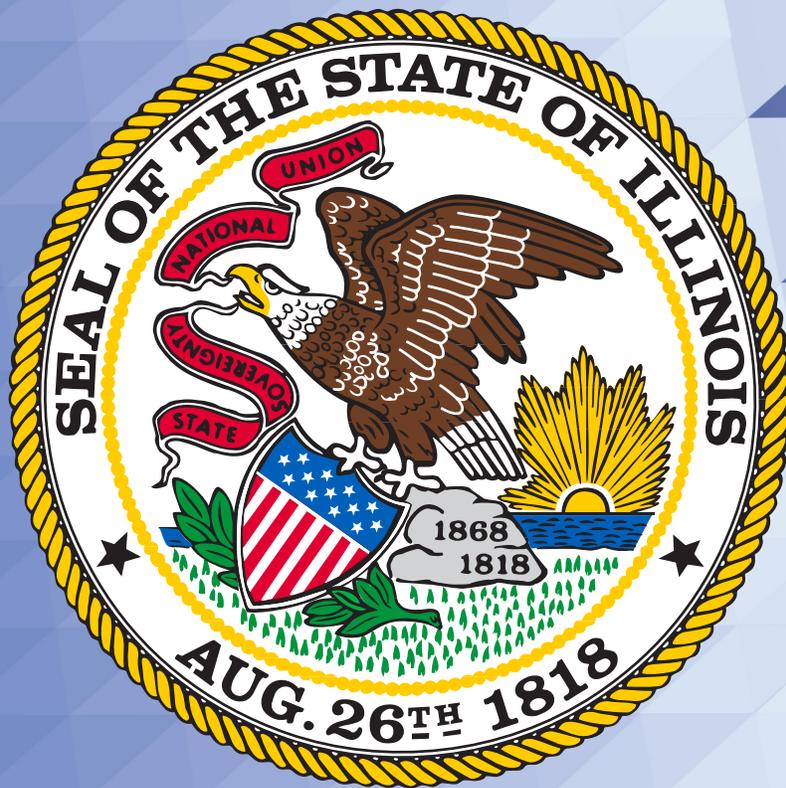


ILLINOIS DEPARTMENT OF REVENUE

# Annual Report

## Fiscal Year 2023





# Annual Report FY2023

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

	Total
<b>Collections by tax/type <sup>1</sup></b>	
Sales and Use.....	\$21,058,955,304.10
Motor Fuel.....	2,566,813,761.48
Cigarette .....	780,514,844.30
Senior Citizen Deferral.....	5,268,577.14
Liquor .....	316,304,190.41
Public Utility .....	1,380,371,662.96
Hotel.....	468,072,547.03
Real Estate Transfer .....	104,347,152.45
Charity Gaming.....	5,260,575.90
Private Vehicle Use.....	95,405,457.90
General Office / Misc. ....	70,554,465.34
Business Income.....	14,574,609,444.28
Individual Income .....	25,648,008,952.55
Automobile Renting.....	104,958,988.51
Live Adult Entertainment.....	387,766.54
Adult Use Cannabis .....	451,868,765.05
	<b><u>\$67,631,702,455.94</u></b>

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

Current year .....	627,433,897.81
Prior year .....	<u>534,246,583.92</u>
Net change.....	<b><u>\$93,187,313.89</u></b>

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

Sales and Use.....	21,026,003,744.14
Motor Fuel.....	2,566,157,500.24
Cigarette .....	784,861,312.46
Senior Citizen Deferral.....	5,244,547.41
Liquor .....	316,296,177.06
Public Utility .....	1,381,802,270.19
Hotel.....	462,900,239.59
Real Estate Transfer .....	104,241,612.95
Charity Gaming.....	5,211,913.61
Private Vehicle Use.....	95,829,352.80
General Office / Misc. ....	66,713,035.91
Business Income.....	14,537,375,046.24
Individual Income .....	25,625,652,152.91
Automobile Renting.....	108,660,229.19
Live Adult Entertainment.....	387,766.54
Adult Use Cannabis .....	451,178,240.81
	<b><u>\$67,538,515,142.05</u></b>

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

## Additional Information

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

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

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

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

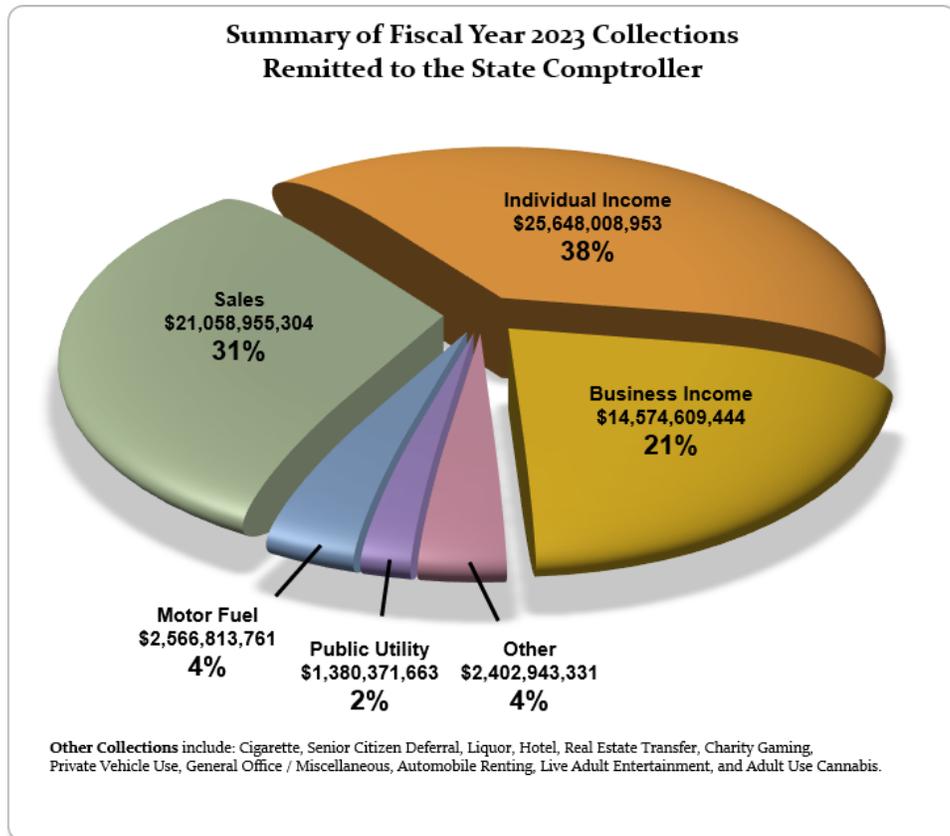
### <sup>3</sup> Collections reconciled to receipts

