

1 AN ACT concerning revenue.

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

4 Section 5. The Local Government Revenue Recapture Act is
5 amended by changing Sections 5-5, 5-10, 5-15, 5-20, 5-30,
6 5-35, 5-37, 10-15, 10-20, 10-30, 10-35, and 10-40 as follows:

7 (50 ILCS 355/5-5)

8 Sec. 5-5. Definitions. As used in this Article:

9 "Department" means the Department of Revenue.

10 "Family member" means the following, whether by whole
11 blood, half-blood, or adoption:

12 (1) a parent or step-parent;

13 (2) a child or step-child;

14 (3) a grandparent or step-grandparent;

15 (4) an aunt, uncle, great-aunt, or great-uncle;

16 (4.1) a niece, nephew, great-niece, or great-nephew;

17 (5) a sibling;

18 (6) a spouse or domestic partner; and

19 (7) the spouse or domestic partner of any person
20 referenced in items (1) through (5).

21 "Financial information" means the information provided to
22 the municipality or county by the Department under Section 11
23 of the Retailers' Occupation Tax Act that is reported to the

1 Department by a business located in a given municipality or
2 county.

3 "Person" means an individual, sole proprietorship,
4 corporation, registered limited liability partnership, limited
5 liability company, partnership, professional service
6 corporation, or any other form of organization.

7 "Misallocation" means tax paid by the taxpayer and
8 allocated to one unit of local government that should have
9 been allocated to a different unit of local government. This
10 includes misallocations discovered by a unit of local
11 government through the tax location verification process under
12 Section 8-11-16 of the Illinois Municipal Code and
13 misallocations discovered by the Department other than through
14 an audit of the taxpayer. "Misallocation" does not, however,
15 include any amount reported by a taxpayer in an amended return
16 or any amount discovered in an audit of the taxpayer by the
17 Department or discovered in an audit of the taxpayer by a
18 qualified practitioner under Article 10 of this Act.

19 "Misallocation" also does not include amounts overpaid by the
20 taxpayer and therefore not owed to any unit of local
21 government, nor amounts underpaid by the taxpayer and
22 therefore not previously allocated to any unit of local
23 government.

24 "Monitoring disbursements" means keeping track of payments
25 from the Department by a municipality, county, or third party
26 for the limited purpose of tracking previous misallocations.

1 "Third party" means a person, partnership, corporation, or
2 other entity or individual registered to do business in
3 Illinois who contracts with a municipality or county to review
4 financial information related to the disbursement of local
5 taxes by the Department to the municipality or county.

6 (Source: P.A. 101-628, eff. 6-1-20.)

7 (50 ILCS 355/5-10)

8 Sec. 5-10. Contracts with third parties. A municipality or
9 county that receives a disbursement of tax proceeds from the
10 Department may contract with a third party for the purpose of
11 ensuring that the municipality or county receives the correct
12 disbursement from the Department and monitoring disbursements.
13 The third party may not contact the Department on behalf of the
14 municipality or county, but instead must work directly with
15 the municipality or county to acquire financial information. A
16 third party may, however, directly access a municipality's or
17 county's financial information that is provided by the
18 Department by electronic means under Section 11 of the
19 Retailers' Occupation Tax Act, provided that the third party
20 meets all other conditions under this Section for the receipt
21 of financial information. To be eligible to receive financial
22 information from the municipality or county, the third party
23 must:

24 (1) enter into a confidentiality agreement with the
25 municipality or county in the form and manner required by

1 the Department prior to receiving the financial
2 information;

3 (2) have an existing contract with the municipality or
4 county at the time the third party enters into the
5 confidentiality agreement with the municipality or county;
6 a copy of that existing contract must be on file with the
7 Department;

8 (3) abide by the same conditions as the municipality
9 or county with respect to the furnishing of financial
10 information under Section 11 of the Retailers' Occupation
11 Tax Act; and

12 (4) be registered with the Department as required by
13 Section 5-35 of this Act.

14 (Source: P.A. 101-628, eff. 6-1-20.)

15 (50 ILCS 355/5-15)

16 Sec. 5-15. Financial information. The third party may use
17 the financial information it receives from the contracting
18 municipality or county only for the purpose of providing
19 services to the municipality or county as specified in this
20 Act and may not use the information for any other purpose.
21 Electronic data submitted to third parties ~~or~~ by the
22 contracting municipality or county must be accessible only to
23 third parties who have entered into a confidentiality
24 agreement with the municipality or county or who have an
25 existing contract with the municipality or county.

