NOTICE OF PROPOSED AMENDMENT

1) **Heading of the Part:** Income Tax

2) **Code Citation:** 86 Ill. Adm. Code 100

3) **Section Number:** 100.9910  **Proposed Action:** New Section

4) **Statutory Authority:** 35 ILCS 35/10

5) **A Complete Description of the Subjects and Issues Involved:** This rulemaking adds new Section 100.9910, implementing the State Tax Preparer Oversight Act.

6) **Published studies or reports and sources of underlying data used to compose this rulemaking:** None

7) **Will this rulemaking replace any emergency rule currently in effect?** No

8) **Does this rulemaking contain an automatic repeal date?** No

9) **Does this rulemaking contain incorporations by reference?** No

10) **Are there any other rulemakings pending on this Part?** Yes

<table>
<thead>
<tr>
<th>Section Numbers:</th>
<th>Proposed Actions:</th>
<th>Illinois Register Citation:</th>
</tr>
</thead>
<tbody>
<tr>
<td>100.3380</td>
<td>Amendment</td>
<td>40 Ill. Reg. 15878; December 2, 2016</td>
</tr>
<tr>
<td>100.3390</td>
<td>Amendment</td>
<td>40 Ill. Reg. 15878; December 2, 2016</td>
</tr>
<tr>
<td>100.7310</td>
<td>Amendment</td>
<td>40 Ill. Reg. 16181, December 23, 2016</td>
</tr>
<tr>
<td>100.7325</td>
<td>Amendment</td>
<td>40 Ill. Reg. 16181, December 23, 2016</td>
</tr>
<tr>
<td>100.3370</td>
<td>Amendment</td>
<td>40 Ill. Reg. 16711, December 30, 2016</td>
</tr>
</tbody>
</table>

11) **Statement of Statewide Policy Objective:** This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

12) **Time, Place and Manner in which interested persons may comment on this rulemaking:** Persons who wish to submit comments on this rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

    Brian Stocker
    Staff Attorney
DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield IL 62796

217/782-2844

13) Initial Regulatory Flexibility Analysis:
   A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking provides guidance on the State Tax Preparer Oversight Act, and applies to individuals operating or employed by small businesses that prepare Illinois income tax returns for their customers.
   B) Reporting, bookkeeping or other procedures required for compliance: None
   C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: None

The full text of the Proposed Amendment begins on the next page:
DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 100
INCOME TAX

SUBPART A: TAX IMPOSED

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>100.2000</td>
<td>Introduction</td>
</tr>
<tr>
<td>100.2050</td>
<td>Net Income (IITA Section 202)</td>
</tr>
<tr>
<td>100.2060</td>
<td>Compassionate Use of Medical Cannabis Pilot Program Act Surcharge (IITA Section 201(o))</td>
</tr>
</tbody>
</table>

SUBPART B: CREDITS

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>100.2100</td>
<td>Replacement Tax Investment Credit Prior to January 1, 1994 (IITA Section 201(e))</td>
</tr>
<tr>
<td>100.2101</td>
<td>Replacement Tax Investment Credit (IITA 201(e))</td>
</tr>
<tr>
<td>100.2110</td>
<td>Investment Credit; Enterprise Zone and River Edge Redevelopment Zone (IITA Section 201(f))</td>
</tr>
<tr>
<td>100.2120</td>
<td>Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone and River Edge Redevelopment Zone (IITA Section 201(g))</td>
</tr>
<tr>
<td>100.2130</td>
<td>Investment Credit; High Impact Business (IITA 201(h))</td>
</tr>
<tr>
<td>100.2140</td>
<td>Credit Against Income Tax for Replacement Tax (IITA 201(i))</td>
</tr>
<tr>
<td>100.2150</td>
<td>Training Expense Credit (IITA 201(j))</td>
</tr>
<tr>
<td>100.2160</td>
<td>Research and Development Credit (IITA Section 201(k))</td>
</tr>
<tr>
<td>100.2163</td>
<td>Environmental Remediation Credit (IITA 201(l))</td>
</tr>
<tr>
<td>100.2165</td>
<td>Education Expense Credit (IITA 201(m))</td>
</tr>
<tr>
<td>100.2170</td>
<td>Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)</td>
</tr>
<tr>
<td>100.2171</td>
<td>Angel Investment Credit (IITA 220)</td>
</tr>
<tr>
<td>100.2180</td>
<td>Credit for Residential Real Property Taxes (IITA 208)</td>
</tr>
<tr>
<td>100.2185</td>
<td>Film Production Services Credit (IITA Section 213)</td>
</tr>
<tr>
<td>100.2190</td>
<td>Tax Credit for Affordable Housing Donations (IITA Section 214)</td>
</tr>
<tr>
<td>100.2193</td>
<td>Student-Assistance Contributions Credit (IITA 218)</td>
</tr>
<tr>
<td>100.2195</td>
<td>Dependent Care Assistance Program Tax Credit (IITA 210)</td>
</tr>
<tr>
<td>100.2196</td>
<td>Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)</td>
</tr>
<tr>
<td>100.2197</td>
<td>Foreign Tax Credit (IITA Section 601(b)(3))</td>
</tr>
</tbody>
</table>
DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