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

(Total “**Collections by tax/type**, \$67,631,702,455.94 ” less “**Collections deposited into the State Treasury and in-transit to the State Comptroller**, \$93,187,313.89 ” is equal to “**Comptroller fund receipts**, \$67,538,515,142.05”).

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

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



# Annual Report FY2023

## Illinois Department of Revenue Legislative Summary

### Income Tax

#### *Senate Bill 1963, Public Act 103-0009*

- **Historic Preservation Tax Credit** - Amends the Illinois Income Tax Act and the Historic Preservation Tax Credit Act to extend the sunset date for the historic preservation tax credit to tax years ending on or before December 31, 2028. Effective January 1, 2024, increases the amount in tax credits that can be awarded under the Act each calendar year to \$25 million.
- **Redefine “Startup Taxpayer”** - Amends the Economic Development for a Growing Economy Tax Credit Act to provide, for agreements that are executed on or after June 7, 2023, a “startup taxpayer” is a corporation, partnership, or other entity that is incorporated or organized no more than 10 years before the filing of an application for an agreement and that has never had any Illinois income tax liability.
- **Investment Partnerships** - Amends the Illinois Income Tax Act to expand the definition of “investment partnership”. Effective for tax years ending on and after December 31, 2023, provides that Limited Liability Companies and other entities treated as partnerships for tax purposes are qualifying securities for purposes of satisfying the investment partnership test, and creates a withholding obligation for investment partnerships on the income of lower-tier partnership income distributable to non-resident partners.
- **Standard Exemption** - Amends the Illinois Income Tax Act to provide the standard exemption for taxable years ending on or after December 31, 2023, and prior to December 31, 2024, is \$2,425. Provides, for taxable years ending on or after December 31, 2024, and before December 31, 2028, the standard exemption will be adjusted by the cost-of-living as provided for under the Act.
- **REV Illinois Tax Credits** - Amends the Reimagining Energy and Vehicles (REV) in Illinois Act to expand the credit to certain taxpayers that enter into agreements on or after June 7, 2023, and before June 1, 2024. Provides certain taxpayers entering into agreements during this time frame may receive a tax credit not to exceed 75% of the incremental income tax attributable to retained employees at the applicant’s project or not to exceed 100% if the project is in an underserved area or an energy transition area.
- **Volunteer Emergency Workers Tax Credit** - Amends the Illinois Income Tax Act to create the volunteer emergency worker tax credit. Effective for taxable years beginning on or after January 1, 2023, and prior to January 1, 2028. Provides the credit is equal to \$500 per eligible taxpayer. Caps the amount in tax credits that can be awarded at \$5 million per year.
- **PTE Tax - Retired Partner Deduction** - Amends the Illinois Income Tax Act to allow, when computing base income for purposes of determining the elected tax liability of a pass-through entity (PTE), a deduction for distributions to retired partners. Provides the deduction is effective for tax years ending on or after December 31, 2023.

#### *Senate Bill 2047, Public Act 103-0396*

**Pass-Through Tax Credits** - Amends the Illinois Income Tax Act to synthesize how tax credits can be passed through to pass-through entities.

#### *Senate Bill 2247, Public Act 103-0256*

**ABLE Account Program** - Amends the State Treasurer Act to provide that the ABLE Account Program may also be referred to as the Senator Scott Bennett ABLE Program.

# Illinois Department of Revenue Legislative Summary - continued

## ***House Bill 2204, Public Act 103-0268***

**Hydrogen Fuel Replacement Tax Credit** - Creates the Hydrogen Fuel Replacement Tax Credit Act.

Provides for tax years ending on or after December 31, 2027, and beginning before January 1, 2029, a credit is allowed in an amount equal to \$1 per kilogram of eligible qualifying hydrogen used by an eligible taxpayer. Provides the Department of Commerce and Economic Opportunity shall award tax credits not to exceed \$10 million per year plus unallocated tax credits from the previous year.

Amends the Illinois Income Tax Act to create the hydrogen fuel replacement tax credit. Provides the tax credit can be carried forward 5 years and that it can be transferred by the taxpayer.

## ***House Bill 3817, Public Act 103-0008***

**Business Expense Deduction - Cannabis Industry** - Amends the Illinois Income Tax Act to provide for taxable years beginning on or after January 1, 2023, licensed cannabis establishments can deduct business expenses disallowed under Section 280E of the Internal Revenue Code.