1 (Source: P.A. 101-628, eff. 6-1-20.)

2 (50 ILCS 355/5-20)

3 Sec. 5-20. Retention, collection, disclosure, and
4 destruction of financial information.

5 (a) A third party in possession of a taxpayer's financial
6 information must permanently destroy that financial
7 information pursuant to this Act. The financial information
8 shall be destroyed upon the soonest of the following to occur:

9 (1) if the taxpayer is not referred to the Department,
10 within 30 days after receipt of the taxpayer's financial
11 information from either the municipality or county, unless
12 the third party is monitoring disbursements from the
13 Department on an ongoing basis for a municipality or
14 county, in which case, the financial information shall be
15 destroyed no later than 3 years after receipt; or

16 (2) within 30 days after the Department receives a
17 taxpayer audit referral from a third party referring the
18 taxpayer to the Department for additional review.

19 (b) No third party in possession of financial information
20 may sell, lease, trade, market, or otherwise utilize or profit
21 from a taxpayer's financial information. The ~~, except for a~~
22 ~~fee as negotiated by the~~ municipality or county may, however,
23 negotiate a fee with the third party. The fee may be in the
24 form of a contingency fee for a percentage of the amount of
25 additional distributions the municipality or county receives

1 for no more than 3 years following the first disbursement to
2 the municipality or county as a result of the services of the
3 third party under this Act.

4 (c) No third party may permanently or temporarily collect,
5 capture, purchase, use, receive through trade, or otherwise
6 retain a taxpayer's financial information beyond the scope of
7 subsection (a) of this Section.

8 (d) No third party in possession of confidential
9 information may disclose, redisclose, share, or otherwise
10 disseminate a taxpayer's financial information.

11 (e) A third party must dispose of the materials containing
12 financial information in a manner that renders the financial
13 information unreadable, unusable, and undecipherable. Proper
14 disposal methods include, but are not limited to, the
15 following:

16 (1) in the case of paper documents, burning,
17 pulverizing, or shredding so that the information cannot
18 practicably be read or reconstructed; and

19 (2) in the case of electronic media and other
20 non-paper media containing information, destroying or
21 erasing so that information cannot practicably be read,
22 reconstructed, or otherwise utilized by the third party or
23 others.

24 (Source: P.A. 101-628, eff. 6-1-20.)

25 (50 ILCS 355/5-30)

1 Sec. 5-30. Posting results. Annually, the third party
2 shall provide the municipality or county with a final summary
3 of the review for publication. It is the responsibility of the
4 third party to ensure that this summary includes no personal
5 or identifying information of taxpayers and that all such
6 taxpayer information is kept confidential. If the summary
7 includes any discussion of tax revenue, it shall include only
8 aggregate amounts by tax type, and shall in no way include
9 information about an individual return or an individual
10 taxpayer, even with identifying information redacted. No
11 aggregated data may be published that includes taxpayer
12 information for 4 or fewer taxpayers. In addition, due to the
13 preliminary nature of such a summary based only on unaudited
14 financial information, no claim of specific tax savings or
15 revenue generation may be made in the summary.

16 (Source: P.A. 101-628, eff. 6-1-20.)

17 (50 ILCS 355/5-35)

18 Sec. 5-35. Third party registration.

19 (a) Beginning on January 1, 2021, no person shall engage
20 in business as a third party pursuant to this Act in this State
21 without first having registered with the Department.
22 Application for registration or renewal of registration shall
23 be made to the Department, by electronic means, in a form and
24 at the time prescribed by the Department. Each applicant for
25 registration or renewal of registration under this Section

1 shall furnish to the Department, in an electronic format
2 established by the Department, the following information:

3 (1) the name and address of the applicant;

4 (2) the address of the location at which the applicant
5 proposes to engage in business as a third party in this
6 State;

7 (3) valid and updated contact information;

8 (4) attestation of good standing to do business in
9 Illinois;

10 (5) a copy of each contract it has entered into with a
11 municipality or county; if an applicant has a contract
12 with a municipality or county prior to the effective date
13 of this Act, a copy of all existing contracts must be
14 provided;

15 (6) an annual certification of process letter that:

16 (A) is signed by an attorney or certified public
17 accountant licensed and authorized to practice in the
18 State of Illinois;

19 (B) contains findings that, after due diligence,
20 the author is of the opinion that:

21 (i) the third party's confidentiality
22 standards for storing encrypted data at rest,
23 using a cryptographic algorithm, conform to
24 Security Level 1 of the Federal Information
25 Processing Standard (FIPS) Publication 140-2, or
26 conform to similar security requirements contained

1 in any successor publication;

2 (ii) the third party uses multi-factor
3 authentication;

4 (iii) the third party uses HTTPS with at least
5 TLS 1.2 or its successor to protect the data files
6 while in transit between a browser and server;

7 (iv) the third party adheres to best practices
8 as recommended by the Open Web Application
9 Security Project (OWASP);

10 (v) the third party has a firewall which
11 protects against unauthorized use of the data; and

12 (vi) the third party shall maintain a physical
13 location in this State at all times; if, at any
14 time, the third party fails to have a physical
15 location in this State, the third party's
16 registration shall be revoked; and

17 (7) such other additional information as the
18 Department may require by rule.

19 The annual registration fee payable to the Department for
20 each third party shall be \$15,000. The fee shall be deposited
21 into the Tax Compliance and Administration Fund and shall be
22 used for the cost of administering the certified audit pilot
23 project under Article 10.

24 Each applicant shall pay the fee to the Department at the
25 time of submitting its application or renewal to the
26 Department. The Department may require an applicant under this

1 Section to electronically file and pay the fee.

2 (b) The following are ineligible to register as a third
3 party under this Act:

4 (1) a person who has been convicted of a felony
5 related to financial crimes under any federal or State
6 law, if the Department, after investigation and a hearing
7 if requested by the applicant, determines that the person
8 has not been sufficiently rehabilitated to warrant the
9 public trust, including an individual or any employee,
10 officer, manager, member, partner, or director of an
11 entity that has been convicted as provided in this
12 paragraph (1);

13 (2) a person, if any employee, contractual employee,
14 officer, manager, or director thereof, or any person or
15 persons owning in the aggregate more than 5% thereof, is
16 employed by or appointed or elected to the corporate
17 authorities of any municipality or county in this State;

18 (3) a person, if any employee, contractual employee,
19 officer, manager, or director thereof, or any person or
20 persons owning in the aggregate more than 5% thereof, is
21 not or would not be eligible to receive a certificate of
22 registration under this Act or a license under the
23 Illinois Public Accounting Act for any reason;

24 (4) a person who is a family member of any person who
25 is employed by or appointed or elected to the corporate
26 authorities of any municipality or county in the State;

1 (5) a person who is a qualified practitioner, as
2 defined by Section 10-15 of this Act;

3 (6) a third party owned, in whole or in part, by any
4 entity that competes directly or indirectly with any
5 taxpayer whose financial information they are seeking or
6 receiving; and

7 (7) a third party owning in whole or in part, directly
8 or indirectly, any entity that competes, directly or
9 indirectly, with any taxpayer whose financial information
10 they are seeking or receiving.

11 (c) The Department shall begin accepting applications no
12 later than January 1, 2021. Upon receipt of an application and
13 registration fee in proper form from a person who is eligible
14 to register as a third party under this Act, the Department
15 shall issue, within 60 days after receipt of an application, a
16 certificate of registration to such applicant in such form as
17 prescribed by the Department. That certificate of registration
18 shall permit the applicant to whom it is issued to engage in
19 business as a third party under this Act. All certificates of
20 registration issued by the Department under this Section shall
21 be valid for a period not to exceed one year after issuance
22 unless sooner revoked or suspended as provided in this Act. No
23 certificate of registration issued under this Section is
24 transferable or assignable. A person who obtains a certificate
25 of registration as a third party who ceases to do business as
26 specified in the certificate of registration, or who never

1 commenced business, or whose certificate of registration is
2 suspended or revoked, shall immediately surrender the
3 certificate of registration to the Department.

4 (d) Any person aggrieved by any decision of the Department
5 under this Section may, within 60 days after notice of the
6 decision, protest and request a hearing. Upon receiving a
7 request for a hearing, the Department shall give written
8 notice to the person requesting the hearing of the time and
9 place fixed for the hearing and shall hold a hearing and then
10 issue its final administrative decision in the matter to that
11 person within 60 days after the date of the hearing or at a
12 later date upon agreement of all of the parties. In the absence
13 of a protest and request for a hearing within 60 days, the
14 Department's decision shall become final without any further
15 determination being made or notice given.