100.2198 Economic Development for a Growing Economy Credit (IITA 211)
100.2199 Illinois Earned Income Tax Credit (IITA Section 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS OCCURRING PRIOR TO DECEMBER 31, 1986

Section 100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Scope
100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) – Definitions
100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Current Net Operating Losses: Offsets Between Members
100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Carrybacks and Carryforwards
100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS FOR LOSSES OCCURRING ON OR AFTER DECEMBER 31, 1986

Section 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or
NOTICE OF PROPOSED AMENDMENT

After December 31, 1986

100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns

100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section

100.2405 Gross Income, Adjusted Gross Income, Taxable Income and Base Income Defined; Double Deductions Prohibited; Legislative Intention (IITA Section 203(e), (g) and (h))

100.2410 Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)

100.2430 Addition and Subtraction Modifications for Transactions with 80-20 and Noncombination Rule Companies

100.2435 Addition Modification for Student-Assistance Contribution Credit (IITA Sections 203(a)(2)(D-23), (b)(2)(E-16), (c)(2)(G-15), (d)(2)(D-10))

100.2450 IIT Refunds (IITA Section 203(a)(2)(H), (b)(2)(F), (c)(2)(J) and (d)(2)(F))

100.2455 Subtraction Modification: Federally Disallowed Deductions (IITA Sections 203(a)(2)(M), 203(b)(2)(I), 203(c)(2)(L) and 203(d)(2)(J))

100.2465 Claim of Right Repayments (IITA Section 203(a)(2)(P), (b)(2)(Q), (c)(2)(P) and (d)(2)(M))

100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))

100.2480 Enterprise Zone and River Edge Redevelopment Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))


SUBPART F: BASE INCOME OF INDIVIDUALS

Section

100.2510 Subtraction for Contributions to Illinois Qualified Tuition Programs (Section 529 Plans) (IITA Section 203(a)(2)(Y))
NOTICE OF PROPOSED AMENDMENT

100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART H: BASE INCOME OF TRUSTS AND ESTATES

Section
100.2655 Subtraction Modification for Enterprise Zone and River Edge Redevelopment Zone Interest (IITA Section 203(b)(2)(M))
100.2657 Subtraction Modification for High Impact Business Interest (IITA Section 203(b)(2)(M-1))
100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

SUBPART J: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF BASE INCOME

Section
100.3000 Terms Used in Article 3 (IITA Section 301)
100.3010 Business and Nonbusiness Income (IITA Section 301)
100.3015 Business Income Election (IITA Section 1501)
100.3020 Resident (IITA Section 301)

SUBPART K: COMPENSATION

Section
100.3100 Compensation (IITA Section 302)
100.3110 State (IITA Section 302)
100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART L: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section
100.3200 Taxability in Other State (IITA Section 303)
100.3210 Commercial Domicile (IITA Section 303)
100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other Than Residents (IITA Section 303)
DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

SUBPART M: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section 100.3300 Allocation and Apportionment of Base Income (IITA Section 304)
100.3310 Business Income of Persons Other Than Residents (IITA Section 304) — In General
100.3320 Business Income of Persons Other Than Residents (IITA Section 304) — Apportionment (Repealed)
100.3330 Business Income of Persons Other Than Residents (IITA Section 304) — Allocation
100.3340 Business Income of Persons Other Than Residents (IITA Section 304)
100.3350 Property Factor (IITA Section 304)
100.3360 Payroll Factor (IITA Section 304)
100.3370 Sales Factor (IITA Section 304)
100.3371 Sales Factor for Telecommunications Services
100.3373 Sales Factor for Publishing
100.3380 Special Rules (IITA Section 304)
100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
100.3400 Apportionment of Business Income of Financial Organizations for Taxable Years Ending Prior to December 31, 2008 (IITA Section 304(c))
100.3405 Apportionment of Business Income of Financial Organizations for Taxable Years Ending on or after December 31, 2008 (IITA Section 304(c))
100.3420 Apportionment of Business Income of Insurance Companies (IITA Section 304(b))
100.3450 Apportionment of Business Income of Transportation Companies (IITA Section 304(d))
100.3500 Allocation and Apportionment of Base Income by Nonresident Partners