## ***Senate Bill 2951, Public Act 102-1125***

- **REV Illinois Act Name Change** - Amends the Reimagining Electric Vehicles in Illinois Act to change the name of the Act to the Reimagining Energy and Vehicles in Illinois Act.
- **EDGE Tax Credit** - Amends the Economic Development for a Growing Economy Tax Credit Act to provide that if a project is in an underserved area and an applicant agrees to hire the required number of new employees, the maximum credit may be increased by an amount not to exceed 50% of the incremental income tax attributable to retained employees.
- **Film Production Services Tax Credit** - Amends the Film Production Services Tax Credit Act of 2008 to provide tax credits shall not be awarded after tax years beginning on or after January 1, 2033. Makes other changes related to the Department of Commerce and Economic Opportunity's administration of the tax credit.

## **Sales and Related Taxes**

### ***Senate Bill 1705, Public Act 103-0384***

- **Exempt Purchases - Military** - Amends the "sales" tax acts to provide, beginning January 1, 2024, tangible personal property purchased by an active-duty member of the armed forces is exempt provided the member of the armed forces completes an exemption certificate at the point of sale, presents a valid military identification, and pays for the property using a form of payment where the federal government is the payor.

### ***Senate Bill 1963, Public Act 103-0009***

- **Aircraft Engine Repair** - Amends the "sales" tax acts to expand the exemption for materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft to include materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, effective January 1, 2024. Extends the exemption to December 31, 2029.
- **Ethanol Blends** - Amends the "sales" tax acts to provide gasohol (85% gasoline/15% denatured ethanol) is taxed at 90%; mid-range ethanol blend (20% to less than 51% denatured ethanol) is taxed at 80%; and majority blended ethanol fuel (at least 17% but no more than 49% gasoline and at least 51% but no more than 83% ethanol) is exempt, for sales made January 1, 2024, through December 31, 2028.
- **Farm Machinery and Equipment Exemption** - Amends the "sales" tax acts to expand the farm machinery and equipment exemption to include electrical power generation equipment used primarily for production agriculture, effective January 1, 2024.

## Illinois Department of Revenue Legislative Summary - continued

- **Parking Excise Tax** - Amends the Parking Excise Tax Act to provide booking intermediaries i) are not operators, effective July 1, 2023, ii) are required to collect and remit tax on its separately stated service charges, effective January 1, 2024, and iii) are required to collect and remit tax for unregistered operators for whom they facilitate parking, effective January 1, 2024.
- **Hotel Operators Occupation Tax Exemption** - Amends the Hotel Operators' Occupation Tax Act to provide the Hotel Operators' Occupation Tax does not apply to gross rental receipts for rooms rented to an organization chartered by the United States Congress for the purpose of providing disaster relief (e.g., the American Red Cross) and that possesses an active Exemption Identification Number issued by the Department, effective July 1, 2023.
- **SAF Purchase Credit** - Amends the "sales" tax acts to make clarifying changes to several provisions related to the Sustainable Aviation Fuel Purchase Credit. Provides the tax credit is effective from July 1, 2023, through December 31, 2032.
- **REV Illinois Building Materials Exemption** - Amends the Use Tax Act, the Service Occupation Tax Act, and the Service Use Tax Act to make a technical fix to ensure the building materials exemption for REV Illinois projects is included in those Acts.
- **Payment of Assessed Liability** - Amends the Retailers' Occupation Tax Act (ROTA) and various excise tax acts that do not incorporate provisions of the ROTA to provide that payment of an assessed liability constitutes agreement of that liability.

### *House Bill 1497, Public Act 103-0520*

**Automobile Rental Occupation and Use Tax Exemption** - Amends the Automobile Renting Occupation and Use Tax Act to exempt vehicles rented on a peer-to-peer car sharing platform from the Automobile Renting Occupation Tax provided the owner of the vehicle paid sales tax on that vehicle at the time of purchase. Makes changes to the Illinois Vehicle Code unrelated to taxation.

### *House Bill 3641, Public Act 103-0564*

**Prepaid Wireless 9-1-1 Surcharge** - Amends the Prepaid Wireless 9-1-1 Surcharge Act. Ends the exclusion from the 3% prepaid wireless 9-1-1 surcharge rate for home rule municipalities having a population in excess of 500,000, providing the prepaid wireless 9-1-1 surcharge in these municipalities shall be 3% effective January 1, 2024.

### *Senate Bill 2951, Public Act 102-1125*

- **REV Illinois Name Change** - Amends the Reimagining Electric Vehicles in Illinois Act to change the name of the Act to the Reimagining Energy and Vehicles in Illinois Act and includes growth of the renewable energy sector as a goal of the Act. Makes conforming changes throughout the Act and to the Illinois Income Tax Act.
- **REV Illinois and MICRO Reporting Requirements** - Amends the Reimagining Energy and Vehicles (REV) in Illinois Act and the Manufacturing Illinois Chips for Real Opportunity (MICRO) Act to make reporting by REV Illinois and MICRO tax incentive recipients consistent with that required of those receiving tax incentives under the Enterprise Zone Act or that have a High Impact Business designation.
- **REV Illinois and MICRO Utility Exemptions** - Amends the Telecommunications Excise Tax Act, the Simplified Municipal Telecommunications Tax Act, the Electricity Excise Tax Law and the Public Utilities Act to exempt REV Illinois and MICRO projects from the taxes or fees imposed under those Acts.
- **SAF Purchase Credit** - Amends the Use Tax Act and the Service Use Tax Act to create the Sustainable Aviation Fuel (SAF) Purchase Credit in the amount of \$1.50 per gallon of sustainable aviation fuel purchased. Provides the credit is in effect from June 1, 2023, through January 1, 2033.

