Ill. Reg. 17827, effective November 18, 1985; emergency amendment at 10 Ill. Reg. 354, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 1172, effective January 10, 1986; amended at 10 Ill. Reg. 3641, effective January 30, 1986; amended at 10 Ill. Reg. 4885, effective March 7, 1986; amended at 10 Ill. Reg. 8118, effective May 1, 1986; amended at 10 Ill. Reg. 10628, effective June 1, 1986; amended at 10 Ill. Reg. 11017, effective June 6, 1986; Sections 112.78 through 112.86 and 112.88 recodified to 89 Ill. Adm. Code 160 at 10 Ill. Reg. 11928; emergency amendment at 10 Ill. Reg. 12107, effective July 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 12650, effective July 14, 1986; amended at 10 Ill. Reg. 14681, effective August 29, 1986; amended at 10 Ill. Reg. 15101, effective September 5, 1986; amended at 10 Ill. Reg. 15621, effective September 19, 1986; amended at 10 Ill. Reg. 21860, effective December 12, 1986; amended at 11 Ill. Reg. 2280, effective January 16, 1987; amended at 11 Ill. Reg. 3140, effective January 30, 1987; amended at 11 Ill. Reg. 4682, effective March 6, 1987; amended at 11 Ill. Reg. 5223, effective March 11, 1987; amended at 11 Ill. Reg. 6228, effective March 20, 1987; amended at 11 Ill. Reg. 9927, effective May 15, 1987; amended at 11 Ill. Reg. 12003, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 12432, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12908, effective July 30, 1987; emergency amendment at 11 Ill. Reg. 12935, effective August 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13625, effective August 1, 1987; amended at 11 Ill. Reg. 14755, effective August 26, 1987; amended at 11 Ill. Reg. 18679, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18781, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20114, effective December 4, 1987; Sections 112.90 and 112.95 recodified to Sections 112.52 and 112.54 at 11 Ill. Reg. 20610; amended at 11 Ill. Reg. 20889,

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effective December 14, 1987; amended at 12 Ill. Reg. 844, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1929, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 2126, effective January 12, 1988; SUBPARTS C, D and E recodified to SUBPARTS G, H and I at 12 Ill. Reg. 2136; amended at 12 Ill. Reg. 3487, effective January 22, 1988; amended at 12 Ill. Reg. 6159, effective March 18, 1988; amended at 12 Ill. Reg. 6694, effective March 22, 1988; amended at 12 Ill. Reg. 7336, effective May 1, 1988; amended at 12 Ill. Reg. 7673, effective April 20, 1988; amended at 12 Ill. Reg. 9032, effective May 20, 1988; amended at 12 Ill. Reg. 10481, effective June 13, 1988; amended at 12 Ill. Reg. 14172, effective August 30, 1988; amended at 12 Ill. Reg. 14669, effective September 16, 1988; amended at 13 Ill. Reg. 70, effective January 1, 1989; amended at 13 Ill. Reg. 6017, effective April 14, 1989; amended at 13 Ill. Reg. 8567, effective May 22, 1989; amended at 13 Ill. Reg. 16006, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16142, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 705, effective January 1, 1990; amended at 14 Ill. Reg. 3170, effective February 13, 1990; amended at 14 Ill. Reg. 3575, effective February 23, 1990; amended at 14 Ill. Reg. 6306, effective April 16, 1990; amended at 14 Ill. Reg. 10379, effective June 20, 1990; amended at 14 Ill. Reg. 13652, effective August 10, 1990; amended at 14 Ill. Reg. 14140, effective August 17, 1990; amended at 14 Ill. Reg. 16937, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 338, effective January 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 2862, effective February 4, 1991, for a maximum of 150 days; emergency expired July 4, 1991; amended at 15 Ill. Reg. 5275, effective April 1, 1991; amended at 15 Ill. Reg. 5684, effective April 10, 1991; amended at 15 Ill. Reg. 11127, effective July 19, 1991; amended at 15 Ill. Reg. 11447, effective July 25, 1991; amended at 15 Ill. Reg. 14227, effective September 30, 1991; amended at 15 Ill. Reg. 17308, effective November 18, 1991; amended at 16 Ill. Reg. 9972, effective June 15, 1992; amended at 16 Ill. Reg. 11550, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 11652, effective July 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 13629, effective September 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17724, effective November 9, 1992; amended at 16 Ill. Reg. 20147, effective December 14, 1992; amended at 17 Ill. Reg. 357, effective December 24, 1992; amended at 17 Ill. Reg. 813, effective January 15, 1993; amended at 17 Ill. Reg. 2253, effective February 15, 1993; amended at 17 Ill. Reg. 4312, effective March 25, 1993; emergency amendment at 17 Ill. Reg. 6325, effective April 9, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6792, effective April 21, 1993; amended at 17 Ill. Reg. 15017, effective September 3, 1993; amended at 17 Ill. Reg. 19156, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19696, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 5909, effective March 31, 1994; amended at 18 Ill. Reg. 6994, effective April 27, 1994; amended at 18 Ill. Reg. 8703, effective June 1, 1994; amended at 18 Ill. Reg. 10774, effective June 27, 1994; amended at 18 Ill. Reg. 12805, effective August 5, 1994; amended at 18 Ill. Reg. 15774, effective October 17, 1994; expedited correction at 19 Ill. Reg. 998, effective October 17,

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1994; amended at 19 Ill. Reg. 2845, effective February 24, 1995; amended at 19 Ill. Reg. 5609, effective March 31, 1995; amended at 19 Ill. Reg. 7883, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 10206, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12011, effective August 7, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 12664, effective September 1, 1995; emergency amendment at 19 Ill. Reg. 15244, effective November 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15661, effective November 3, 1995; emergency amendment at 19 Ill. Reg. 15839, effective November 15, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 16295, effective December 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 845, effective January 1, 1996; amended at 20 Ill. Reg. 3538, effective February 15, 1996; amended at 20 Ill. Reg. 5648, effective March 30, 1996; amended at 20 Ill. Reg. 6018, effective April 12, 1996; amended at 20 Ill. Reg. 6498, effective April 29, 1996; amended at 20 Ill. Reg. 7892, effective June 1, 1996; emergency amendment at 20 Ill. Reg. 12499, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14820, effective November 1, 1996; amendment at 20 Ill. Reg. 15983, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 662, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 940, effective January 7, 1997; amended at 21 Ill. Reg. 1366, effective January 15, 1997; amended at 21 Ill. Reg. 2655, effective February 7, 1997; amended at 21 Ill. Reg. 7391, effective May 31, 1997; emergency amendment at 21 Ill. Reg. 8426, effective July 1, 1997, for a maximum of 150 days; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 15597, effective November 26, 1997; emergency amendment at 22 Ill. Reg. 4466, effective February 24, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12197, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 14420, effective July 24, 1998; amended at 22 Ill. Reg. 14744, effective August 1, 1998; amended at 22 Ill. Reg. 16256, effective September 1, 1998; emergency amendment at 22 Ill. Reg. 16365, effective September 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 18082, effective October 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19840, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 598, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 942, effective January 6, 1999; emergency amendment at 23 Ill. Reg. 1133, effective January 7, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1682, effective January 20, 1999; emergency amendment at 23 Ill. Reg. 5881, effective May 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 6958, effective May 30, 1999; amended at 23 Ill. Reg. 7091, effective June 4, 1999; amended at 23 Ill. Reg. 7896, effective July 1, 1999; emergency amendment at 23 Ill. Reg. 8672, effective July 13, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 10530, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 12648, effective September 27, 1999; amended at 23 Ill. Reg. 13898, effective November 19, 1999; amended at 24 Ill. Reg. 289, effective December 28, 1999; amended at 24 Ill. Reg. 2348, effective February 1, 2000; amended at 25 Ill. Reg. 10336, effective August 3, 2001; emergency

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amendment at 25 Ill. Reg. 11584, effective September 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 14865, effective November 1, 2001; amended at 26 Ill. Reg. 138, effective January 1, 2002; amended at 26 Ill. Reg. 924, effective January 15, 2002; emergency amendment at 26 Ill. Reg. 3329, effective February 19, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 9803, effective June 24, 2002; amended at 26 Ill. Reg. 10492, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10994, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17182, effective November 15, 2002; amended at 27 Ill. Reg. 4545, effective February 28, 2003; amended at 27 Ill. Reg. 7240, effective April 7, 2003; amended at 27 Ill. Reg. 18417, effective November 20, 2003; amended at 28 Ill. Reg. 1090, effective December 31, 2003; amended at 28 Ill. Reg. 5655, effective March 22, 2004; amended at 29 Ill. Reg. 5473, effective April 1, 2005; amended at 29 Ill. Reg. 8161, effective May 18, 2005; emergency amendment at 29 Ill. Reg. 16008, effective October 4, 2005, for a maximum of 150 days; emergency expired March 2, 2006; amended at 30 Ill. Reg. 9331, effective May 8, 2006; amended at 30 Ill. Reg. 11202, effective June 12, 2006; amended at 31 Ill. Reg. 6968, effective April 30, 2007; amended at 31 Ill. Reg. 10462, effective July 6, 2007; amended at 31 Ill. Reg. 15080, effective October 24, 2007; amended at 32 Ill. Reg. 2767, effective February 7, 2008; emergency amendment at 32 Ill. Reg. 10607, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17167, effective October 20, 2008; peremptory amendment at 32 Ill. Reg. 18051, effective November 15, 2008; emergency amendment at 33 Ill. Reg. 4977, effective March 19, 2009, for a maximum of 150 days; emergency expired August 15, 2009; emergency amendment at 33 Ill. Reg. 7320, effective May 21, 2009, for a maximum of 150 days; emergency expired October 17, 2009; amended at 33 Ill. Reg. 12763, effective September 8, 2009; amended at 33 Ill. Reg. 13831, effective September 17, 2009; amended at 33 Ill. Reg. 16828, effective November 30, 2009; emergency amendment at 34 Ill. Reg. 6930, effective May 1, 2010, for a maximum of 150 days; emergency expired September 27, 2010; amended at 34 Ill. Reg. 10085, effective July 1, 2010; amended at 35 Ill. Reg. 998, effective December 28, 2010; emergency amendment at 35 Ill. Reg. 6933, effective April 6, 2011, for a maximum of 150 days; emergency expired September 2, 2011; amended at 35 Ill. Reg. 17082, effective October 5, 2011; amended at 35 Ill. Reg. 18739, effective October 28, 2011; amended at 36 Ill. Reg. 15120, effective September 28, 2012; emergency amendment at 37 Ill. Reg. 15388, effective September 9, 2013, for a maximum of 150 days; amended at 38 Ill. Reg. 4441, effective January 29, 2014; amended at 38 Ill. Reg. 17603, effective August 8, 2014; amended at 38 Ill. Reg. 18646, effective August 29, 2014; amended at 39 Ill. Reg. 15563, effective December 1, 2015; amended at 41 Ill. Reg. 395, effective January 1, 2017; amended at 42 Ill. Reg. 8295, effective May 4, 2018; emergency amendment at 42 Ill. Reg. 18495, effective October 1, 2018, for a maximum of 150 days; amended at 43 Ill. Reg. 327, effective December 20, 2018; amended at 43 Ill. Reg. 2081, effective January 24, 2019; emergency amendment at 43 Ill. Reg. 11704, effective October 1,