SUBPART N: ACCOUNTING

Section 100.4500 Carryovers of Tax Attributes (IITA Section 405)

SUBPART O: TIME AND PLACE FOR FILING RETURNS

Section 100.5000 Time for Filing Returns (IITA Section 505)
100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)
100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
NOTICE OF PROPOSED AMENDMENT

100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
100.5040 Innocent Spouses
100.5050 Frivolous Returns
100.5060 Reportable Transactions (IITA Section 501(b))
100.5070 List of Investors in Potentially Abusive Tax Shelters and Reportable Transactions
100.5080 Registration of Tax Shelters (IITA Section 1405.5)

SUBPART P: COMPOSITE RETURNS

Section
100.5100 Composite Returns: Eligibility (IITA Section 502(f))
100.5110 Composite Returns: Responsibilities of Authorized Agent
100.5120 Composite Returns: Individual Liability
100.5130 Composite Returns: Required forms and computation of Income (IITA Section 502(f))
100.5140 Composite Returns: Estimated Payments
100.5150 Composite Returns: Tax, Penalties and Interest
100.5160 Composite Returns: Credits on Separate Returns
100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"
100.5180 Composite Returns: Overpayments and Underpayments

SUBPART Q: COMBINED RETURNS

Section
100.5200 Filing of Combined Returns
100.5201 Definitions and Miscellaneous Provisions Relating to Combined Returns
100.5205 Election to File a Combined Return
100.5210 Procedures for Elective and Mandatory Filing of Combined Returns
100.5215 Filing of Separate Unitary Returns (IITA Section 304(e))
100.5220 Designated Agent for the Members
100.5230 Combined Estimated Tax Payments
100.5240 Claims for Credit of Overpayments
100.5250 Liability for Combined Tax, Penalty and Interest
100.5260 Combined Amended Returns
100.5265 Common Taxable Year
100.5270 Computation of Combined Net Income and Tax
100.5280 Combined Return issues Related to Audits
DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

SUBPART R: PAYMENTS

Section
100.6000 Payment on Due Date of Return (IITA Section 601)

SUBPART S: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section
100.7000 Requirement of Withholding (IITA Section 701)
100.7010 Compensation Paid in this State (IITA Section 701)
100.7020 Transacting Business Within this State (IITA Section 701)
100.7030 Payments to Residents (IITA Section 701)
100.7035 Nonresident Partners, Subchapter S Corporation Shareholders, and Trust Beneficiaries (IITA Section 709.5)
100.7040 Employer Registration (IITA Section 701)
100.7050 Computation of Amount Withheld (IITA Section 702)
100.7060 Additional Withholding (IITA Section 701)
100.7070 Voluntary Withholding (IITA Section 701)
100.7080 Correction of Underwithholding or Overwithholding (IITA Section 701)
100.7090 Reciprocal Agreement (IITA Section 701)
100.7095 Cross References

SUBPART T: AMOUNT EXEMPT FROM WITHHOLDING

Section
100.7100 Withholding Exemption (IITA Section 702)
100.7110 Withholding Exemption Certificate (IITA Section 702)
100.7120 Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

SUBPART U: INFORMATION STATEMENT

Section
100.7200 Reports for Employee (IITA Section 703)

SUBPART V: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section
100.7300 Returns and Payments of Income Tax Withheld from Wages (IITA Sections 704
DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

and 704A)

100.7310 Returns Filed and Payments Made on Annual Basis (IITA Sections 704 and 704A)

100.7320 Time for Filing Returns and Making Payments for Taxes Required to Be Withheld Prior to January 1, 2008 (IITA Section 704)

100.7325 Time for Filing Returns and Making Payments for Taxes Required to Be Withheld On or After January 1, 2008 (IITA Section 704A)

100.7330 Payment of Tax Required to be Shown Due on a Return (IITA Sections 704 and 704A)

100.7340 Correction of Underwithholding or Overwithholding (IITA Section 704)

100.7350 Domestic Service Employment (IITA Sections 704 and 704A)

100.7360 Definitions and Special Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)

100.7370 Penalty and Interest Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)

100.7380 Economic Development for a Growing Economy (EDGE) and Small Business Job Creation Credit (IITA Section 704A(g) and (h))

SUBPART W: ESTIMATED TAX PAYMENTS

Section
100.8000 Payment of Estimated Tax (IITA Section 803)
100.8010 Failure to Pay Estimated Tax (IITA Sections 804 and 806)