# Illinois Department of Revenue Legislative Summary - continued

## Property Tax

### ***Senate Bill 74, Public Act 103-0369***

**Property Tax Payment Plan Task Force** - Amends the Illinois Housing Development Act to create the Property Tax Payment Plan Task Force. Directs the Task Force to study and make recommendations for the implementation of one or more payment plan options in Cook County to prevent eligible tax-delinquent properties from being sold at the annual tax sale.

### ***Senate Bill 1225, Public Act 103-0083***

**Subdivision Common Areas** - Amends the Property Tax Code to provide, related to subdivision common areas, that in counties other than Cook County the Chief County Assessment Officer may require the submission of an application to establish or reestablish an assessment of \$1 for any parcel constituting a common area.

### ***Senate Bill 1675, Public Act 103-0555***

**Interest Rate** - Amends the Property Tax Code. Under several provisions of the Code, lowers the interest rate assessed on unpaid property taxes to 0.75% in Cook County, effective for tax year 2023 and after. Makes changes to other provisions in the Property Tax Code related to tax purchases and sales in Cook County.

### ***Senate Bill 1988, Public Act 103-0583***

**Acceptance of Appeals** - Amends the Property Tax Code. Provides, in counties with 3,000,000 or more inhabitants, the county assessor shall continue to accept appeals from the taxpayer for a period of not less than 30 business days from the later of the date the assessment notice is mailed as provided in this subsection or is published on the assessor's website.

### ***House Bill 1740, Public Act 103-0134***

**Rescue Squad Districts** - Amends the Rescue Squad Districts Act to change the title of the Act to the Emergency Services District Act. Provides that the board of trustees of a district may fix, charge, and collect fees not exceeding the reasonable cost of the service for ambulance services rendered by the district.

### ***House Bill 3817, Public Act 103-0008***

**Veterans Property Tax Relief Pilot Program** - Amends the Department of Revenue Law of the Civil Administrative Code of Illinois to create the Veterans Property Tax Relief Pilot Program. Provides for reimbursements to certain counties in an aggregate amount not to exceed \$15 million per year.

## General/Miscellaneous

### ***Senate Bill 1641, Public Act 103-0098***

**Late Payment Penalty** - Amends the Uniform Penalty and Interest Act to provide, for returns due on or after January 1, 2024, authority to assess a late payment penalty related to any liability resulting from a federal change that is not paid timely.

### ***Senate Bill 1875, Public Act 103-0390***

**Rulemaking** - Amends the Illinois Administrative Procedure Act to provide, related to rulemaking, that during the first notice period an agency shall accept submissions in writing, by email or by other publicly accessible electronic means via its website. Provides the notice in the Illinois Register shall include the email address or website address.

## Illinois Department of Revenue Legislative Summary - continued

### ***House Bill 2359, Public Act 103-0318***

**Stipends for Local Officials** - Amends the Property Tax Code and the Counties Code to provide the Department shall remit to the applicable township or county the amount required for additional compensation for certain local officials and the township or county is responsible for withholding requirements.

### ***House Bill 2579, Public Act 103-0319***

**Registration Denial** - Amends the Department of Revenue Law of the Civil Administrative Code of Illinois and the Retailers' Occupation Tax Act to allow the Department to deny a registration if a person who is affiliated with the registrant has failed to file returns.

### ***House Bill 1794, Public Act 102-1144***

**Municipal Audit of Public Utilities** - Amends the Local Government Taxpayers' Bill of Rights and the Illinois Municipal Code to require the Department to develop a written process for developing and filing with the Department a master list of all premises addresses in the municipality that are subject to local utility taxes and all accounts in the municipality that are exempt from such tax. Makes other changes regarding municipal audits of public utilities and provides the Department has the authority to resolve disputes between a municipality and a public utility.

### ***House Bill 268, Public Act 102-1127***

**Hotel Tax Information Sharing** - Creates the Tourism Preservation and Sustainability District Act. Provides the Department shall share certain Hotel Operators' Occupation Tax information with a government unit provided the governmental unit has a Reciprocal Agreement with the Department for this purpose.

### ***House Bill 3878, Public Act 102-1135***

**Fees for Recording Documents** - Amends the Counties Code to increase the fees for recording documents with a county. Provides the fees charged for deeds, leases, mortgages, easements, and other miscellaneous documents that support the Rental Housing Support Program increase to \$18, effective July 1, 2023.



# Annual Report FY2023

## Illinois Department of Revenue Rulemaking

### **REV Illinois investment tax credit** – 86 Ill. Adm. Code § 100.2135

Adds a new section 100.2135 to implement the investment credit for electric vehicle and battery manufacturers created by P.A. 100-0669. Adopted at 47 Ill. Reg. 1402, effective January 10, 2023.

### **Energy Transition Assistance Charge** – 86 Ill. Adm. Code § 518

Implements the Department's regulations for the energy transition assistance charge, which, pursuant to P.A. 102-0662, must be assessed by any electric utility serving more than 500,000 customers. Adopted at 47 Ill. Reg. 1482, effective January 17, 2023.

### **Six-month delay in CPI rate increase for Motor Fuel Tax** – 86 Ill. Adm. Code § 500.200

Implements the provisions of P.A. 102-0700 that delay from July 1, 2022 to January 1, 2023 the increase in the Motor Fuel Tax measured by the change in the Consumer Price Index. Adopted at 47 Ill. Reg. 1473, effective January 17, 2023.