16 (e) All final decisions by the Department under this
17 Section are subject to judicial review under the provisions of
18 the Administrative Review Law.

19 (Source: P.A. 101-628, eff. 6-1-20.)

20 (50 ILCS 355/5-37)

21 Sec. 5-37. Insurance policy requirement. A third party is
22 required to file and maintain in force an insurance policy
23 issued by an insurance company authorized to transact fidelity
24 and surety business in the State of Illinois. The insurance
25 policy shall be for coverage of potential legal claims,

1 including, but ~~by~~ not limited to, penalties set forth under
2 Section 5-60, embezzlement, dishonesty, fraud, omissions or
3 errors, or other financial wrongdoing in the course of
4 providing services. The policy shall be ~~in the form prescribed~~
5 ~~by the Department~~ in the sum of \$500,000. The policy shall be
6 continuous in form and run concurrently with the original and
7 each renewal certification period unless terminated by the
8 insurance company. An insurance company may terminate a policy
9 and avoid further liability by filing a 60-day notice of
10 termination with the Department and at the same time sending
11 the same notice to the licensee. A licensee that receives a
12 notice of termination must promptly notify each municipality
13 and county with whom it has a contract under this Act of the
14 notice of termination. A license shall be canceled on the
15 termination date of the policy unless a new policy is filed
16 with the Department and becomes effective at the termination
17 date of the prior policy. If a policy has been canceled under
18 this Section, the third party must file a new application and
19 will be considered a new applicant if it obtains a new policy.
20 (Source: P.A. 101-628, eff. 6-1-20.)

21 (50 ILCS 355/10-15)

22 Sec. 10-15. Definitions. As used in this Article:

23 "Audit" means an agreed-upon procedures engagement in
24 accordance with Statements on Standards for ~~the~~ Attestation
25 Engagements (AICPA Professional Standards, AT-C Section 315

1 (Compliance Attestation ~~Attest~~)).

2 "Certification program" means an instructional curriculum,
3 examination, and process for certification, recertification,
4 and revocation of certification of certified public
5 accountants that is administered by the Department with the
6 assistance of the Illinois CPA Society and that is officially
7 approved by the Department to ensure that a certified public
8 accountant possesses the necessary skills and abilities to
9 successfully perform an attestation engagement for a
10 limited-scope tax compliance review in a certified audit
11 project under this Act.

12 "Department" means the Department of Revenue.

13 "Family member" means the following, whether by whole
14 blood, half-blood, or adoption:

15 (1) a parent or step-parent;

16 (2) a child or step-child;

17 (3) a grandparent or step-grandparent;

18 (4) an aunt, uncle, great-aunt, or great-uncle;

19 (4.1) a niece, nephew, great-niece, or great-nephew;

20 (5) a sibling;

21 (6) a spouse or domestic partner; and

22 (7) the spouse or domestic partner of any person
23 referenced in items (1) through (5).

24 "Misallocation" means tax paid by the taxpayer and
25 allocated to one unit of local government that should have
26 been allocated to a different unit of local government. This

1 includes misallocations discovered by a unit of local
2 government through the tax location verification process under
3 Section 8-11-16 of the Illinois Municipal Code and
4 misallocations discovered by the Department other than through
5 an audit of the taxpayer. "Misallocation" does not, however,
6 include any amount reported by a taxpayer in an amended return
7 or any amount discovered in an audit of the taxpayer by the
8 Department or discovered in an audit of the taxpayer by a
9 qualified practitioner under Article 10 of this Act.

10 "Misallocation" also does not include amounts overpaid by the
11 taxpayer and therefore not owed to any unit of local
12 government, nor amounts underpaid by the taxpayer and
13 therefore not previously allocated to any unit of local
14 government.

15 "Participating taxpayer" means any person subject to the
16 revenue laws administered by the Department who is the subject
17 of a tax compliance referral by a municipality, county, or
18 third party, who enters into an engagement with a qualified
19 practitioner for a limited-scope tax compliance review under
20 this Act, and who is approved by the Department under the local
21 government revenue recapture certified audit pilot project.