SUBPART X: COLLECTION AUTHORITY

Section
100.9000 General Income Tax Procedures (IITA Section 901)
100.9010 Collection Authority (IITA Section 901)
100.9020 Child Support Collection (IITA Section 901)

SUBPART Y: NOTICE AND DEMAND

Section
100.9100 Notice and Demand (IITA Section 902)

SUBPART Z: ASSESSMENT

Section
100.9200 Assessment (IITA Section 903)
DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

100.9210 Waiver of Restrictions on Assessment (IITA Section 907)

SUBPART AA: DEFICIENCIES AND OVERPAYMENTS

Section
100.9300 Deficiencies and Overpayments (IITA Section 904)
100.9310 Application of Tax Payments Within Unitary Business Groups (IITA Section 603)
100.9320 Limitations on Notices of Deficiency (IITA Section 905)
100.9330 Further Notices of Deficiency Restricted (IITA Section 906)

SUBPART BB: CREDITS AND REFUNDS

Section
100.9400 Credits and Refunds (IITA Section 909)
100.9410 Limitations on Claims for Refund (IITA Section 911)
100.9420 Recovery of Erroneous Refund (IITA Section 912)

SUBPART CC: INVESTIGATIONS AND HEARINGS

Section
100.9500 Access to Books and Records (IITA Section 913)
100.9505 Access to Books and Records — 60-Day Letters (IITA Section 913) (Repealed)
100.9510 Taxpayer Representation and Practice Requirements
100.9520 Conduct of Investigations and Hearings (IITA Section 914)
100.9530 Books and Records

SUBPART DD: JUDICIAL REVIEW

Section
100.9600 Administrative Review Law (IITA Section 1201)

SUBPART EE: DEFINITIONS

Section
100.9700 Unitary Business Group Defined (IITA Section 1501)
100.9710 Financial Organizations (IITA Section 1501)
100.9720 Nexus
100.9730 Investment Partnerships (IITA Section 1501(a)(11.5))
100.9750 Corporation, Subchapter S Corporation, Partnership and Trust Defined (IITA
DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

Section 1501)

SUBPART FF: LETTER RULING PROCEDURES

Section
100.9800 Letter Ruling Procedures

SUBPART GG: MISCELLANEOUS

Section
100.9900 Tax Shelter Voluntary Compliance Program
100.9910 State Tax Preparer Oversight Act [35 ILCS 35]

100.APPENDIX A Business Income Of Persons Other Than Residents
  100.TABLE A Example of Unitary Business Apportionment
  100.TABLE B Example of Unitary Business Apportionment for Groups Which
    Include Members Using Three-Factor and Single-Factor Formulas


NOTICE OF PROPOSED AMENDMENT

NOTICE OF PROPOSED AMENDMENT

Section 100.9910 State Tax Preparer Oversight Act [35 ILCS 35]

a) Definitions

I) Income Tax Return Preparer

A) The term "income tax return preparer" means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by the IITA or any claim for refund of tax imposed by the IITA. The
DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

preparation of a substantial portion of a return or claim for refund shall be treated as the preparation of that return or claim for refund. (IITA Section 1501(a)(26)(A))

B) A person is not an income tax return preparer if all he or she does is the following:

i) furnish typing, reproducing, or other mechanical assistance;

ii) prepare returns or claims for refunds of the employer by whom he or she is regularly and continuously employed;

iii) prepare as a fiduciary returns or claims for refunds for any person; or

iv) prepare claims for refunds for a taxpayer in response to a notice of deficiency issued to that taxpayer or in response to any waiver of restriction after the commencement of an audit of that taxpayer or of another taxpayer if a determination in the audit of the other taxpayer directly or indirectly affects the tax liability of the taxpayer whose claims he or she is preparing. (IITA Section 1501(a)(26)(B))

2) PTIN. Section 5 of the State Tax Preparer Oversight Act (STPOA) provides that the term "Preparer Tax Identification Number" or "PTIN" means the identifying number required under 26 CFR 1.6109-2(d). (STPOA Section 5)

3) EIN. The term "Employer Identification Number" or "EIN" means the identifying number assigned to an employer under 26 CFR 31.6011(b)-(1).

b) Requirement to Sign Return. If a return required under the IITA is prepared by an income tax return preparer for a taxpayer, that preparer shall sign the return as preparer of that return. (IITA Section 503) This requirement shall apply only to the preparer who would be considered the "signing tax return preparer" with respect to the return by applying the provisions of 26 CFR 301.7701-15. In addition, if there is an employment relationship or association between the
NOTICE OF PROPOSED AMENDMENT

individual required to sign a return under this subsection and another person, the
signature of that other person must be included on the filed return when required
by Department forms.