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2019, for a maximum of 150 days; emergency amendment at 43 Ill. Reg. 14425, effective November 26, 2019, for a maximum of 150 days.

## SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

**Section 112.140 Exempt Earned Income****EMERGENCY**

- a) The earned income of an individual receiving assistance as a dependent child is exempt.
- b) Earned income from the U.S. Census Bureau for temporary census employment is exempt ~~for up to 12 weeks in a calendar year.~~

(Source: Amended by emergency rulemaking at 43 Ill. Reg. 14425, effective November 26, 2019, for a maximum of 150 days)

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- 1) Heading of the Part: Aid to the Aged, Blind or Disabled
- 2) Code Citation: 89 Ill. Adm. Code 113
- 3) Section Number: 113.120                      Emergency Action:  
Amendment
- 4) Statutory Authority: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13].
- 5) Effective Date of Rule: November 26, 2019
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency amendment will expire at the end of the 150-day period, or upon adoption of permanent rules, whichever comes first.
- 7) Date Filed with the Index Department: November 26, 2019
- 8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The U.S. Constitution requires that every person living in the United States is counted every ten years. The 2020 census is approaching, and the Census Bureau will be conducting nationwide hiring shortly. An accurate count of Illinois' population is essential to ensure that the State receives the funding it needs to properly care for its residents and provide critical services and programs. The failure to count every Illinois resident would have devastating effects on Illinois' ability to meet the needs of its residents. This rulemaking will allow Aid to the Aged, Blind or Disabled (AABD) participants to exempt earned income from the U.S. Census Bureau for temporary census employment. By disregarding the income that AABD recipients receive as census employees in AABD benefit calculations, AABD recipients would continue to receive AABD without reduction while helping the Census Bureau and gaining work experience. This rule is proposed as an emergency rule because it addresses a threat to the public interest, safety and welfare of the citizens of Illinois.
- 10) A Complete Description of the Subjects and Issues Involved: This rulemaking removes the 12 weeks in a calendar year exemption restriction regarding census employment. Earned income from the U.S. Census Bureau for temporary employment is no longer restricted to the 12 weeks exemption per calendar year. As a result, clients will see a

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positive impact as their Aid to the Aged, Blind or Disabled (AABD) cash benefits will not be affected or reduced from receiving earned income from the United States Census 2020. They will also gain work experience.

- 11) Are there any other rulemakings pending on this Part? No
- 12) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 13) Information and questions regarding this emergency rule shall be directed to:

Tracie Drew, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
Harris Bldg., 3<sup>rd</sup> Floor  
Springfield IL 62762

217/785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

The full text of the Emergency Amendment begins on the next page:

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NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 113  
AID TO THE AGED, BLIND OR DISABLED

SUBPART A: GENERAL PROVISIONS

Section

- 113.1 Description of the Assistance Program
- 113.5 Incorporation By Reference

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

- 113.9 Client Cooperation
- 113.10 Citizenship
- 113.20 Residence
- 113.30 Age
- 113.40 Blind
- 113.50 Disabled
- 113.60 Living Arrangement
- 113.70 Institutional Status
- 113.80 Social Security Number

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section

- 113.100 Unearned Income
- 113.101 Budgeting Unearned Income
- 113.102 Budgeting Unearned Income of Applicants Receiving Income on Date of Application And/Or Date of Decision
- 113.103 Initial Receipt of Unearned Income
- 113.104 Termination of Unearned Income
- 113.105 Unearned Income In-Kind
- 113.106 Earmarked Income
- 113.107 Lump Sum Payments and Income Tax Refunds
- 113.108 Protected Income (Repealed)

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- 113.109 Earned Income (Repealed)
  - 113.110 Budgeting Earned Income (Repealed)
  - 113.111 Protected Income
  - 113.112 Earned Income
  - 113.113 Exempt Unearned Income
  - 113.114 Budgeting Earned Income of Applicants Receiving Income On Date of Application And/Or Date of Decision
  - 113.115 Initial Employment
  - 113.116 Budgeting Earned Income For Contractual Employees
  - 113.117 Budgeting Earned Income For Non-contractual School Employees
  - 113.118 Termination of Employment
  - 113.120 Exempt Earned Income
- EMERGENCY
- 113.125 Recognized Employment Expenses
  - 113.130 Income From Work/Study/Training Programs
  - 113.131 Earned Income From Self-Employment
  - 113.132 Earned Income From Roomer and Boarder
  - 113.133 Earned Income From Rental Property
  - 113.134 Earned Income In-Kind
  - 113.139 Payments from the Illinois Department of Children and Family Services
  - 113.140 Assets
  - 113.141 Exempt Assets
  - 113.142 Asset Disregard
  - 113.143 Deferral of Consideration of Assets
  - 113.154 Property Transfers For Applications Filed Prior To October 1, 1989 (Repealed)
  - 113.155 Property Transfers For Applications Filed On Or After October 1, 1989 (Repealed)
  - 113.156 Court Ordered Child Support Payments of Parent/Step-Parent
  - 113.157 Responsibility of Sponsors of Non-citizens Entering the Country Prior to 8/22/96
  - 113.158 Responsibility of Sponsors of Non-citizens Entering the Country On or After 08/22/96
  - 113.160 Assignment of Medical Support Rights

## SUBPART D: PAYMENT AMOUNTS

- Section
- 113.245 Payment Levels for AABD
  - 113.246 Personal Allowance
  - 113.247 Personal Allowance Amounts

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113.248	Shelter
113.249	Utilities and Heating Fuel
113.250	Laundry
113.251	Telephone
113.252	Transportation, Lunches, Special Fees
113.253	Allowances for Increase in SSI Benefits
113.254	Nursing Care or Personal Care in Home Not Subject to Licensing
113.255	Sheltered Care/Personal or Nursing Care in a Licensed Group Care Facility
113.256	Shopping Allowance
113.257	Special Allowances for Blind and Partially Sighted (Blind Only)
113.258	Home Delivered Meals
113.259	AABD Fuel and Utility Allowances By Area
113.260	Sheltered Care, Personal Care or Nursing Care Rates
113.261	Cases in Licensed Intermediate Care Facilities, Licensed Skilled Nursing Facilities, DMHDD Facilities and All Other Licensed Medical Facilities
113.262	Meeting the Needs of an Ineligible Dependent with Client's Income
113.263	Service Animals
113.264	Refugees Ineligible for SSI

## SUBPART E: OTHER PROVISIONS

Section	
113.300	Persons Who May Be Included In the Assistance Unit
113.301	Grandfathered Cases
113.302	Interim Assistance (Repealed)
113.303	Special Needs Authorizations
113.304	Retrospective Budgeting
113.305	Budgeting Schedule
113.306	Purchase and Repair of Household Furniture (Repealed)
113.307	Property Repairs and Maintenance
113.308	Excess Shelter Allowance
113.309	Limitation on Amount of AABD Assistance to Recipients from Other States (Repealed)
113.320	Redetermination of Eligibility
113.330	Attorney's Fees for VA Appellants (Repealed)

## SUBPART F: INTERIM ASSISTANCE

Section

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- 113.400 Description of the Interim Assistance Program
- 113.405 Pending SSI Application (Repealed)
- 113.410 More Likely Than Not Eligible for SSI (Repealed)
- 113.415 Non-Financial Factors of Eligibility (Repealed)
- 113.420 Financial Factors of Eligibility (Repealed)
- 113.425 Payment Levels for Chicago Interim Assistance Cases (Repealed)
- 113.430 Payment Levels for all Interim Assistance Cases Outside Chicago (Repealed)
- 113.435 Medical Eligibility (Repealed)
- 113.440 Attorney's Fees for SSI Applicants (Repealed)
- 113.445 Advocacy Program for Persons Receiving Interim Assistance (Repealed)
- 113.450 Limitation on Amount of Interim Assistance to Recipients from Other States (Repealed)
- 113.500 Attorney's Fees for SSI Appellants (Renumbered)

AUTHORITY: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; emergency expired January 28, 1979; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill.

