

**Illinois Department of Revenue
Regulations**

Title 86 Part 700 Section 700.110 Application of the Provisions of the Act and this Part

TITLE 86: REVENUE

**PART 700
UNIFORM PENALTY AND INTEREST ACT**

Section 700.110 Application of the Provisions of the Act and this Part

- a) The Uniform Penalty and Interest Act and this Part are effective January 1, 1994 and the provisions of the Act and this Part apply to the rates of interest for periods on and after the effective date of the Act and this Part.

- b) Interest Charged
 - 1) For periods subsequent to the effective date of the 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 semi-annual adjustment pursuant to Section 3-2(b) of the UPIA.

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 155/1] on March 20, 1994 for rental receipts from rentals that were received in February 1994. The taxpayer does not remit the tax to the Department when due on March 20, 1994. The interest rate to be charged the taxpayer will be the interest rate in effect on March 20, 1994.

EXAMPLE 2: A taxpayer is required to file fourth quarter 1993 IL-941 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 1994 quarterly withholding return on or before April 30, 1994. The taxpayer has withholding during this period but does not remit the withholding payment to the Department until June 15, 1994. The interest rate to be charged the Taxpayer will be the interest rate in effect on April 30, 1994. This same rate will be charged through June 15, 1994, the date the tax 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 May 1, 1994 would be charged through June 30, 1994. A new rate would be charged from July 1, 1994 through August 15, 1994, the date the tax is paid.

EXAMPLE 5: A calendar year, corporate taxpayer filed its 1993 corporate income tax return (IL-1120) on October 15, 1994 with a payment for the total tax liability shown on the return attached. No estimated payments

had been made. The taxpayer would be charged interest on the underpayment of tax from March 16, 1994 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.* (Section 3-9 of the Act)

EXAMPLE 1: A 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. The taxpayer was audited and 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; and at the semiannually adjusted daily interest rate imposed pursuant to the Act and these rules from January 1, 1994 through the date the tax is paid.

EXAMPLE 2: A taxpayer was required to file a return under the Retailers' Occupation Tax Act on or before the 20th day of November 1993 for the October 1993 liability period. 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; and at the semiannually adjusted daily interest rate imposed pursuant to the Act and these rules from January 1, 1994 through January 15, 1994, the date the tax was paid.

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, and at the semiannually adjusted interest rate imposed pursuant to the Act and these rules from January 1, 1994 through August 15, 1994, the date the tax was paid.

EXAMPLE 4: A calendar year, corporate taxpayer filed its 1992 return on October 15, 1993. 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 16, 1993 through December 31, 1993 and at the semiannual adjusted rate imposed pursuant to the 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.* (Section 3-9 of the Act)

EXAMPLE 1: A 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 on the twentieth day of January 1994. Penalties imposed for late payment or non-payment of the tax due shall be the penalties imposed at the rate in effect on January 20, 1994, the time the tax liability became due.

EXAMPLE 2: A 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 November 1993 on the twentieth day of December 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 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 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 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 shall be the penalties imposed at the rates in effect on November 15, 1993, the 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 filed after the effective date of the Act and this Part except such interest which is paid in accordance with the Act. (Section 3-9 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 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; 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 will be entitled to interest from April 16, 1993 through December 31, 1993, at an annual rate of 9%, and from January 1, 1994 through

the date the refund was issued at the semiannually adjusted interest rate under the UPIA.