c) Requirement to Include PTIN. For taxable years beginning on or after January 1,
2017, any income tax return preparer must include his or her PTIN on any tax
return prepared by the income tax return preparer and filed under the ITA or any
claim for refund of tax imposed by the ITA. (STPOA Section 10) This
requirement shall apply only to the preparer who would be considered the
"signing tax return preparer" with respect to the return or claim for refund by
applying the provisions of 26 CFR 301.7701-15(b)(1), and only with respect to an
income tax return preparer who holds an active PTIN at the time of filing the
Illinois return or claim for refund.

d) Requirement to Include EIN. If there is an employment relationship or
association between the individual required to sign a return under subsection (b)
and another person, the name and EIN of that other person must be included on
the filed return or claim for refund when required by Department forms.

e) Oversight Program. The Department will use the PTIN information required to be
included on a filed return or claim for refund under subsection (c) for purposes of
administering the enforcement provisions of subsection (f). The PTIN information
allows the Department to identify preparers who prepare fraudulent or otherwise
erroneous returns, and returns reflecting unsubstantiated tax positions. The
Department will share and exchange PTIN information with the Internal Revenue
Service on income tax return preparers who are suspected of fraud, disciplined,
or barred from filing tax returns with the Department or the Internal Revenue
Service. (STPOA Section 10) The Department will share similar enforcement or
discipline information with other states.

f) Enforcement

1) Misconduct Investigations. The Department may investigate the actions of
any income tax return preparer doing business in the State and may bar or
suspend an income tax return preparer from filing returns with the
Department for good cause. (STPOA Section 15) Good cause to bar or
suspend an income tax return preparer may be found when a preparer
engages in conduct described in 26 USC 7407(b)(1) (other than conduct
subject to penalty under 26 USC 6695(a) (failure to provide the taxpayer
NOTICE OF PROPOSED AMENDMENT

with a copy of the return), (d) (failure to retain copies or lists of returns prepared by the preparer), (e) (failure to correct information returns) and (f) (negotiation of checks issued to taxpayers), as if 26 USC 7407(b)(1) applied for purposes of the IITA.

2) Misconduct Hearings. Prior to imposing the enforcement provisions of subsection (f)(1), the Department will hold a hearing as provided in this subsection (f)(2). The Department shall, at least 30 days before the date set for the hearing; notify the accused in writing of the charges made and the time and place for the hearing on the charges; direct him or her to file a written answer to the charges with the Department under oath within 20 days after the service on him or her of the notice; and inform the accused that, if he or she fails to answer, disciplinary action shall be taken against him or her, as the Department may consider proper. At the time and place fixed in the notice, the Department shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments. The Department may continue the hearing from time to time. In the case of the person, after receiving the notice, fails to file an answer, he or she may be subject to the disciplinary action set forth in the notice. The written notice may be served by registered or certified mail to the person's address of record. All final administrative decisions of the Department under this Section shall be subject to judicial review pursuant to the Administrative Review Law [725 ILCS 5/Art. III]. The term "administrative decision" shall have the meaning ascribed in Section 3-101 of that Law. Proceedings for judicial review shall be commenced in the Circuit Court of the county in which the party applying for review resides; provided that, if the party is not a resident of this State, the venue shall be in Sangamon or Cook County. (STPOA Section 15)

3) Penalty for Omitting PTIN

A) In addition to any other penalty provided by law, any individual violating the STPOA by failing to provide his or her PTIN shall pay a civil penalty to the Department in the amount of $50 per offense, but not to exceed $25,000 per calendar year; however, no such penalty shall be imposed if it is shown that the failure is due to reasonable cause and not due to willful neglect, as determined by the Department. (STPOA Section 15(a)) The penalty under this
NOTICE OF PROPOSED AMENDMENT

subsection (f)(3)(A) shall apply only with respect to an income tax return preparer who holds an active PTIN at the time of filing the Illinois return or claim for refund. The penalty does not apply to an income tax return preparer who does not have an active PTIN, whether or not the preparer is required to obtain a PTIN. Reasonable cause shall be determined under the standards set forth in 86 Ill. Adm. Code 700.400. The penalty imposed under this subsection (f)(3)(A) shall not be considered tax imposed under the IITA.

B) The Department shall issue a notice of penalty liability for the amount claimed by the Department pursuant to subsection (f)(3)(A). Procedures for protest and review of a notice of penalty liability issued pursuant to this subsection (f)(3)(B) and assessment of the penalty due under this subsection (f)(3)(B) shall be the same as those prescribed for protest and review of a notice of deficiency set forth in IITA Section 908.

(Source: Added at 41 Ill. Reg. ______, effective ___________)