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Reg. 8106, effective August 1, 1981; preemptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; preemptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; preemptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; preemptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; preemptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 10, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 9367, effective August 1, 1983; amended at 7 Ill. Reg. 17351, effective December 21, 1983; amended at 8 Ill. Reg. 537, effective December 30, 1983; amended at 8 Ill. Reg. 5225, effective April 9, 1984; amended at 8 Ill. Reg. 6746, effective April 27, 1984; amended at 8 Ill. Reg. 11414, effective June 27, 1984; amended at 8 Ill. Reg. 13273, effective July 16, 1984; amended (by Sections being codified with no substantive change) at 8 Ill. Reg. 17895; amended at 8 Ill. Reg. 18896, effective September 26, 1984; amended at 9 Ill. Reg. 5335, effective April 5, 1985; amended at 9 Ill. Reg. 8166, effective May 17, 1985; amended at 9 Ill. Reg. 8657, effective May 25, 1985; amended at 9 Ill. Reg. 11302, effective July 5, 1985; amended at 9 Ill. Reg. 11636, effective July 8, 1985; amended at 9 Ill. Reg. 11991, effective July 12, 1985; amended at 9 Ill. Reg. 12806, effective August 9, 1985; amended at 9 Ill. Reg. 15896, effective October 4, 1985; amended at 9 Ill. Reg. 16291, effective October 10, 1985; emergency amendment at 10 Ill. Reg. 364, effective January 1, 1986; amended at 10 Ill. Reg. 1183, effective January 10, 1986; amended at 10 Ill. Reg. 6956, effective April 16, 1986; amended at 10 Ill. Reg. 8794, effective May 12, 1986; amended at 10 Ill. Reg. 10628, effective June 3, 1986; amended at 10 Ill. Reg. 11920, effective July 3, 1986; amended at 10 Ill. Reg. 15110, effective September 5, 1986; amended at 10 Ill. Reg. 15631, effective September 19, 1986; amended at 11 Ill. Reg. 3150, effective February 6, 1987; amended at 11 Ill. Reg. 8712, effective April 20, 1987; amended at 11 Ill. Reg. 9919, effective May 15, 1987; emergency amendment at 11 Ill. Reg. 12441, effective July 10, 1987, for a maximum of 150

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days; amended at 11 Ill. Reg. 20880, effective December 14, 1987; amended at 12 Ill. Reg. 867, effective January 1, 1988; amended at 12 Ill. Reg. 2137, effective January 11, 1988; amended at 12 Ill. Reg. 3497, effective January 22, 1988; amended at 12 Ill. Reg. 5642, effective March 15, 1988; amended at 12 Ill. Reg. 6151, effective March 22, 1988; amended at 12 Ill. Reg. 7687, effective April 22, 1988; amended at 12 Ill. Reg. 8662, effective May 13, 1988; amended at 12 Ill. Reg. 9023, effective May 20, 1988; amended at 12 Ill. Reg. 9669, effective May 24, 1988; emergency amendment at 12 Ill. Reg. 11828, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 14162, effective August 30, 1988; amended at 12 Ill. Reg. 17849, effective October 25, 1988; amended at 13 Ill. Reg. 63, effective January 1, 1989; emergency amendment at 13 Ill. Reg. 3402, effective March 3, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 6007, effective April 14, 1989; amended at 13 Ill. Reg. 12553, effective July 12, 1989; amended at 13 Ill. Reg. 13609, effective August 11, 1989; emergency amendment at 13 Ill. Reg. 14467, effective September 1, 1989, for a maximum of 150 days; emergency amendment at 13 Ill. Reg. 16154, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 720, effective January 1, 1990; amended at 14 Ill. Reg. 6321, effective April 16, 1990; amended at 14 Ill. Reg. 13187, effective August 6, 1990; amended at 14 Ill. Reg. 14806, effective September 3, 1990; amended at 14 Ill. Reg. 16957, effective September 30, 1990; amended at 15 Ill. Reg. 277, effective January 1, 1991; emergency amendment at 15 Ill. Reg. 1111, effective January 10, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5291, effective April 1, 1991; amended at 15 Ill. Reg. 5698, effective April 10, 1991; amended at 15 Ill. Reg. 7104, effective April 30, 1991; amended at 15 Ill. Reg. 11142, effective July 22, 1991; amended at 15 Ill. Reg. 11948, effective August 12, 1991; amended at 15 Ill. Reg. 14073, effective September 11, 1991; emergency amendment at 15 Ill. Reg. 15119, effective October 7, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 16709, effective November 1, 1991; amended at 16 Ill. Reg. 3468, effective February 20, 1992; amended at 16 Ill. Reg. 9986, effective June 15, 1992; amended at 16 Ill. Reg. 11565, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 13641, effective September 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14722, effective September 15, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17154, effective November 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17764, effective November 13, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 827, effective January 15, 1993; amended at 17 Ill. Reg. 2263, effective February 15, 1993; amended at 17 Ill. Reg. 3202, effective February 26, 1993; amended at 17 Ill. Reg. 4322, effective March 22, 1993; amended at 17 Ill. Reg. 6804, effective April 21, 1993; amended at 17 Ill. Reg. 14612, effective August 26, 1993; amended at 18 Ill. Reg. 2018, effective January 21, 1994; amended at 18 Ill. Reg. 7759, effective May 5, 1994; amended at 18 Ill. Reg. 12818, effective August 5, 1994; amended at 19 Ill. Reg. 1052, effective January 26, 1995; amended at 19 Ill. Reg. 2875, effective February 24, 1995; amended at 19 Ill. Reg. 6639, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 8409, effective June 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg.

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15034, effective October 17, 1995; amended at 20 Ill. Reg. 858, effective December 29, 1995; emergency amendment at 21 Ill. Reg. 673, effective January 1, 1997, for a maximum of a 150 days; amended at 21 Ill. Reg. 7404, effective May 31, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 22 Ill. Reg. 13642, effective July 15, 1998; emergency amendment at 22 Ill. Reg. 16348, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 18931, effective October 1, 1998; emergency amendment at 22 Ill. Reg. 21750, effective November 24, 1998, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 579, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1607, effective January 20, 1999; amended at 23 Ill. Reg. 5548, effective April 23, 1999; amended at 23 Ill. Reg. 6052, effective May 4, 1999; amended at 23 Ill. Reg. 6425, effective May 15, 1999; amended at 23 Ill. Reg. 6935, effective May 30, 1999; amended at 23 Ill. Reg. 7887, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8650, effective July 13, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 10161, effective August 3, 1999; amended at 23 Ill. Reg. 13852, effective November 19, 1999; amended at 24 Ill. Reg. 2328, effective February 1, 2000; amended at 24 Ill. Reg. 11622, effective July 18, 2000; amended at 24 Ill. Reg. 13394, effective August 18, 2000; amended at 25 Ill. Reg. 5326, effective March 30, 2001; amended at 26 Ill. Reg. 179, effective January 1, 2002; amended at 26 Ill. Reg. 8532, effective May 31, 2002; amended at 26 Ill. Reg. 13521, effective September 3, 2002; amended at 27 Ill. Reg. 7252, effective April 7, 2003; amended at 28 Ill. Reg. 11139, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 11366, effective July 21, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12469, effective August 20, 2004, for a maximum of 150 days; emergency expired January 16, 2005; amended at 29 Ill. Reg. 648, effective December 16, 2004; amended at 29 Ill. Reg. 5703, effective April 11, 2005; amended at 29 Ill. Reg. 10176, effective July 5, 2005; amended at 30 Ill. Reg. 16065, effective September 21, 2006; amended at 31 Ill. Reg. 6981, effective April 30, 2007; amended at 31 Ill. Reg. 11306, effective July 19, 2007; amended at 32 Ill. Reg. 17187, effective October 16, 2008; peremptory amendment at 32 Ill. Reg. 18065, effective November 15, 2008; emergency amendment at 33 Ill. Reg. 4993, effective March 19, 2009, for a maximum of 150 days; emergency expired August 15, 2009; emergency amendment at 33 Ill. Reg. 7337, effective May 21, 2009, for a maximum of 150 days; emergency expired October 17, 2009; amended at 33 Ill. Reg. 12775, effective September 8, 2009; emergency amendment at 33 Ill. Reg. 12850, effective September 4, 2009, for a maximum of 150 days; emergency expired January 31, 2010; amended at 33 Ill. Reg. 13846, effective September 17, 2009; amended at 33 Ill. Reg. 15033, effective October 22, 2009; amended at 33 Ill. Reg. 16845, effective November 30, 2009; emergency amendment at 34 Ill. Reg. 6944, effective May 1, 2010, for a maximum of 150 days; emergency expired September 27, 2010; amended at 34 Ill. Reg. 7255, effective May 10, 2010; amended at 35 Ill. Reg. 1012, effective December 28, 2010; emergency amendment at 35 Ill. Reg. 6951, effective April 6, 2011, for a maximum of 150 days; emergency expired September 2, 2011; amended at 35 Ill. Reg. 17096, effective October 5, 2011; amended at 35 Ill. Reg. 18756,

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effective October 28, 2011; amended at 36 Ill. Reg. 15195, effective October 5, 2012; emergency amendment at 36 Ill. Reg. 17567, effective December 1, 2012 through June 30, 2013; amended at 37 Ill. Reg. 8728, effective June 11, 2013; amended at 37 Ill. Reg. 14876, effective August 27, 2013; amended at 38 Ill. Reg. 16229, effective July 18, 2014; emergency amendment at 38 Ill. Reg. 17470, effective July 30, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 22654, effective November 20, 2014; amended at 39 Ill. Reg. 13260, effective September 21, 2015; amended at 41 Ill. Reg. 10331, effective July 21, 2017; amended at 42 Ill. Reg. 16195, effective August 7, 2018; amended at 43 Ill. Reg. 343, effective December 20, 2018; emergency amendment at 43 Ill. Reg. 4346, effective March 20, 2019, for a maximum of 150 days; amended at 43 Ill. Reg. 6992, effective May 31, 2019; amended at 43 Ill. Reg. 9122, effective August 9, 2019; emergency amendment at 43 Ill. Reg. 14438, effective November 26, 2019, for a maximum of 150 days.

## SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

**Section 113.120 Exempt Earned Income****EMERGENCY**

- a) AABD (Excluding Long Term Group Care). The first \$25.00 of a client's earned or unearned income, other than contributions from a spouse or other individual shall be exempt from consideration in determining initial or continued eligibility for assistance grant. A client is eligible for only one \$25.00 exemption regardless of the types or sources of income.
- b) Certain amounts of earned income shall be exempt:
  - 1) AABD (A) (D). The first \$20.00 of gross earned income plus one-half of the next \$60.00 shall be exempt.
  - 2) AABD (B)
    - A) The first \$85.00 of the gross earned income plus one-half of the amount in excess of \$85.00 shall be exempt.
    - B) Amounts of income as may be necessary for fulfillment of a client's plan for achieving self-support for a period not to exceed 12 months shall be exempt.

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- c) Earned income from the U.S. Census Bureau for temporary census employment is exempt ~~for up to 12 weeks in a calendar year.~~

(Source: Amended by emergency rulemaking at 43 Ill. Reg. 14438, effective November 26, 2019, for a maximum of 150 days)

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- 1) Heading of the Part: Supplemental Nutrition Assistance Program (SNAP)
- 2) Code Citation: 89 Ill. Adm. Code 121
- 3) Section Number: 121.50                      Emergency Action: Amendment
- 4) Statutory Authority: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].
- 5) Effective Date of Rule: November 26, 2019
- 6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency rule will expire at the end of the 150-day period, or upon adoption of permanent rules, whichever comes first.
- 7) Date Filed with the Index Department: November 26, 2019
- 8) A copy of the emergency rulemaking, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The U.S. Constitution requires that every person living in the United States is counted every ten years. The 2020 census is approaching, and the Census Bureau will be conducting nationwide hiring shortly. An accurate count of Illinois' population is essential to ensure that the State receives the funding it needs to properly care for its residents and provide critical services and programs. The failure to count every Illinois resident would have devastating effects on Illinois' ability to meet the needs of its residents. This rulemaking will allow Supplemental Nutrition Assistance Program (SNAP) participants to exempt earned income from the U.S. Census Bureau for temporary census employment. By disregarding the income that SNAP recipients receive as census employees in SNAP benefit calculations, SNAP recipients would continue to receive SNAP benefits without reduction while helping the Census Bureau and gaining work experience. This rule is proposed as an emergency rule because it addresses a threat to the public interest, safety and welfare of the citizens of Illinois.
- 10) A Complete Description of the Subject and Issues Involved: This rulemaking adds earned income from the U.S. Census 2020 to the list of earning considered exempt for the Supplemental Nutrition Assistance Program (SNAP). As a result, clients will see a

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positive impact as their SNAP benefits will not be affected or reduced by receiving earned income from the United States Census 2020. Clients may also gain valuable work experience.

- 11) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
121.63	Amendment	43 Ill. Reg. 11065; October 11, 2019
121.23	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.24	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.25	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.26	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.160	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.162	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.163	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.165	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.167	Repealed	43 Ill. Reg. 11905; October 18, 2019
121.170	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.172	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.174	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.176	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.182	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.184	Repealed	43 Ill. Reg. 11905; October 18, 2019
121.186	Repealed	43 Ill. Reg. 11905; October 18, 2019
121.188	Amendment	43 Ill. Reg. 11905; October 18, 2019
121.190	Repealed	43 Ill. Reg. 11905; October 18, 2019

- 12) Statement of Statewide Policy Objective (if applicable): This rulemaking does not create or expand a State mandate.
- 13) Information and questions regarding this emergency rule shall be directed to:

Tracie Drew, Bureau Chief  
 Bureau of Administrative Rules and Procedures  
 Department of Human Services  
 100 South Grand Avenue East  
 Harris Bldg., 3rd Floor  
 Springfield IL 62762

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217/785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

The full text of the Emergency Amendment begins on the next page:

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TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 121  
SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)

SUBPART A: APPLICATION PROCEDURES

Section

- 121.1 Application for Assistance
- 121.2 Time Limitations on the Disposition of an Application
- 121.3 Approval of an Application and Initial Authorization of Assistance
- 121.4 Denial of an Application
- 121.5 Client Cooperation
- 121.6 Emergency Assistance
- 121.7 Expedited Service
- 121.8 Express Stamps Application Project
- 121.10 Interviews

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

- 121.18 Work Requirement
- 121.19 Ending a Voluntary Quit Disqualification (Repealed)
- 121.20 Citizenship
- 121.21 Residence
- 121.22 Social Security Numbers
- 121.23 Work Registration/Participation Requirements
- 121.24 Individuals Exempt from Work Registration Requirements
- 121.25 Failure to Comply with Work Provisions
- 121.26 Periods of Sanction
- 121.27 Voluntary Job Quit/Reduction in Work Hours
- 121.28 Good Cause for Voluntary Job Quit/Reduction in Work Hours
- 121.29 Exemptions from Voluntary Quit/Reduction in Work Hours Rules

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section

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- 121.30 Unearned Income
- 121.31 Exempt Unearned Income
- 121.32 Education Benefits (Repealed)
- 121.33 Unearned Income In-Kind
- 121.34 Lump Sum Payments and Income Tax Refunds
- 121.40 Earned Income
- 121.41 Budgeting Earned Income
- 121.50 Exempt Earned Income

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- 121.51 Income from Work/Study/Training Programs
- 121.52 Earned Income from Roomers or Boarders
- 121.53 Income From Rental Property
- 121.54 Earned Income In-Kind
- 121.55 Sponsors of Aliens
- 121.57 Assets
- 121.58 Exempt Assets
- 121.59 Asset Disregards

## SUBPART D: ELIGIBILITY STANDARDS

## Section

- 121.60 Net Monthly Income Eligibility Standards
- 121.61 Gross Monthly Income Eligibility Standards
- 121.62 Income Which Must Be Annualized
- 121.63 Deductions from Monthly Income
- 121.64 Supplemental Nutrition Assistance Program (SNAP) Benefit Amount

## SUBPART E: HOUSEHOLD CONCEPT

## Section

- 121.70 Composition of the Assistance Unit
- 121.71 Living Arrangement
- 121.72 Nonhousehold Members
- 121.73 Ineligible Household Members
- 121.74 Strikers
- 121.75 Students
- 121.76 Categorically Eligible Households

## SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

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## Section

- 121.80 Fraud Disqualification (Renumbered)
- 121.81 Initiation of Administrative Fraud Hearing (Repealed)
- 121.82 Definition of Fraud (Renumbered)
- 121.83 Notification To Applicant Households (Renumbered)
- 121.84 Disqualification Upon Finding of Fraud (Renumbered)
- 121.85 Court Imposed Disqualification (Renumbered)
- 121.90 Monthly Reporting and Retrospective Budgeting (Repealed)
- 121.91 Monthly Reporting (Repealed)
- 121.92 Budgeting
- 121.93 Issuance of Food Stamp Benefits
- 121.94 Replacement of the EBT Card or SNAP Benefits
- 121.95 Restoration of Lost Benefits
- 121.96 Uses for SNAP Benefits
- 121.97 Supplemental Payments
- 121.98 Client Training Brochure for the Electronic Benefits Transfer (EBT) System
- 121.105 State Food Program (Repealed)
- 121.107 New State Food Program
- 121.108 Transitional Food Stamp (TFS) Benefits
- 121.117 Farmers' Market Technology Improvement Program
- 121.120 Redetermination of Eligibility
- 121.125 Simplified Reporting
- 121.130 Residents of Shelters for Battered Women and their Children
- 121.131 Fleeing Felons and Probation/Parole Violators
- 121.135 Incorporation By Reference
- 121.136 Food and Nutrition Act of 2008
- 121.140 Small Group Living Arrangement Facilities and Drug/Alcoholic Treatment Centers
- 121.145 Quarterly Reporting (Repealed)

## SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

## Section

- 121.150 Definition of Intentional Violations of the Program
- 121.151 Penalties for Intentional Violations of the Program
- 121.152 Notification To Applicant Households
- 121.153 Disqualification Upon Finding of Intentional Violation of the Program
- 121.154 Court Imposed Disqualification

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## SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

Section	
121.160	Persons Required to Participate
121.162	Program Requirements
121.163	Vocational Training
121.164	Orientation (Repealed)
121.165	Community Work
121.166	Assessment and Employability Plan (Repealed)
121.167	Counseling/Prevention Services
121.170	Job Search Activity
121.172	Basic Education Activity
121.174	Job Readiness Activity
121.176	Work Experience Activity
121.177	Illinois Works Component (Repealed)
121.178	Job Training Component (Repealed)
121.179	JTPA Employability Services Component (Repealed)
121.180	Grant Diversion Component (Repealed)
121.182	Earnfare Activity
121.184	Sanctions for Non-cooperation with Food Stamp Employment and Training
121.186	Good Cause for Failure to Cooperate
121.188	Supportive Services
121.190	Conciliation
121.200	Types of Claims (Recodified)
121.201	Establishing a Claim for Intentional Violation of the Program (Recodified)
121.202	Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)
121.203	Collecting Claim Against Households (Recodified)
121.204	Failure to Respond to Initial Demand Letter (Recodified)
121.205	Methods of Repayment of Food Stamp Claims (Recodified)
121.206	Determination of Monthly Allotment Reductions (Recodified)
121.207	Failure to Make Payment in Accordance with Repayment Schedule (Recodified)
121.208	Suspension and Termination of Claims (Recodified)