### **Default lookback extended from 20 to 23 years** – 86 Ill. Adm. Code § 130.701; 86 Ill. Adm. Code § 422.125; 86 Ill. Adm. Code § 423.135; 86 Ill. Adm. Code § 429.115; 86 Ill. Adm. Code § 475.160; 86 Ill. Adm. Code § 495.111; 86 Ill. Adm. Code § 660.45

Amends Department regulations provide that in determining whether a taxpayer is in default for moneys due, the Department shall look to amounts established as a final liability within the 23 years prior to the date of the Department's notice of denial of a certificate of registration. Prior to the enactment of P.A. 102-0040, the lookback period was 20 years. Adopted at 47 Ill. Reg. 1426; 47 Ill. Reg. 1444; 47 Ill. Reg. 1450; 47 Ill. Reg. 1456; 47 Ill. Reg. 1462; 47 Ill. Reg. 1467; and 47 Ill. Reg. 1488, effective January 17, 2023.

### **Illinois net loss carrybacks and net loss carryovers** – 86 Ill. Adm. Code § 100.2330

Implements the changes to the Illinois net loss deduction made by P.A. 102-0669 extending the period during which losses may be carried from 12 years to 20 years for losses incurred in tax years ending on or after December 31, 2021, and for any unexpired losses. Adopted at 47 Ill. Reg. 2093, effective January 24, 2023.

### **Additional Leveling the Playing Field guidance** – 86 Ill. Adm. Code § 130.101; 86 Ill. Adm. Code § 130.110; 86 Ill. Adm. Code § 130.225; 86 Ill. Adm. Code § 130.1915; 86 Ill. Adm. Code § 150.210; 86 Ill. Adm. Code § 150.802; 86 Ill. Adm. Code § 150.803; 86 Ill. Adm. Code § 150.804

Amends several Sections of Parts 130 and 150 to conform current rules with, and provide reference to, the provisions of the Leveling the Playing Field for Illinois Retail Act, and to provide greater guidance and clarity. Adopted at 47 Ill. Reg. 2116; 47 Ill. Reg. 2142, effective January 24, 2023.

### **Leveling the Playing Field jurisdictional issues** – 86 Ill. Adm. Code § 220.115; 86 Ill. Adm. Code § 270.115; 86 Ill. Adm. Code § 320.115; 86 Ill. Adm. Code § 370.115; 86 Ill. Adm. Code § 395.115; 86 Ill. Adm. Code § 630.115; 86 Ill. Adm. Code § 630.120; 86 Ill. Adm. Code § 670.115; 86 Ill. Adm. Code § 693.115; 86 Ill. Adm. Code § 695.115; 86 Ill. Adm. Code § 696.115

Amends Department regulations to harmonize the Hartney sourcing rules with the provisions of the Leveling the Playing Field for Illinois Retail Act. Provides uniformity among the various sourcing rules by applying 86 IAC 270.115 to each separate part by reference. Adopted at 47 Ill. Reg. 2719; 47 Ill. Reg. 2732; 47 Ill. Reg. 2749; 47 Ill. Reg. 2762; 47 Ill. Reg. 2775; 47 Ill. Reg. 2788; 47 Ill. Reg. 2801; 47 Ill. Reg. 2814; 47 Ill. Reg. 2827; 47 Ill. Reg. 2840; and 47 Ill. Reg. 2851, effective February 7, 2023.

### **Regional Transportation Authority Service Occupation Tax** – 86 Ill. Adm. Code § 330.101

Rulemaking reflects changes made to the Regional Transportation Authority Service Occupation Tax enacted by P.A. 97-38, P.A. 97-227, P.A. 98-104, P.A. 99-180, P.A. 100-0010, and P.A. 101-604. Adopted at 47 Ill. Reg. 5286, effective March 21, 2023.

## Illinois Department of Revenue Rulemaking - continued

### **Invest in Kids updates** – 86 Ill. Adm. Code § 1000.600

Amends the Department's Invest in Kids regulations to reflect changes enacted by P.A. 102-0699, which extends the school years in which expenditures of scholarship funds must be made, and P.A. 102-1059, which provides that eligible students who received scholarships from scholarship granting organizations during the previous school year shall receive first priority in the awarding of scholarship funds in subsequent school years. Adopted at 47 Ill. Reg. 5291, effective March 21, 2023.

### **Changes to biodiesel and renewable diesel exemption** – 86 Ill. Adm. Code § 130.310; 86 Ill. Adm. Code § 130.320; 86 Ill. Adm. Code § 130.350; 86 Ill. Adm. Code § 130.351; 86 Ill. Adm. Code § 140.101; 86 Ill. Adm. Code § 140.125; 86 Ill. Adm. Code § 140.126; 86 Ill. Adm. Code § 140.110; 86 Ill. Adm. Code § 150.101; 86 Ill. Adm. Code § 150.105

Implements the provisions of P.A. 102-0700, which enacted changes to the exemption for biodiesel and biodiesel blends, and added an exemption for renewable diesel and renewable diesel blends, beginning January 1, 2024. Amends each Section of the rules to conform with current statutory language. Adopted at 47 Ill. Reg. 5251, effective March 21, 2023. Adopted at 47 Ill. Reg. 6068; 47 Ill. Reg. 6133, effective April 12, 2023.

### **Limitations on notices of deficiency** – 86 Ill. Adm. Code § 100.9320

Implements the change made by P.A. 102-0040 to extend the statute of limitations for issuing a Notice of Deficiency for six months if less than six months remained when a refund claim is filed for that taxable year. Adopted at 47 Ill. Reg. 5726, effective April 4, 2023.