22 "Qualified practitioner" means a certified public
23 accountant who is licensed or registered to perform
24 accountancy activities in Illinois under Section 8.05 of the
25 Illinois Public Accounting Act and who has met all
26 requirements for the local government revenue recapture

1 certified audit training course, achieved the required score
2 on the certification test as approved by the Department, and
3 been certified by the Department. "Qualified practitioner"
4 does not include a third party, as defined by Section 5-5 of
5 this Act, or any employee, contractual employee, officer,
6 manager, or director thereof, any person or persons owning in
7 the aggregate more than 5% of such third party, or a person who
8 is a family member of any person who is employed by or is an
9 appointed or elected member of any corporate authorities, as
10 defined in the Illinois Municipal Code.

11 (Source: P.A. 101-628, eff. 6-1-20; revised 8-20-20.)

12 (50 ILCS 355/10-20)

13 Sec. 10-20. Local government revenue recapture certified
14 audit project.

15 (a) The Department shall initiate a certified audit pilot
16 project to further enhance tax compliance reviews performed by
17 qualified practitioners and to encourage taxpayers to hire
18 qualified practitioners at their own expense to review and
19 report on certain aspects of their sales tax and use tax
20 compliance in cases where the Department has notified the
21 taxpayer that it has received a tax compliance referral from a
22 municipality, county, or third party under this Act. The
23 nature of the certified audit work performed by qualified
24 practitioners shall be agreed-upon procedures of a Compliance
25 Attestation in which the Department is the specified user of

1 the resulting report. Qualified practitioners are prohibited
2 from using information obtained from audit manuals, training
3 materials, or any other materials provided by the Department
4 under this Act for any purpose other than to perform the tax
5 compliance reviews under the certified audit pilot program
6 under this Act.

7 The tax compliance reviews shall be limited in scope and
8 may include only: (i) whether the taxpayer is reporting
9 receipts in the proper jurisdiction; (ii) whether tangible
10 personal property ~~asset~~ purchases that were used or consumed
11 by the taxpayer were taxed properly; (iii) an evaluation of
12 sales reported as exempt from tax; (iv) whether the proper tax
13 rate was charged; (v) whether the tax was properly reported as
14 retailers' occupation tax or use tax; and (vi) any other
15 factor that impacts the Department's allocation of sales and
16 use tax revenues to the jurisdiction in which the taxpayer
17 reports sales or use tax.

18 (b) As an incentive for taxpayers to incur the costs of a
19 certified audit, the Department shall abate penalties due on
20 any tax liabilities revealed by a certified audit, except that
21 this authority to abate penalties shall not apply to any
22 liability for taxes that were collected by the participating
23 taxpayer but not remitted to the Department, nor shall the
24 Department have the authority to abate fraud penalties.

25 (c) The certified audit pilot project shall apply only to
26 taxpayers who have been notified that an audit referral has

1 been received by the Department under this Act and only to
2 occupation and use taxes administered and collected by the
3 Department.

4 (c-5) The Department shall charge a fee of \$2,500 to each
5 participant in the certification program under this Article.

6 (d) The certified audit pilot project shall begin with
7 audit referrals received on and after January 1, 2021. Upon
8 obtaining proper certification, qualified practitioners may
9 initiate certified audits beginning January 1, 2021.

10 (Source: P.A. 101-628, eff. 6-1-20.)

11 (50 ILCS 355/10-30)

12 Sec. 10-30. Local government revenue recapture audit
13 referral.

14 (a) A third party shall not refer a taxpayer to the
15 Department for audit consideration unless the third party is
16 registered with the Department pursuant to Section 5-35.

17 (b) If, based on a review of the financial information
18 provided by the Department to a municipality or county, or
19 provided by a municipality or county to a registered third
20 party, the municipality or county discovers that a taxpayer
21 may have underpaid local retailers' or service occupation
22 taxes, then it may refer the matter to the Department for audit
23 consideration. The tax compliance referral may be made only by
24 the municipality, county, or third party and shall be made in
25 the form and manner required by the Department, including any

1 requirement that the referral be submitted electronically. The
2 tax compliance referral shall, at a minimum, include proof of
3 registration as a third party, a copy of a contract between the
4 third party and the county or municipality, the taxpayer's
5 name, Department account identification number, mailing
6 address, and business location, and the specific reason for
7 the tax compliance referral, including as much detail as
8 possible.