## SUBPART I: WORK REQUIREMENT FOR FOOD STAMPS

Section	
121.220	Work Requirement Components (Repealed)

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- 121.221 Meeting the Work Requirement with the Earnfare Component (Repealed)
- 121.222 Volunteer Community Work Component (Repealed)
- 121.223 Work Experience Component (Repealed)
- 121.224 Supportive Service Payments to Meet the Work Requirement (Repealed)
- 121.225 Meeting the Work Requirement with the Illinois Works Component (Repealed)
- 121.226 Meeting the Work Requirement with the JTPA Employability Services Component (Repealed)

**AUTHORITY:** Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

**SOURCE:** Adopted December 30, 1977; amended at 3 Ill. Reg. 5, p. 875, effective February 2, 1979; amended at 3 Ill. Reg. 31, p. 109, effective August 3, 1979; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 41, p. 165, effective October 11, 1979; amended at 3 Ill. Reg. 42, p. 230, effective October 9, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; preemptory amendment at 4 Ill. Reg. 3, p. 49, effective January 9, 1980; preemptory amendment at 4 Ill. Reg. 9, p. 259, effective February 23, 1980; amended at 4 Ill. Reg. 10, p. 253, effective February 27, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 17, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1131, effective January 16, 1981; amended at 5 Ill. Reg. 4586, effective April 15, 1981; preemptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; preemptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 12736, effective October 29, 1981; amended at 6 Ill. Reg. 1653, effective January 17, 1982; amended at 6 Ill. Reg. 2707, effective March 2, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10208, effective August 9, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 5715, effective May 1, 1983; amended at 7 Ill. Reg. 8118, effective June 24, 1983; preemptory amendment at 7 Ill. Reg. 12899, effective October 1, 1983; amended at 7 Ill. Reg. 13655, effective October 4, 1983; preemptory amendment at 7 Ill. Reg. 16067, effective November 18, 1983; amended at 7 Ill. Reg. 16169, effective November 22, 1983; amended at 8 Ill. Reg. 5673, effective April 18, 1984; amended at 8 Ill. Reg. 7249, effective May 16, 1984; preemptory amendment at 8 Ill. Reg. 10086, effective July 1, 1984; amended at 8 Ill. Reg. 13284, effective July 16, 1984; amended at

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8 Ill. Reg. 17900, effective September 14, 1984; amended (by adding Section being codified with no substantive change) at 8 Ill. Reg. 17898; peremptory amendment at 8 Ill. Reg. 19690, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 22145, effective November 1, 1984; amended at 9 Ill. Reg. 302, effective January 1, 1985; amended at 9 Ill. Reg. 6804, effective May 1, 1985; amended at 9 Ill. Reg. 8665, effective May 29, 1985; peremptory amendment at 9 Ill. Reg. 8898, effective July 1, 1985; amended at 9 Ill. Reg. 11334, effective July 8, 1985; amended at 9 Ill. Reg. 14334, effective September 6, 1985; peremptory amendment at 9 Ill. Reg. 15582, effective October 1, 1985; amended at 9 Ill. Reg. 16889, effective October 16, 1985; amended at 9 Ill. Reg. 19726, effective December 9, 1985; amended at 10 Ill. Reg. 229, effective December 20, 1985; peremptory amendment at 10 Ill. Reg. 7387, effective April 21, 1986; peremptory amendment at 10 Ill. Reg. 7941, effective May 1, 1986; amended at 10 Ill. Reg. 14692, effective August 29, 1986; peremptory amendment at 10 Ill. Reg. 15714, effective October 1, 1986; Sections 121.200 thru 121.208 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; peremptory amendment at 11 Ill. Reg. 3761, effective February 11, 1987; emergency amendment at 11 Ill. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10269, effective May 22, 1987; amended at 11 Ill. Reg. 10621, effective May 25, 1987; peremptory amendment at 11 Ill. Reg. 11391, effective July 1, 1987; peremptory amendment at 11 Ill. Reg. 11855, effective June 30, 1987; emergency amendment at 11 Ill. Reg. 12043, effective July 6, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13635, effective August 1, 1987; amended at 11 Ill. Reg. 14022, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 15480, effective September 4, 1987; amended at 11 Ill. Reg. 15634, effective September 11, 1987; amended at 11 Ill. Reg. 18218, effective October 30, 1987; peremptory amendment at 11 Ill. Reg. 18374, effective October 30, 1987; amended at 12 Ill. Reg. 877, effective December 30, 1987; emergency amendment at 12 Ill. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 4204, effective February 5, 1988; amended at 12 Ill. Reg. 9678, effective May 23, 1988; amended at 12 Ill. Reg. 9922, effective June 1, 1988; amended at 12 Ill. Reg. 11463, effective June 30, 1988; amended at 12 Ill. Reg. 12824, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 14045, effective August 19, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 15704, effective October 1, 1988; peremptory amendment at 12 Ill. Reg. 16271, effective October 1, 1988; amended at 12 Ill. Reg. 20161, effective November 30, 1988; amended at 13 Ill. Reg. 3890, effective March 10, 1989; amended at 13 Ill. Reg. 13619, effective August 14, 1989; peremptory amendment at 13 Ill. Reg. 15859, effective October 1, 1989; amended at 14 Ill. Reg. 729, effective January 1, 1990; amended at 14 Ill. Reg. 6349, effective April 13, 1990; amended at 14 Ill. Reg. 13202, effective August 6, 1990; peremptory amendment at 14 Ill. Reg. 15158, effective October 1, 1990; amended at 14 Ill. Reg. 16983, effective September 30, 1990; amended at 15 Ill. Reg. 11150, effective July 22, 1991; amended at 15 Ill. Reg. 11957, effective

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August 12, 1991; peremptory amendment at 15 Ill. Reg. 14134, effective October 1, 1991; emergency amendment at 16 Ill. Reg. 757, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10011, effective June 15, 1992; amended at 16 Ill. Reg. 13900, effective August 31, 1992; emergency amendment at 16 Ill. Reg. 16221, effective October 1, 1992, for a maximum of 150 days; peremptory amendment at 16 Ill. Reg. 16345, effective October 1, 1992; amended at 16 Ill. Reg. 16624, effective October 23, 1992; amended at 17 Ill. Reg. 644, effective December 31, 1992; amended at 17 Ill. Reg. 4333, effective March 19, 1993; amended at 17 Ill. Reg. 14625, effective August 26, 1993; emergency amendment at 17 Ill. Reg. 15149, effective September 7, 1993, for a maximum of 150 days; peremptory amendment at 17 Ill. Reg. 17477, effective October 1, 1993; expedited correction at 17 Ill. Reg. 21216, effective October 1, 1993; amended at 18 Ill. Reg. 2033, effective January 21, 1994; emergency amendment at 18 Ill. Reg. 2509, effective January 27, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 3427, effective February 28, 1994; amended at 18 Ill. Reg. 8921, effective June 3, 1994; amended at 18 Ill. Reg. 12829, effective August 5, 1994; amended at 18 Ill. Reg. 14103, effective August 26, 1994; amended at 19 Ill. Reg. 5626, effective March 31, 1995; amended at 19 Ill. Reg. 6648, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 12705, effective September 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13595, effective October 1, 1995; amended at 20 Ill. Reg. 1593, effective January 11, 1996; peremptory amendment at 20 Ill. Reg. 2229, effective January 17, 1996; amended at 20 Ill. Reg. 7902, effective June 1, 1996; amended at 20 Ill. Reg. 11935, effective August 14, 1996; emergency amendment at 20 Ill. Reg. 13381, effective October 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 13668, effective October 8, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3156, effective February 28, 1997; amended at 21 Ill. Reg. 7733, effective June 4, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; emergency amendment at 22 Ill. Reg. 1954, effective January 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 5502, effective March 4, 1998; amended at 22 Ill. Reg. 7969, effective May 15, 1998; emergency amendment at 22 Ill. Reg. 10660, effective June 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12167, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16230, effective September 1, 1998; amended at 22 Ill. Reg. 19787, effective October 28, 1998; emergency amendment at 22 Ill. Reg. 19934, effective November 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 20099, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 2601, effective February 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 3374, effective March 1, 1999; amended at 23 Ill. Reg. 7285, effective June 18, 1999; emergency amendment at 23 Ill. Reg. 13253, effective October 13, 1999, for a maximum of 150 days; emergency amendment at 24 Ill. Reg. 3871, effective February 24, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 4180, effective March 2, 2000; amended at 24 Ill. Reg. 10198, effective June 27, 2000; amended at 24 Ill. Reg. 15428, effective October 10, 2000; emergency amendment at 24 Ill. Reg. 15468, effective October 1, 2000, for a maximum of 150 days;