### **Extension of time for issuing a Notice of Tax Liability** – 86 Ill. Adm. Code § 130.1501; 86 Ill. Adm. Code § 140.1401; 86 Ill. Adm. Code § 150.1401; 86 Ill. Adm. Code § 420.20; 86 Ill. Adm. Code § 440.230; 86 Ill. Adm. Code § 450.120; 86 Ill. Adm. Code § 470.140; 86 Ill. Adm. Code § 495.130; 86 Ill. Adm. Code § 510.140

Implements the provisions of P.A. 102-0040 which, beginning June 25, 2021, provide guidance on various tax statutes regarding an extension of the statutory period of limitation for the Department to issue a Notice of Tax Liability when a credit or refund claim is filed within a specific time period. Adopted at 47 Ill. Reg. 575; 47 Ill. Reg. 5771; 47 Ill. Reg. 5781; 47 Ill. Reg. 5793; 47 Ill. Reg. 5800; 47 Ill. Reg. 5806; 47 Ill. Reg. 5811; 47 Ill. Reg. 5816; and 47 Ill. Reg. 5820, effective April 4, 2023.

### **Vendor allowances** – 86 Ill. Adm. Code § 100.3380

Provides guidance for when certain sales-inducing payments from vendors to retailers should be included or excluded from the sales factor. Defines buying allowances, merchandising allowances, and cost sharing agreements and provides examples for when these items should be included or excluded from the sales factor. Adopted at 47 Ill. Reg. 6030, effective April 12, 2023.

### **Electronic filing of returns** – 86 Ill. Adm. Code § 130.501; 86 Ill. Adm. Code § 130.540; 86 Ill. Adm. Code § 150.901; 86 Ill. Adm. Code § 760.100

Implements the provisions of P.A. 102-1019 that modify the conditions under which electronic filing of returns is required under the Use Tax Act and the Retailers' Occupation Tax Act. New law requires retailers selling motor vehicles, watercraft, aircraft, and trailers that are required to be registered with a state agency to file electronically if their annual gross receipts average is \$20,000 or more. Adopted at 47 Ill. Reg. 6309; 47 Ill. Reg. 6330; 47 Ill. Reg. 6339, effective April 18, 2023.

### **Late payment penalties** – 86 Ill. Adm. Code § 700.300; 86 Ill. Adm. Code § 700.305

Amends the Uniform Penalty and Interest Act regulations to clarify the application of the \$100 penalty for failure to file certain transaction (motor vehicle) returns by including both the version of the penalty in effect before August 10, 2015 and the version in effect on and after August 10, 2015. Adopted at 47 Ill. Reg. 6723, effective May 3, 2023.

## Illinois Department of Revenue Rulemaking - continued

### **Dyed diesel fuel exemption** – 86 Ill. Adm. Code § 500.210

Implements the provisions of P.A. 102-1019 that modify the conditions under which dyed diesel may be sold free from Motor Fuel Tax for non-highway purposes to avoid tax-free sales for resale to unlicensed persons. Adopted at 47 Ill. Reg. 8887, effective June 6, 2023.

### **Parking Excise Tax exemptions** – 86 Ill. Adm. Code § 195.115

Implements the exemption for persons that park cars on their property during the Illinois State Fair and the DuQuoin State Fair enacted by P.A. 102-0920. Adopted at 47 Ill. Reg. 10614, effective June 27, 2023.

### **Sports wagering** – 86 Ill. Adm. Code § 100.3220; 86 Ill. Adm. Code § 100.337; 86 Ill. Adm. Code § 100.7036; 86 Ill. Adm. Code § 100.7030

Implements new requirements for allocating and apportioning sports wagering winnings enacted by P.A. 102-0040. Adopted at 47 Ill. Reg. 13669, effective September 11, 2023.

### **Applicability of vendor discount for Parking Excise Tax** – 86 Ill. Adm. Code § 195.125

Amends Department regulations to provide that all returns required to be filed and payments required to be made under the Parking Excise Tax Act shall be done by electronic means. Clarifies that the vendor discount is allowed only for returns that are filed on or before the due date by electronic means, and only to the extent of payments that are made on or before the due date by electronic means. Adopted at 47 Ill. Reg. 14573, effective September 26, 2023.

### **Local Government Revenue Recapture Act** – 86 Ill. Adm. Code § 850

New Part to address the availability of the certification program required for participation in the Certified Audit Pilot Project; the requirements and basis for the Department's establishment of just cause for approval or rejection of participation by taxpayers; and procedures for assessment, collection, and payment of liabilities or refund of overpayments. Includes provisions for taxpayer to obtain informal and formal review of certified audit results; the nature, frequency, and basis for the Department's review of certified audits conducted by qualified practitioners, including the requirements for documentation, work-paper retention and access, and reporting; and requirements for conducting certified audits and for review of agreed-upon procedures. Adopted at 47 Ill. Reg. 14822, effective October 4, 2023.



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## Illinois Department of Revenue Court Cases

### Income Tax

#### **PepsiCo Inc. and Affiliates v. Illinois Department of Revenue, 16 TT 82 and 17 TT 16 (September 12, 2022)**

The Illinois Department of Revenue issued Notices of Deficiency to PepsiCo for tax years ending December 31, 2011, December 31, 2012, and December 31, 2013, which contained audit adjustments by the Department disallowing PepsiCo's treatment of a member of its business group, Frito-Lay North America, Inc. ("FLNA"), as an excluded 80/20 company. The Department's audit adjustment added FLNA's income, approximately \$2.5 billion each year, to the PepsiCo unitary group's income for purposes of calculating its Illinois income taxes. PepsiCo challenged the Department's Notices of Deficiency in the Tax Tribunal, arguing that FLNA should be treated as an 80/20 company and that the reorganization of its foreign operations under FLNA and the creation of a global mobility entity as a subsidiary of FLNA have economic substance.