9 (c) The Department shall complete its evaluation of all
10 audit referrals under this Act within 90 ~~60~~ days after receipt
11 of the referral and shall handle all audit referrals as
12 follows:

13 (1) the Department shall evaluate the referral to
14 determine whether it is sufficient to warrant further
15 action based on the information provided in the referral,
16 any other information the Department possesses, and audit
17 selection procedures of the Department;

18 (2) if the Department determines that the referral is
19 not actionable, then the Department shall notify the local
20 government that it has evaluated the referral and has
21 determined that no action is deemed necessary and provide
22 the local government with an explanation for that
23 decision, including, but not limited to an explanation
24 that (i) the Department has previously conducted an audit;
25 (ii) the Department is in the process of conducting an
26 investigation or other examination of the taxpayer's

1 records; (iii) the taxpayer has already been referred to
2 the Department and the Department determined an audit
3 referral is not actionable; (iv) the Department or a
4 qualified practitioner has previously conducted an audit
5 after referral under this Section 10-30; or (v) for just
6 cause;

7 (3) if the Department determines that the referral is
8 actionable, then it shall determine whether the taxpayer
9 is currently under audit or scheduled for audit by the
10 Department;

11 (A) if the taxpayer is not currently under audit
12 by the Department or scheduled for audit by the
13 Department, the Department shall determine whether it
14 will schedule the taxpayer for audit; and

15 (B) if the taxpayer is not under audit by the
16 Department ~~or scheduled for audit by the Department~~
17 and the Department decides under subparagraph (A) not
18 to schedule the taxpayer for audit by the Department,
19 then the Department shall notify the taxpayer that the
20 Department has received an actionable audit referral
21 on the taxpayer and issue a notice to the taxpayer as
22 provided under subsection (d) of this Section.

23 (d) The notice to the taxpayer required by subparagraph
24 (B) of paragraph (3) of subsection (c) shall include, but not
25 be limited to, the following:

26 (1) that the taxpayer must either: (A) engage a

1 qualified practitioner, at the taxpayer's expense, to
2 complete a certified audit, limited in scope to the
3 taxpayer's Retailers' Occupation Tax, Use Tax, Service
4 Occupation Tax, or Service Use Tax liability, and the
5 taxpayer's liability for any local retailers' or service
6 occupation tax administered by the Department; or (B) be
7 subject to audit by the Department;

8 (2) that, as an incentive, for taxpayers who agree to
9 the limited-scope certified audit, the Department shall
10 abate penalties as provided in Section 10-20; and

11 (3) A statement that reads: "[INSERT THE NAME OF THE
12 ELECTED CHIEF EXECUTIVE OF THE CORPORATE AUTHORITY] has
13 contracted with [INSERT THIRD PARTY] to review your
14 Retailers' Occupation Tax, Use Tax, Service Occupation
15 Tax, Service Use Tax, and any local retailers' or service
16 occupation taxes reported to the Illinois Department of
17 Revenue ("Department"). [INSERT THE NAME OF THE ELECTED
18 CHIEF EXECUTIVE OF THE CORPORATE AUTHORITY] and [INSERT
19 THE THIRD PARTY] have selected and referred your business
20 to the Department for a certified audit of your Retailers'
21 Occupation Tax, Use Tax, Service Occupation Tax, Service
22 Use Tax, and any local retailers' or service occupation
23 taxes reported to the Department pursuant to the Local
24 Government Revenue Recapture Act. The purpose of the audit
25 is to verify that your business reported and submitted the
26 proper Retailers' Occupation Tax, Use Tax, Service

1 Occupation Tax, Service Use Tax, and any local retailers'
2 or service occupation taxes administered by the
3 Department. The Department is required to disclose your
4 confidential financial information to [INSERT THE NAME OF
5 THE ELECTED CHIEF EXECUTIVE OF THE CORPORATE AUTHORITY]
6 and [INSERT THE THIRD PARTY]. Additional information can
7 be accessed from the Department's website and publications
8 for a basic overview of your rights as a Taxpayer. If you
9 have questions regarding your business's referral to the
10 Department for audit, please contact [CORPORATE
11 AUTHORITY'S] mayor, village president, or any other person
12 serving as [CORPORATE AUTHORITY'S] chief executive officer
13 or chief financial officer. [INSERT THIRD PARTY] is
14 prohibited from discussing this matter with you directly
15 or indirectly in any manner regardless of who initiates
16 the contact. If [INSERT THIRD PARTY] contacts you, please
17 contact the Department."