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF EMERGENCY AMENDMENT

amended at 25 Ill. Reg. 845, effective January 5, 2001; amended at 25 Ill. Reg. 2423, effective January 25, 2001; emergency amendment at 25 Ill. Reg. 2439, effective January 29, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 3707, effective March 1, 2001, for a maximum of 150 days; emergency expired July 28, 2001; amended at 25 Ill. Reg. 7720, effective June 7, 2001; amended at 25 Ill. Reg. 10823, effective August 12, 2001; amended at 25 Ill. Reg. 11856, effective August 31, 2001; emergency amendment at 25 Ill. Reg. 13309, effective October 1, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 151, effective January 1, 2002; amended at 26 Ill. Reg. 2025, effective February 1, 2002; amended at 26 Ill. Reg. 13530, effective September 3, 2002; preemptory amendment at 26 Ill. Reg. 15099, effective October 1, 2002; amended at 26 Ill. Reg. 16484, effective October 25, 2002; amended at 27 Ill. Reg. 2889, effective February 7, 2003; expedited correction at 27 Ill. Reg. 14262, effective February 7, 2003; amended at 27 Ill. Reg. 4583, effective February 28, 2003; amended at 27 Ill. Reg. 7273, effective April 7, 2003; amended at 27 Ill. Reg. 12569, effective July 21, 2003; preemptory amendment at 27 Ill. Reg. 15604, effective October 1, 2003; amended at 27 Ill. Reg. 16108, effective October 6, 2003; amended at 27 Ill. Reg. 18445, effective November 20, 2003; amended at 28 Ill. Reg. 1104, effective December 31, 2003; amended at 28 Ill. Reg. 3857, effective February 13, 2004; amended at 28 Ill. Reg. 10393, effective July 6, 2004; preemptory amendment at 28 Ill. Reg. 13834, effective October 1, 2004; emergency amendment at 28 Ill. Reg. 15323, effective November 10, 2004, for a maximum of 150 days; emergency expired April 8, 2005; amended at 29 Ill. Reg. 2701, effective February 4, 2005; amended at 29 Ill. Reg. 5499, effective April 1, 2005; preemptory amendment at 29 Ill. Reg. 12132, effective July 14, 2005; emergency amendment at 29 Ill. Reg. 16042, effective October 4, 2005, for a maximum of 150 days; emergency expired March 2, 2006; preemptory amendment at 29 Ill. Reg. 16538, effective October 4, 2005; emergency amendment at 30 Ill. Reg. 7804, effective April 6, 2006, for a maximum of 150 days; emergency expired September 2, 2006; amended at 30 Ill. Reg. 11236, effective June 12, 2006; amended at 30 Ill. Reg. 13863, effective August 1, 2006; amended at 30 Ill. Reg. 15681, effective September 12, 2006; preemptory amendment at 30 Ill. Reg. 16470, effective October 1, 2006; amended at 31 Ill. Reg. 6991, effective April 30, 2007; amended at 31 Ill. Reg. 10482, effective July 9, 2007; amended at 31 Ill. Reg. 11318, effective July 23, 2007; preemptory amendment at 31 Ill. Reg. 14372, effective October 1, 2007; amended at 32 Ill. Reg. 2813, effective February 7, 2008; amended at 32 Ill. Reg. 4380, effective March 12, 2008; amended at 32 Ill. Reg. 4813, effective March 18, 2008; amended at 32 Ill. Reg. 9621, effective June 23, 2008; preemptory amendment at 32 Ill. Reg. 16905, effective October 1, 2008; preemptory amendment to Sections 121.94(c), 121.96(d)(2) and 121.150(b) suspended at 32 Ill. Reg. 18908, effective November 19, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 33 Ill. Reg. 200, effective February 5, 2009; preemptory amendment repealed by emergency rulemaking at 33 Ill. Reg. 3514, effective February 5, 2009, for a maximum of 150 days; preemptory amendment at 32 Ill. Reg. 18092, effective November 15, 2008; emergency amendment at 33 Ill. Reg. 4187, effective February 24, 2009, for a maximum

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF EMERGENCY AMENDMENT

of 150 days; emergency expired July 23, 2009; preemptory amendment at 33 Ill. Reg. 5537, effective April 1, 2009; emergency amendment at 33 Ill. Reg. 11322, effective July 20, 2009, for a maximum of 150 days; emergency expired December 16, 2009; amended at 33 Ill. Reg. 12802, effective September 3, 2009; amended at 33 Ill. Reg. 14121, effective September 22, 2009; emergency amendment at 33 Ill. Reg. 14627, effective October 13, 2009, for a maximum of 150 days; emergency expired March 11, 2010; amended at 33 Ill. Reg. 16875, effective November 30, 2009; amended at 33 Ill. Reg. 17350, effective December 14, 2009; amended at 34 Ill. Reg. 4777, effective March 17, 2010; amended at 34 Ill. Reg. 5295, effective April 12, 2010; amended at 34 Ill. Reg. 5823, effective April 19, 2010; emergency amendment at 34 Ill. Reg. 6967, effective May 1, 2010, for a maximum of 150 days; emergency expired September 27, 2010; amended at 34 Ill. Reg. 7265, effective May 10, 2010; amended at 34 Ill. Reg. 7685, effective May 18, 2010; amended at 34 Ill. Reg. 12547, effective August 11, 2010; preemptory amendment at 34 Ill. Reg. 15543, effective October 1, 2010; amended at 35 Ill. Reg. 1042, effective December 28, 2010; amended at 35 Ill. Reg. 7688, effective April 29, 2011; amended at 35 Ill. Reg. 10119, effective June 7, 2011; preemptory amendment at 35 Ill. Reg. 16118, effective October 1, 2011; preemptory amendment at 35 Ill. Reg. 16904, effective October 1, 2011; amended at 35 Ill. Reg. 17120, effective October 5, 2011; amended at 35 Ill. Reg. 18780, effective October 28, 2011; amended at 35 Ill. Reg. 19278, effective November 8, 2011; amended at 35 Ill. Reg. 19778, effective December 5, 2011; preemptory amendment at 36 Ill. Reg. 15148, effective October 1, 2012; emergency amendment at 37 Ill. Reg. 15423, effective September 9, 2013, for a maximum of 150 days; preemptory amendment at 37 Ill. Reg. 16016, effective October 1, 2013; emergency amendment at 37 Ill. Reg. 16845, effective October 1, 2013, for a maximum of 150 days; preemptory amendment at 37 Ill. Reg. 17983, effective November 1, 2013; amended at 38 Ill. Reg. 4475, effective January 29, 2014; amended at 38 Ill. Reg. 5382, effective February 7, 2014; emergency amendment at 38 Ill. Reg. 8414, effective April 1, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 17616, effective August 8, 2014; preemptory amendment at 38 Ill. Reg. 19831, effective October 1, 2014; amended at 39 Ill. Reg. 6470, effective April 22, 2015; preemptory amendment at 39 Ill. Reg. 13513, effective October 1, 2015; amended at 39 Ill. Reg. 15577, effective December 1, 2015; amended at 40 Ill. Reg. 360, effective January 1, 2016; preemptory amendment at 40 Ill. Reg. 14114, effective October 1, 2016; preemptory amendment at 41 Ill. Reg. 12905, effective October 1, 2017; amended at 42 Ill. Reg. 8310, effective May 4, 2018; amended at 42 Ill. Reg. 8505, effective May 8, 2018; preemptory amendment at 42 Ill. Reg. 18531, effective October 1, 2018; amended at 43 Ill. Reg. 360, effective December 20, 2018; preemptory amendment at 43 Ill. Reg. 11035, effective October 1, 2019; emergency amendment at 43 Ill. Reg. 11718, effective October 1, 2019, for a maximum of 150 days; emergency amendment at 43 Ill. Reg. 11953, effective October 1, 2019, for a maximum of 150 days; emergency amendment at 43 Ill. Reg. 14449, effective November 26, 2019, for a maximum of 150 days.

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF EMERGENCY AMENDMENT

## SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

**Section 121.50 Exempt Earned Income****EMERGENCY**

- a) The earned income of a child residing in the household, who is under 18 years of age and who is attending an elementary or secondary school, is exempt. The exemption of this income is not altered by temporary interruptions in school attendance, such as semester or summer vacations, provided the child's enrollment will resume following the break.
- b) The exemption in subsection (a) of this Section shall not apply to any training allowances or educational grants received by the child.
- c) The exemption in subsection (a) of this Section shall not apply if the student is an emancipated minor or living alone.
- d) Earnings from employment through the Jobs Training Partnership Act if the individual is under age 19 and under the parental control of another adult household member. "Parental control" refers to an adult who has responsibility for the well-being, care and maintenance of a child.
- e) Earnings, allowances and payments under Title I of the National and Community Service Act of 1990. These programs include Serve-America, Higher Education Innovative Projects, American Conservation and Youth Corps Programs and National and Community Service Programs.
- f) [Earnings through employment with the United States Census 2020.](#)

(Source: Amended by emergency rulemaking at 43 Ill. Reg. 14449, effective November 26, 2019, for a maximum of 150 days)

## DEPARTMENT OF STATE POLICE MERIT BOARD

## NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Procedures for the Department of State Police Merit Board
- 2) Code Citation: 80 Ill. Adm. Code 150
- 3) Section Number: 150.210                      Emergency Action: Amendment
- 4) Statutory Authority: 20 ILCS 2610/9 and PA 101-374
- 5) Effective Date of Emergency Rule: December 2, 2019
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Upon adoption of the proposed general rulemaking.
- 7) Date Filed with the Index Department: December 2, 2019
- 8) A copy of the emergency rule, including any material incorporated by reference, is on file in the Agency's principle office and is available for public inspection.
- 9) Reason for Emergency: The Illinois State Police is suffering a shortage of sworn personnel. To address the shortage, the ISP is working to hire as many qualified applicants as possible. The State Police Merit Board is currently accepting applicants for Cadet Class 132 scheduled to be certified as qualified applicants in June 2020, and start the Illinois State Police Academy in August 2020. The first step in evaluating applicants is to verify the minimum requirements are satisfied, including the education requirement. The current Merit Board education standard requires applicants to possess a bachelor's degree, or an associate's degree with three years of continuous police experience. PA 101-374, effective January 1, 2020, will require the Merit Board education standard to not disqualify applicants who have at least an associate's degree or 60 credit hours of college education. The Merit Board proposed rules (first notice published November 8, 2019) consistent with the education standard in PA 101-374, but cannot accept applicants under the new standard until the rules are adopted. The emergency rules allow the Merit Board to accept applicants for Cadet Class 132 in the interim period until the proposed rules are adopted.
- 10) Complete Description of the Subjects and Issues Involved: This amendment implements a new education standard compliant with PA 101-374.