On May 4, 2021, the Tax Tribunal granted the Department's Motion for Summary Judgment, concluding that PepsiCo failed in its burden to prove that it is entitled to claim FLNA as an 80/20 company, and that its global mobility subsidiary must be disregarded as it has no economic substance. The Department's Notices of Deficiency, as they pertain to the 80/20 issue, were upheld.

PepsiCo subsequently moved to abate approximately \$2.1 million in penalties on the 80/20 issue, arguing that it acted in good faith and exercised ordinary business care and prudence when it determined to classify FLNA as an 80/20 company, and noting its strong history of federal, state/local, and international tax compliance. On September 12, 2022, the Tax Tribunal granted the Department's Motion for Summary Judgment upholding the imposition of penalties, finding that PepsiCo had "created a shell company to avoid state income taxes," "ignored the reality of the sham transaction it structured and the existing case law that forbade the use of such a strategy," and that it had not exercised ordinary business care and prudence.

### Sales and Related Taxes

#### **American Aviation Supply, LLC v. IDOR, 21-TT-27 and 21-TT-54 (January 3, 2023)**

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

#### **UI S. Yi v. IDOR, 22-TT-54 (April 25, 2023)**

On April 27, 2022, the Department issued a Notice of Penalty Liability for unpaid sales tax against the Petitioner, as the responsible officer of Veyond Wireless, Inc. ("Veyond"), for the periods of January 11, 2011, through December 31, 2013 and January 1, 2014 through December 31, 2016. Previously, the Department had issued Notices of Tax Liability for unpaid sales tax covering the same tax periods against Veyond itself. Veyond contested these two Notices in the Tribunal in *Veyond Wireless, Inc. v. Illinois Department of Revenue*, No. 16TT188 and *Veyond Wireless, Inc. v. Illinois Department of Revenue*, No. 18TT07 (collectively "the Veyond cases").

## Illinois Department of Revenue Court Cases - continued

The Veyond cases were settled by a written agreement, signed on April 2, 2019, by Veyond's counsel and, on April 5, 2019, the cases were dismissed by the Tribunal.

The Petitioner timely filed a three-count petition in the Tax Tribunal challenging the April 27, 2022, Notice of Penalty Liability. The Petitioner alleged as Error 1 that the Notice was barred by the three-year statute of limitations governing Notices of Penalty Liability found in section 3-7(c) of the Uniform Penalty and Interest Act, 35 ILCS 735/3-7(c). The Petitioner moved for summary judgment on Error I, contending that the three-year limitations period began to run on April 2, 2019, the date that the settlement was executed in the Veyond cases. Thus, the April 27, 2022, Notice of Penalty Liability was untimely issued and should be cancelled.

The Department responded that the statute of limitations began to run on May 3, 2019, the date it issued a document called a "Notice of Final Assessment," or, alternatively, that the running of the limitations period was tolled for 35 days after April 5, 2019, and thus, in either case, its April 27, 2022, Notice of Penalty Liability was timely issued.

The Tax Tribunal determined that the Notice of Penalty Liability against the responsible officer was vacated as barred by the statute of limitations. The limitations period began to run on the date the protest of underlying liability was dismissed by the Tax Tribunal pursuant to settlement.

### **TCRG SN057 LLC v. IDOR, 22-TT-04 (July 5, 2023)\*\***

The Illinois Department of Revenue ("Department") issued a Notice of Tax Liability to TCRG SN057 LLC ("TCRG") assessing it use tax, penalties and interest on its Aircraft, under the Aircraft Use Tax Act ("use tax"), 35 ILCS 157/10-1, et. seq. TCRG timely filed a petition in the Tax Tribunal protesting this notice alleging that the Department was barred by the Commerce Clause from assessing the tax. TCRG also alleged that the Department wrongly assessed it use tax above the 6.25% state rate without justification. Finally, it alleged that it had reasonable cause to claim that it was not required to pay use tax on the aircraft and, therefore, penalties should be abated.

The Notice of Tax Liability assessing aircraft use tax and penalties was affirmed, rejecting the taxpayer's challenge under the dormant commerce clause. The Tax Tribunal determined that substantial nexus was present where the aircraft was leased to an Illinois company for use in Illinois and a substantial number of take offs and landings took place at Illinois airports. The Tribunal determined that tax was fairly related to the services provided by the state where the aircraft's owner benefitted from the state's entire physical and social infrastructure, which enabled it to operate the aircraft and engage in profitable lease transactions.

## Property Tax

### **Carle Foundation v. IDOR, Champaign County BoR, Cunningham Township, City of Urbana No. 08L202 - Circuit Court (Champaign County) 2023 IL App (4th) 200121 - Fourth District Appellate Court\*\***

The Illinois General Assembly created a special property tax exemption for hospitals in 2012 (Section 15-86 of the Property Tax Code) that states a hospital applicant qualifies for a property tax exemption if the value of qualified services or activities within a given year equals or exceeds the hospital's estimated property tax liability. Carle Foundation pursued a lawsuit in circuit court against IDOR, Champaign County Board of Review, Cunningham Township, and the City of Urbana to establish that its four properties were retroactively tax-exempt, arguing that it provided enough low-cost and free care and charitable services in the years prior to the adoption of Section 15-86 to qualify for the exemption. The circuit court found in favor of the Carle Foundation and awarded partial tax exemptions for seven out of eight disputed years between 2004 and 2011.

In August of 2023, the Fourth District Court found that the provisions of Section 15-86 apply retroactively to tax years before its adoption and affirmed the circuit court's ruling that the Carle Foundation was entitled to partial charitable tax exemptions on its four properties for seven out of eight disputed tax years.