18 (e) Within 90 days after notice by the Department, the
19 taxpayer must respond by stating in writing whether it will or
20 will not arrange for the performance of a certified audit
21 under this Act. If the taxpayer states that it will arrange for
22 the performance of a certified audit, then it must do so within
23 60 days after responding to the Department or within 90 days
24 after notice by the Department, whichever comes first. If the
25 taxpayer states that it will not arrange for the performance
26 of a certified audit or if the taxpayer does not arrange for

1 the performance of a certified audit within 180 days after
2 notice by the Department, then the Department may schedule the
3 taxpayer for audit by the Department.

4 (f) The certified audit must not be a contingent-fee
5 engagement and must be completed in accordance with this
6 Article 10.

7 (Source: P.A. 101-628, eff. 6-1-20.)

8 (50 ILCS 355/10-35)

9 Sec. 10-35. Notification by qualified practitioner.

10 (a) A qualified practitioner hired by a taxpayer who
11 elects to perform a certified audit under Section 10-30 shall
12 notify the Department of an engagement to perform a certified
13 audit and shall provide the Department with the information
14 the Department deems necessary to identify the taxpayer, to
15 confirm that the taxpayer is not already under audit by the
16 Department, and to establish the basic nature of the
17 taxpayer's business and the taxpayer's potential exposure to
18 Illinois occupation and use tax laws. The information provided
19 in the notification shall be submitted in the form and manner
20 required by the Department and shall include the taxpayer's
21 name, federal employer identification number or social
22 security number, Department account identification number,
23 mailing address, and business location, and the specific
24 occupation and use taxes and period proposed to be covered by
25 the engagement for the certified audit. In addition, the

1 notice shall include the name, address, identification number,
2 contact person, and telephone number of the engaged firm. An
3 engagement for a qualified practitioner to perform a certified
4 audit under this Act shall not be authorized by the Department
5 unless the taxpayer received notice from the Department under
6 subparagraph (B) ~~(b)~~ of paragraph (3) of subsection (c) of
7 Section 10-30.

8 (b) If the taxpayer has received notice of an audit
9 referral from the Department and has not been issued a written
10 notice of intent to conduct an audit, the taxpayer shall be a
11 participating taxpayer and the Department shall so advise the
12 qualified practitioner in writing within 10 days after receipt
13 of the engagement notice. However, the Department may ~~exclude~~
14 ~~a taxpayer from a certified audit or may~~ limit the taxes or
15 periods subject to the certified audit ~~on the basis that: (i)~~
16 ~~the Department has previously conducted an audit; (ii) the~~
17 ~~Department is in the process of conducting an investigation or~~
18 ~~other examination of the taxpayer's records; (iii) the~~
19 ~~taxpayer has already been referred to the Department pursuant~~
20 ~~to Section 10-30 and the Department determined an audit~~
21 ~~referral is not actionable; (iv) the Department or a qualified~~
22 ~~practitioner has previously conducted an audit under Section~~
23 ~~10-30 of this Act; or (v) for just cause.~~

24 (c) Within 30 days after receipt of the notice of
25 qualification from the Department under subsection (b), the
26 qualified practitioner shall contact the Department and

1 submit, for review and agreement by the Department, a proposed
2 audit plan and procedures. The Department may extend the time
3 for submission of the plan and procedures for reasonable
4 cause. The qualified practitioner shall initiate action to
5 advise the Department that amendment or modification of the
6 plan and procedures is necessary if the qualified
7 practitioner's inspection reveals that the taxpayer's
8 circumstances or exposure to the revenue laws is substantially
9 different from those described in the engagement notice.

10 (Source: P.A. 101-628, eff. 6-1-20.)

11 (50 ILCS 355/10-40)

12 Sec. 10-40. Audit performance and review.

13 (a) Upon the Department's designation of the agreed-upon
14 procedures to be followed by a practitioner in a certified
15 audit, the qualified practitioner shall perform the engagement
16 and shall timely submit a completed report to the Department
17 in the form and manner required by the Department and
18 professional standards. The report shall affirm completion of
19 the agreed-upon procedures and shall provide any required
20 disclosures.