## DEPARTMENT OF STATE POLICE MERIT BOARD

## NOTICE OF EMERGENCY AMENDMENT

- 11) Are there any other rulemakings pending on this Part? Yes

<u>Section Number:</u> 150.210	<u>Proposed Action:</u> Amendment	<u>Illinois Register Citation:</u> 43 Ill. Reg. 12971; November 8, 2019
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- 12) Statement of Statewide Policy Objective: This emergency rulemaking does not affect units of local government.

- 13) Information and questions regarding this emergency rule shall be directed to:

Daniel Dykstra  
Chief Legal Counsel  
Illinois State Police Merit Board  
531 Sangamon Avenue East  
Springfield IL 62702

fax: 217/786-0181  
ddykstra@ispmeritboard.org

The full text of the Emergency Amendment begins on the next page:

DEPARTMENT OF STATE POLICE MERIT BOARD

NOTICE OF EMERGENCY AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE A: MERIT EMPLOYMENT SYSTEMS  
CHAPTER IV: DEPARTMENT OF STATE POLICE MERIT BOARD

PART 150

PROCEDURES OF THE DEPARTMENT OF STATE POLICE MERIT BOARD

SUBPART A: DEFINITIONS

Section  
150.10        Definitions

SUBPART B: CERTIFICATION FOR APPOINTMENT

Section  
150.210      Qualifications  
EMERGENCY  
150.220      Selection Procedures  
150.230      Recertification  
150.240      Probationary Period

SUBPART C: CLASSIFICATION OF RANKS

Section  
150.310      Ranks  
150.320      Interdivisional Transfers

SUBPART D: CERTIFICATION FOR PROMOTION

Section  
150.410      Board Responsibilities  
150.420      Eligibility  
150.430      Procedures  
150.440      Promotion Probationary Period (Repealed)

SUBPART E: DISCIPLINARY ACTION

Section  
150.510      Merit Board Jurisdiction

## DEPARTMENT OF STATE POLICE MERIT BOARD

## NOTICE OF EMERGENCY AMENDMENT

150.520	Discipline Afforded the Deputy Director
150.530	Notification to Suspended Officer
150.540	Petition for Review
150.550	Form and Content of Petition for Review
150.560	Filing Procedures
150.565	Procedure for Processing Petition for Review
150.570	Director's Review
150.575	Discipline Afforded the Director
150.580	Complaint Procedures
150.585	Scheduling the Hearing
150.590	Notification to Officer

## SUBPART F: HEARINGS

Section	
150.610	Board Docket
150.620	Hearing Officer
150.630	Pre-hearing Conferences
150.640	Motions
150.650	Subpoenas
150.655	Request for Witnesses or Documents
150.660	Evidence Depositions
150.665	Hearing Procedures
150.670	Continuances and Extensions of Time
150.675	Computation of Time
150.680	Decisions of the Board
150.685	Service and Form of Papers

150.APPENDIX A	Vision Standards (Repealed)
150.APPENDIX B	Physical Fitness Standards

**AUTHORITY:** Implementing Sections 3 through 14 and authorized by Section 8 of the State Police Act [20 ILCS 2610].

**SOURCE:** Emergency rule adopted at 2 Ill. Reg. 10, p. 206, effective February 24, 1978, for a maximum of 150 days; emergency amendment at 2 Ill. Reg. 32, p. 37, effective July 27, 1978, for a maximum of 150 days; emergency amendment at 2 Ill. Reg. 51, p. 100, effective December 7, 1978, for a maximum of 150 days; adopted at 2 Ill. Reg. 52, p. 422, effective December 25, 1978; amended at 3 Ill. Reg. 47, p. 86, effective November 12, 1979; emergency amendment at 4

## DEPARTMENT OF STATE POLICE MERIT BOARD

## NOTICE OF EMERGENCY AMENDMENT

Ill. Reg. 6, p. 284, effective February 1, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 2739, effective March 2, 1981; amended at 6 Ill. Reg. 10954, effective August 31, 1982; codified at 7 Ill. Reg. 9900; amended at 7 Ill. Reg. 15018, effective November 2, 1983; emergency amendment at 8 Ill. Reg. 379, effective December 27, 1983, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 3038, effective February 23, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7894, effective May 23, 1984; amended at 9 Ill. Reg. 3721, effective March 13, 1985; amended at 9 Ill. Reg. 14328, effective September 6, 1985; recodified from the Department of Law Enforcement Merit Board to the Department of State Police Merit Board pursuant to Executive Order 85-3, effective July 1, 1985, at 10 Ill. Reg. 3283; amended at 10 Ill. Reg. 17752, effective October 1, 1986; amended at 11 Ill. Reg. 7760, effective April 14, 1987; amended at 11 Ill. Reg. 18303, effective October 26, 1987; amended at 12 Ill. Reg. 1118, effective December 24, 1987; amended at 12 Ill. Reg. 10736, effective June 13, 1988; amended at 13 Ill. Reg. 5201, effective April 3, 1989; emergency amendment at 13 Ill. Reg. 16607, effective September 29, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 19592, effective December 1, 1989; amended at 14 Ill. Reg. 3679, effective February 23, 1990; amended at 15 Ill. Reg. 11007, effective July 15, 1991; amended at 16 Ill. Reg. 11835, effective July 13, 1992; emergency amendment at 16 Ill. Reg. 17372, effective October 29, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 9716, effective June 10, 1993; expedited correction at 17 Ill. Reg. 14684, effective June 10, 1993; amended at 17 Ill. Reg. 21079, effective November 22, 1993; amended at 19 Ill. Reg. 6679, effective May 1, 1995; amended at 19 Ill. Reg. 7970, effective June 1, 1995; amended at 20 Ill. Reg. 404, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 8062, effective June 4, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 13663, effective October 3, 1996; amended at 20 Ill. Reg. 14640, effective October 25, 1996; amended at 21 Ill. Reg. 14262, effective October 17, 1997; amended at 22 Ill. Reg. 5092, effective February 26, 1998; amended 22 Ill. Reg. 18076, effective September 28, 1998; amended at 24 Ill. Reg. 1276, effective January 5, 2000; emergency amendment at 24 Ill. Reg. 16103, effective October 12, 2000, for a maximum of 150 days; emergency expired March 11, 2001; amended at 25 Ill. Reg. 10853, effective August 10, 2001; amended at 26 Ill. Reg. 9968, effective June 19, 2002; amended at 26 Ill. Reg. 14694, effective September 23, 2002; amended at 27 Ill. Reg. 19038, effective December 3, 2003; amended at 29 Ill. Reg. 6084, effective April 15, 2005; amended at 30 Ill. Reg. 10609, effective June 2, 2006; amended at 30 Ill. Reg. 19727, effective December 15, 2006; amended at 31 Ill. Reg. 15296, effective November 5, 2007; amended at 36 Ill. Reg. 4419, effective March 12, 2012; emergency amendment at 43 Ill. Reg. 14462, effective December 2, 2019, for a maximum of 150 days.

## SUBPART B: CERTIFICATION FOR APPOINTMENT

**Section 150.210 Qualifications****EMERGENCY**

## DEPARTMENT OF STATE POLICE MERIT BOARD

## NOTICE OF EMERGENCY AMENDMENT

- a) The Board shall certify to the Director in writing qualified applicants for appointment as sworn officers to the Department. Qualified applicants shall:
- 1) Be at least 21 years of age. Persons 20 years of age may be certified if they have successfully completed an associate's degree or 60 credit hours~~2 years (60 semester hours, 90 quarter hours) of law enforcement studies~~ at an accredited college or university.
  - 2) Have completed an associate's degree or 60 credit hours~~, one of the education options listed below~~, with an average grade of C or better, from an accredited college or university, as certified by the registrar of the college or university. ~~A) Options: i) Option 1: An Associate of Arts Degree or equivalent general education course work (see subsection (a)(2)(B) of this Section) and meet one of the following two job experience requirements: 3 years of continuous, full time service as a police officer with the same police agency or 3 years of active military duty. ii) Option 2: An Associate of Science Degree or equivalent general education course work (see subsection (a)(2)(B) of this Section) and meet one of the following two job experience requirements: 3 years of continuous, full time service as a police officer with the same police agency or 3 years of active military duty. iii) Option 3: An Associate of Applied Science Degree, only if the degree is in Law Enforcement, and meet one of the following two job experience requirements: 3 years of continuous, full time service as a police officer with the same police agency or 3 years of active military duty. iv) Option 4: A Bachelor's Degree. B) General Education Course Work consists of: i) 9 semester hours in Communication studies; ii) 9 semester hours in Social Science studies; iii) 6 semester hours in Natural Science studies; iv) 3 semester hours in Math studies; v) 9 semester hours in Humanity studies; vi) 24 semester hours in any other elective. C) The college or university must be accredited by one of the following associations:~~
    - Ai) Middle States Commission on Higher Education~~Association of Colleges and Schools~~;
    - Bi) Higher Learning Commission~~North Central Association of Colleges and Schools~~;

## DEPARTMENT OF STATE POLICE MERIT BOARD

## NOTICE OF EMERGENCY AMENDMENT

- ~~C~~iii) New England Commission of Higher Education~~Association of Schools and Colleges~~;
- ~~D~~iv) Northwest Commission on Colleges and Universities~~Association of Schools and Colleges~~;
- ~~E~~v) Southern Association of Colleges and Schools Commission on Colleges;
- ~~F~~vi) WASC Senior College and University Commission; and ~~Western Association of Schools and Colleges~~.
- G) Accrediting Commission for Community and Junior Colleges.
- 3) Be a citizen of the United States with no felony convictions.
- 4) Accept assignment anywhere in the State.
- 5) Possess a valid driver's license.
- 6) Successfully complete mental and physical tests and a background investigation as prescribed by the Board. (See ~~Section 150~~.Appendix A and B ~~of this Part~~.)
- b) The Board may certify more applicants than there are vacant positions at the time of certification. Certified~~Such certified~~ applicants shall be eligible for appointment for a period of time designated by the Board.