\*\* Court decisions were made in FY 2024.

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

Per 20 ILCS 2520/4, IDOR is required to identify areas of recurrent taxpayer non-compliances with rules or guidelines and to report its findings and recommendations concerning such non-compliance annually.

### Sales Tax

#### Remote Retailer and Marketplace Facilitator Issues

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

- Taxpayers meeting specific tax remittance thresholds are failing to register and subsequently failing to collect and remit retailers' occupation taxes.
- Registered taxpayers are reporting use taxes instead of the correct retailers' occupation taxes. In some cases, they are reporting use taxes simply to make it easier to prepare tax returns. In other cases, they are making questionable nexus claims in an attempt to qualify as out-of-State sellers who are only required to collect use taxes.
- Many marketplace facilitators are not providing their marketplace sellers with a certification that notifies them that the marketplace facilitator is collecting and remitting the tax. This makes it challenging for the marketplace sellers to determine if they owe tax on their marketplace sales.
- Some remote retailers and marketplace facilitators are not retaining enough documentation to allow the Audit Bureau to verify the correct location of the sale. This makes it difficult to ensure the collected taxes are allocated to the proper local governments and the appropriate tax rate was applied.

#### Cash Business Issues

Audits of cash businesses such as bars, restaurants, liquor stores, convenience stores, and gas stations continue to show compliance problems. Audited taxpayers are failing to keep or produce records, which results in significant tax underreporting. The records they are producing are often insufficient to verify their taxable sales. Failure to maintain proper records and production of insufficient records causes delays in the audit process which results in taxpayers postponing making payments for established liabilities.

#### Exemption Documentation Issues

Retailers are failing to obtain or keep the documentation required to demonstrate that a sale qualifies for an exemption. Examples of frequently missing exemption documentation include resale certificates, farming machinery and equipment exemption certificates, building materials exemption certificates, and exemption documentation for sales to governmental, charitable, religious, or educational organizations. This failure to obtain or keep documentation leads to delays in completing audits as the taxpayers must then gather the documentation after the audit starts.

#### International Fuel Tax Agreement (IFTA) Issues

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

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

## Transactional Return Issues

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

- Taxpayers continue to claim the rolling stock exemption on non-qualifying vehicles such as trucks that do not exceed the 16,000 pounds gross vehicle weight rating (GVWR) and vehicles improperly claimed to be used as limousines.
- Illinois residents are purchasing vehicles from Illinois dealers claiming the exemption available for out-of-State residents from reciprocal states.
- Taxpayers are claiming the farm machinery and equipment exemption on purchases of equipment such as ATVs, UTVs, and mowers which frequently do not qualify for the exemption. These taxpayers are failing to keep usage logs which makes verifying that the items are used in an exempt manner difficult during an audit.
- Purchasers of watercraft from private parties are listing a price below the actual purchase price in order to reduce the tax due on the purchase.
- Out-of-State residents who hangar or primarily use aircraft in Illinois are failing to file returns and pay the applicable use taxes due.

## Income Tax

### Apportionment Issues

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

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

### PSI Reasonable Compensation

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

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

## **Bonus Depreciation**

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

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

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

- Hobby losses - Taxpayers are using hobby losses to reduce their overall liability when they do not actually have a business that they intend to run for a profit.
- Under-reporting of income – Taxpayers may not be reporting all income related to their business activities.
- Over-reporting of expenses - Auditors have noticed that taxpayers may be claiming a small amount of income but disproportionately large amounts of expenses. Taxpayers are also claiming wage expenses even though they are not paying withholding.
- Claiming gambling losses in the improper place - There are instances where taxpayers are attempting to take gambling losses on the Schedule C, claiming they are professional gamblers, instead of properly claiming the losses on the Schedule A.

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

## **Replacement Tax Investment Credit**

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



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## Illinois Family Relief Plan

### Property Tax and Individual Income Tax Rebates

The property tax rebate\* and the individual income tax rebate were created per Public Act 102-0700.

A property tax rebate was available to individuals meeting certain income and other requirements in an amount equal to the lesser of the property tax credit for 2020 property taxes payable in 2021 or \$300.00.

An individual income tax rebate was available in the amount of \$50.00 per person (\$100.00 per couple for married filing jointly) and \$100.00 per dependent (limit of three dependents) for taxpayers that filed their 2021 Form IL-1040 and met certain income requirements.

IDOR released rebates for more than 5.5 million taxpayers to the Illinois State Comptroller's Office. At an average rebate amount of \$198 per taxpayer, more than \$1.1 million in tax relief was provided to Illinois families.\*\*

### Grocery Tax Suspension

Public Act 102-0700 suspended the state 1 percent (1%) low rate of sales and use tax on retail sales of groceries normally taxed at that rate from July 1, 2022, through June 30, 2023. This provided \$251.6 million in relief to taxpayers.

### Back-to-School State Sales Tax Holiday

Public Act 102-0700 created a state sales tax holiday on qualifying items effective August 5, 2022, through August 14, 2022. The August 2022 sales tax holiday provided \$6.6 million in relief.

### Motor Fuel Tax Rate Suspension

Public Act 102-0700 suspended the scheduled July 1, 2022, Consumer Price Index adjustment related to the motor fuel tax rate for six months from July 1, 2022, through December 31, 2022. The suspension provided \$70.4 million in relief based on tax returns received by IDOR for the July to December 2022 filing periods.

\* *"Property tax rebate" refers to the residential real estate tax rebate in P.A. 102-0700.*

\*\* *Statistics provided as of December 1, 2023.*







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