21 (b) The Department shall review the report of the
22 certified audit and shall accept it when it is determined to be
23 complete by the qualified practitioner. Once the report is
24 accepted by the Department, the Department shall ~~issue a~~
25 ~~notice of proposed assessment reflecting the determination of~~

1 ~~any additional liability reflected in the report and shall~~
2 provide the taxpayer with all the normal payment, protest, and
3 appeal rights with respect to any ~~the~~ liability reflected in
4 the report, including the right to a review by the Informal
5 Conference Board. In cases in which the report indicates an
6 overpayment has been made, the taxpayer shall submit a
7 properly executed claim for credit or refund to the
8 Department. Otherwise, the certified audit report is a final
9 and conclusive determination with respect to the tax and
10 period covered. No additional assessment may be made by the
11 Department for the specific taxes and period referenced in the
12 report, except upon a showing of fraud or material
13 misrepresentation. This determination shall not prevent the
14 Department from collecting liabilities not covered by the
15 report or from conducting an audit or investigation and making
16 an assessment for additional tax, penalty, or interest for any
17 tax or period not covered by the report.

18 (c) Any ~~A notice of proposed~~ assessment issued by the
19 Department under this Act is subject to the statute of
20 limitations for assessments under the Retailers' Occupation
21 Tax Act, the Use Tax Act, the Service Occupation Tax Act, the
22 Service Use Tax Act, and any local retailers' or service
23 occupation tax, as appropriate, and local taxes collected on
24 assessments issued shall be allocated to units of local
25 government for the full period of the statute of limitations
26 in accordance with those Acts and any applicable local

1 retailers' or service occupation tax Act. The Department shall
2 provide notice in writing to the municipality or county and
3 the third party, if applicable, of any audit findings,
4 determinations, or collections once finalized, but limited to
5 the amount of additional liability, if any, for distribution
6 to the municipality or county as part of the municipality's or
7 county's share of the State Retailers' Occupation Tax or
8 Service Occupation Tax or under the municipality's or county's
9 locally imposed retailer's or service occupation tax.

10 Claims for credit or refund filed by taxpayers under this
11 Act are subject to the statute of limitations under the
12 Retailers' Occupation Tax Act, the Use Tax Act, the Service
13 Occupation Tax Act, the Service Use Tax Act, and any local
14 retailers' or service occupation tax Act, as appropriate, and
15 any credit or refund of local taxes allowed to the taxpayer
16 shall be de-allocated from units of local government for the
17 full period of the statute of limitations in accordance with
18 those Acts and any applicable local retailers' or service
19 occupation tax Act.

20 If a reallocation of tax from one unit of local government
21 to another occurs as a result of an amended return filed by a
22 taxpayer or an audit of a taxpayer, the Department shall make
23 the reallocation for the full period of the statute of
24 limitations under the Retailers' Occupation Tax Act, the Use
25 Tax Act, the Service Occupation Tax Act, the Service Use Tax
26 Act, and any applicable local retailer's or service occupation

1 tax Act.

2 With respect to misallocations discovered under this Act,
3 the Department shall increase or decrease the amount allocated
4 to a unit of local government by an amount necessary to offset
5 any misallocation of previous disbursements. The offset amount
6 shall be the amount erroneously disbursed within the previous
7 6 months from the time a misallocation is discovered.

8 (d) Under no circumstances may a person, including a
9 municipality or county or third party, other than the person
10 audited and his or her attorney, have any right to participate
11 in an appeal or other proceeding regarding the audit,
12 participate in settlement negotiations, challenge the validity
13 of any settlement between the Department and any person, or
14 review any materials, other than financial information as
15 otherwise provided in this Act, that are subject to the
16 confidentiality provisions of the underlying tax Act. In
17 addition, the Department's determination of whether to audit a
18 taxpayer or the result of the audit creates no justiciable
19 cause of action, and any adjudication related to this program
20 is limited to the taxpayer's rights in an administrative
21 hearing held by the Department, an administrative hearing held
22 by the Illinois Independent Tax Tribunal, or related to
23 payments made under protest as provided in Section 2a.1 of the
24 State Officers and Employees Money Disposition Act, as
25 appropriate.

26 (Source: P.A. 101-628, eff. 6-1-20.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.