(Source: Amended by emergency rulemaking at 43 Ill. Reg. 14462, effective December 2, 2019, for a maximum of 150 days)

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

MICHAEL A. BILANDIC BUILDING  
ROOM C600  
CHICAGO, ILLINOIS  
DECEMBER 17, 2019  
11:00 A.M.

NOTICE: It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:

Joint Committee on Administrative Rules  
700 Stratton Office Building  
Springfield, Illinois 62706

## RULEMAKINGS SCHEDULED FOR JCAR REVIEW

The following rulemakings are scheduled for review at this meeting. JCAR staff may be proposing action with respect to some of these rulemakings. JCAR members may have questions concerning, and may initiate action with respect to, any item scheduled for JCAR review and any other issues within the Committee's purview.

**PROPOSED RULEMAKINGS**Central Management Services

1. Pay Plan (80 Ill. Adm. Code 310)
  - First Notice Published: 43 Ill. Reg. 10527 – 9/27/19
  - Expiration of Second Notice: 1/1/20

Commerce Commission

2. Electric Reliability (83 Ill. Adm. Code 411)
  - First Notice Published: 43 Ill. Reg. 3088 – 3/8/19
  - Expiration of Second Notice: 1/8/20

Education

3. Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1)
  - First Notice Published: 43 Ill. Reg. 7389 – 7/5/19

-Expiration of Second Notice: 12/27/19

4. Early Childhood Block Grant (23 Ill. Adm. Code 235)
  - First Notice Published: 43 Ill. Reg. 2343 – 2/22/19
  - Expiration of Second Notice: 1/1/20

#### Elections

5. Campaign Financing (26 Ill. Adm. Code 100)
  - First Notice Published: 43 Ill. Reg. 10434 – 9/20/19
  - Expiration of Second Notice: 12/28/19

#### Financial and Professional Regulation

6. Illinois and Public Accounting Act (68 Ill. Adm. Code 1420)
  - First Notice Published: 43 Ill. Reg. 10233 – 9/20/19
  - Expiration of Second Notice: 12/21/19
7. Physician Assistant Practice Act of 1987 (68 Ill. Adm. Code 1350)
  - First Notice Published: 43 Ill. Reg. 7335 – 7/5/19
  - Expiration of Second Notice: 12/26/19
8. Real Estate Appraiser Licensing (68 Ill. Adm. Code 1455)
  - First Notice Published: 43 Ill. Reg. 10260 – 9/20/19
  - Expiration of Second Notice: 12/21/19

#### Gaming Board

9. Video Gaming (General) (11 Ill. Adm. Code 1800)
  - First Notice Published: 43 Ill. Reg. 9209 – 8/30/19
  - Expiration of Second Notice: 1/13/20
10. Video Gaming (General) (11 Ill. Adm. Code 1800)
  - First Notice Published: 43 Ill. Reg. 9312 – 9/6/19
  - Expiration of Second Notice: 1/25/20
11. Riverboat Gambling (86 Ill. Adm. Code 3000)
  - First Notice Published: 43 Ill. Reg. 9315 – 9/6/19
  - Expiration of Second Notice: 1/22/20

#### Guardianship and Advocacy Commission

12. Human Rights Authority (59 Ill. Adm. Code 310)

- First Notice Published: 43 Ill. Reg. 8610 – 8/16/19
- Expiration of Second Notice: 12/21/19

#### Healthcare and Family Services

13. Medical Assistance Programs (89 Ill. Adm. Code 120)
  - First Notice Published: 43 Ill. Reg. 7599 – 7/12/19
  - Expiration of Second Notice: 12/20/19

#### Insurance

14. Mistake in Benefit under Article 3 and Article 4 Pensions (50 Ill. Adm. Code 4450)
  - First Notice Published: 43 Ill. Reg. 6242 – 5/31/19
  - Expiration of Second Notice: 1/27/20

#### Natural Resources

15. Illinois Natural Areas Stewardship Grant Program (17 Ill. Adm. Code 3051)
  - First Notice Published: 43 Ill. Reg. 8657 – 8/16/19
  - Expiration of Second Notice: 1/5/20

#### Public Health

16. Long-Term Care Assistants and Aides Training Programs Code (77 Ill. Adm. Code 395)
  - First Notice Published: 43 Ill. Reg. 10275 – 9/20/19
  - Expiration of Second Notice: 12/28/19
17. Illinois Plumbing Code (77 Ill. Adm. Code 890)
  - First Notice Published: 42 Ill. Reg. 24640 – 12/28/18
  - Expiration of Second Notice: 1/2/20

#### Purchased Care Review Board

18. Illinois Purchased Care Review Board (89 Ill. Adm. Code 900)
  - First Notice Published: 43 Ill. Reg. 8670 – 8/16/19
  - Expiration of Second Notice: 12/27/19

#### Revenue

19. Liquor Control Act (86 Ill. Adm. Code 420)
  - First Notice Published: 43 Ill. Reg. 9334 – 9/6/19
  - Expiration of Second Notice: 12/20/19

Secretary of State

20. Departmental Duties (2 Ill. Adm. Code 552)
  - First Notice Published: 43 Ill. Reg. 9365 – 9/6/19
  - Expiration of Second Notice: 1/1/20
21. Illinois State Library, Government Documents Section (23 Ill. Adm. Code 3020)
  - First Notice Published: 43 Ill. Reg. 10404 – 9/20/19
  - Expiration of Second Notice: 12/21/19
22. Illinois State Library Grant Programs (23 Ill. Adm. Code 3035)
  - First Notice Published: 43 Ill. Reg. 10408 – 9/20/19
  - Expiration of Second Notice: 12/21/19
23. Public Library Non-Resident Services (23 Ill. Adm. Code 3050)
  - First Notice Published: 43 Ill. Reg. 10430 – 9/20/19
  - Expiration of Second Notice: 12/21/19

State Employees Retirement System

24. The Administration and Operation of the State Employees' Retirement System of Illinois (80 Ill. Adm. Code 1540)
  - First Notice Published: 43 Ill. Reg. 10771 – 10/4/19
  - Expiration of Second Notice: 1/5/20

Workers' Compensation Commission

25. Miscellaneous (50 Ill. Adm. Code 9110)
  - First Notice Published: 43 Ill. Reg. 9945 – 9/13/19
  - Expiration of Second Notice: 1/4/20

**INTERNAL RULEMAKINGS**Aging

26. Public Information, Rulemaking, and Organization (2 Ill. Adm. Code 725)
  - First Notice Published: 43 Ill. Reg. 13289 – 11/15/19
27. Access to Records of the Department on Aging (Repealer) (2 Ill. Adm. Code 726)
  - First Notice Published: 43 Ill. Reg. 13300 – 11/15/19
28. Access to Records of the Department on Aging (2 Ill. Adm. Code 726)

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-First Notice Published: 43 Ill. Reg. 13302 – 11/15/19

Revenue

29. Freedom of Information (Repealer) (2 Ill. Adm. Code 1201)  
-First Notice Published: 43 Ill. Reg. 13431 – 11/22/19
30. Public Information, Rulemaking, and Organization (2 Ill. Adm. Code 1201)  
-First Notice Published: 43 Ill. Reg. 13433 – 11/22/19

**EMERGENCY RULEMAKING**

Gaming Board

31. Video Gaming (General) (11 Ill. Adm. Code 1800)  
-First Notice Published: 43 Ill. Reg. 13785 – 12/2/19

**PEREMPTORY RULEMAKING**

Central Management Services

32. Pay Plan (80 Ill. Adm. Code 310)  
-First Notice Published: 43 Ill. Reg. 13031 – 11/8/19

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## SECOND NOTICES RECEIVED

The following second notices were received during the period of November 26, 2019 through December 2 2019. These rulemakings are scheduled for the December 17, 2019 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
1/8/20	<u>Illinois Commerce Commission</u> , Electric Reliability (83 Ill. Adm. Code 411)	3/8/19 43 Ill. Reg. 3088	12/17/19
1/10/20	<u>Healthcare and Family Services</u> , Specialized Health Care Delivery Systems (89 Ill. Adm. Code 146)	6/21/19 43 Ill. Reg. 7047	12/17/19
1/15/20	<u>Revenue</u> , Motor Fuel Tax (86 Ill. Adm. Code 500)	9/6/19 43 Ill. Reg. 9345	12/17/19
1/5/20	<u>Revenue</u> , Income Tax (86 Ill. Adm. Code 100)	9/20/19 43 Ill. Reg. 10387	12/17/19

**ILLINOIS ADMINISTRATIVE CODE**  
**Issue Index - With Effective Dates**

Rules acted upon in Volume 43, Issue 50 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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