

**Illinois Department of Revenue
Regulations**

Title 86 Part 100 Section 100.9600 Administrative Review Law (IITA Section 1201)

TITLE 86: REVENUE

**PART 100
INCOME TAX**

SUBPART AA: JUDICIAL REVIEW

Section 100.9600 Administrative Review Law (IITA Section 1201)

- a) Circuit Court review; application and scope; remand procedure. IITA Section 1201 states that the provisions of the Administrative Review Law as contained in Article III of the Code of Civil Procedure [735 ILCS 5/Art. III] and rules adopted pursuant thereto shall apply to and govern all proceedings for the judicial review of the Department's final actions under IITA Sections 908(d) and 910(d) and that such actions shall constitute administrative decisions as defined in Section 3-101 of the Administrative Review Law. (See Sections 100.9000(c)(2) and 100.9100(b)(1) and (3) of this Part.) The Administrative Review Act (which should be consulted for completeness) also includes the following provisions:

Scope of Review. Every action to review any final administrative decision shall be heard and determined by the court with all convenient speed. The hearing and determination shall extend to all questions of law and of fact presented by the entire record before the court. No new or additional evidence in support of or in opposition to any finding, order, determination or decision of the administrative agency shall be heard by the court. The findings and conclusions of the administrative agency on questions of fact shall be held to be prima facie true and correct. [735 ILCS 5/3-110]

Powers of Trial Court. The Circuit Court has power:

Where a hearing has been held by the agency, to remand for the purpose of taking additional evidence when from the state of the record of the administrative agency or otherwise it shall appear that such action is just. However, no remandment shall be made on the ground of newly discovered evidence unless it appears to the satisfaction of the court that such evidence has in fact been discovered subsequent to the termination of the proceedings before the administrative agency and that it could not by the exercise of reasonable diligence have been obtained at such proceedings; and that such evidence is material to the issues and is not cumulative. [735 ILCS 5/3-111]

- b) Where the case is remanded to the Department under the provisions quoted immediately above for the taking of additional evidence, the Department in compliance therewith and to the extent appropriate shall reopen and resume the examination of the return or claim under IITA Section 904(a) (see Sections 100.9300(a), 100.9400(a), and 100.9520(a) of this Part). The informal procedure shall be made available at the taxpayer's or claimant's option as set forth at see Section 100.9000 of this Part, and if the dispute continues, the investigation and hearing provided for in IITA Section 914

(see Section 100.9520 of this Part) shall be reopened and resumed. Any settlement or other disposition stipulated by the agreement of the parties of any of the adjustments or issues as a result of the remand prior to or after the resumption of the hearing shall be subject to the concurrence of the Attorney General and approval of the court; however, such approval shall not extend to or be considered as a decision on the merits of the issues by the court. After the handing down of the Circuit Court decision the Department as soon as practicable may publish its acquiescence or nonacquiescence to any part of the court's findings or conclusions decided adversely to the State and well within the time for taking an appeal shall transmit to the Attorney General its recommendations for or against taking an appeal. In its litigation positions and action on decision recommendations, at whatever judicial review level, the Department shall endeavor to promote and attain legal soundness tempered with practicability and fairness and coordinated uniformity of application in the interpretations taking into account overall the views and the interest of taxpayers or claimants and the state.

- c) Appellate review. The Administrative Review Law also contains the following provisions:

Any final decision, order, or judgment of the Circuit Court , entered in an action to review a decision of an administrative agency, is reviewable by appeal as in other civil cases. [735 ILCS 5/3-112]

(Source: Amended at 24 Ill. Reg. 10593, effective July 7, 2000)