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# Spring Legislative Conference

(via webinar)

April 28, 2020

# Agenda

- Department of Revenue Report
- The State of Our State
- Legislative Update
- CARES Act—Illinois Consequences
- Regulations Update
- Other Agency Updates
- Local Taxes
- What's Next?



# Department of Revenue Report

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# DOR COVID-19 Guidance

- Special page on IDOR website:  
[https://www2.illinois.gov/rev/Pages/Taxpayer-Resources-during-COVID-19-\(Coronavirus\)-Outbreak.aspx](https://www2.illinois.gov/rev/Pages/Taxpayer-Resources-during-COVID-19-(Coronavirus)-Outbreak.aspx)
- Sales tax payment deferral for eating and drinking establishments w/\$75K or less in tax in 2019. FY 2020-23
- Income tax returns due 4/15 extended to 7/15. FY 2020-24
- Expiring E numbers extended 90 days. FY 2020-25
- 2020 estimated payments can be based on 2018, 2019, or 2020 tax liability. FY 2020-26
- Q1 IFTA returns extended to 5/26.



# The State of Our State

- Backlog of Unpaid Bills: \$7.8 Billion  
As of 4/22/2020 (up from \$6.3 Billion on 1/1/2020)
- Bond Rating: Baa3/BBB-/BBB-  
Moody's, S&P, and Fitch, respectively. All have "negative outlook."
- Unemployment: February: 3.4%  
March: 4.6%
- Projected Budget Impact:  
\$2.7 billion revenue drop for FYE 6/30/2020  
\$6.7B/\$7.4B drop for FY 2021



# Depressing Chart of the Day

## April 2020 Revenue Revision

Source (\$ millions)	Actual FY 2019	February Estimate FY 2020	April Revision FY 2020	February Estimate FY 2021	April Revision FY 2021
<b>Base Revenues</b>					
<b>State Sources: Revenues</b>					
Individual Income Taxes.....	19,236	19,435	18,099	20,126	18,361
Corporate Income Taxes.....	2,389	2,490	2,191	2,489	2,047
Sales Taxes.....	8,409	8,740	8,003	9,038	7,453
Public Utility Taxes.....	863	846	846	828	828
Cigarette Taxes.....	361	263	263	257	257
Liquor Gallonage Taxes.....	172	174	174	176	176
Inheritance Tax.....	388	305	295	310	310
Insurance Taxes and Fees.....	396	400	380	400	400
Corporate Franchise Taxes and Fees.....	247	237	237	217	217
Interest on State Funds and Investments.....	145	170	155	170	170
Cook County Intergovernmental Transfer.....	244	244	244	244	244
Other State Sources.....	710	932	874	759	650
<b>Total State Sources: Revenues</b>	<b>33,560</b>	<b>34,236</b>	<b>31,760</b>	<b>35,013</b>	<b>31,113</b>
<b>State Sources: Transfers In</b>					
Lottery.....	731	700	550	728	636
Riverboat Gaming Taxes.....	269	261	204	258	251
Adult-Use Cannabis.....	0	15	15	46	46
Other Transfers.....	1,035	1,675	1,702	1,000	653
<b>Total State Sources</b>	<b>35,595</b>	<b>36,886</b>	<b>34,229</b>	<b>37,045</b>	<b>32,699</b>
Net Income Tax Receipts from PA 101-0008* ...	0	0	0	1,435	1,174
<b>Total State Sources, including PA 101-0008*</b>	<b>35,595</b>	<b>36,886</b>	<b>34,229</b>	<b>38,480</b>	<b>33,872</b>
Federal Sources.....	3,600	3,154	3,613	3,651	3,634
<b>Base General Funds Revenues</b>	<b>39,195</b>	<b>40,040</b>	<b>37,842</b>	<b>42,131</b>	<b>37,506</b>
Interfund Borrowing/Fund Reallocations .....	250	150	473	0	0
Treasurer's Investment Borrowing.....	750	400	400	0	0
<b>Total General Funds Revenues</b>	<b>40,195</b>	<b>40,590</b>	<b>38,715</b>	<b>42,131</b>	<b>37,506</b>

- \$1B in individual income tax receipts shift from FY20 to FY21 due to filing/payment extensions
- \$100 million shift in corporate income tax
- Estimated Federal aid:
  - \$450 million Medicaid increase in FY20 (more in FY21)
  - \$2.7B CARES Act Coronavirus Relief Fund

Source: April 2020 Revenue Forecast Revision, Governor's Office of Management and Budget



# Legislative Update

- Spring 2020 Session, so far: 5 weeks of session and 5 weeks of cancelled session (and counting); no tax bills passed
- No legal authority to meet remotely; working groups discussing topics but not specific bills
- Lots of speculation about remainder of session



## Pending bills that might resurface (sooner rather than later)

- SB 2481. Repeals \$10K cap on trade-in credit
- HB 4544. IDOR change to 80/20 test
- SB 1379/HB 4947. Cook County Assessor data-gathering initiative
- Ethics reform
- Revenue “enhancements”
- See end of handout for list of bills we were watching





# CARES Act--Impact on Illinois Taxes

- Illinois is a “rolling conformity” state so generally will automatically incorporate most of the major changes to the Internal Revenue Code  
BUT--
- Areas where Illinois has its own provisions are not impacted: \$1200 “Rebate” and employee retention credits, NOLs, payroll taxes, AMT
- Illinois has decoupled from some federal provisions so won’t be impacted: Excess Business Loss tweaks (for trusts and estates), bonus depreciation (but see slide 12)
- For individuals, Illinois starts with federal AGI, so will follow the new above-the-line \$300 charitable contribution deduction, but not the itemized deduction changes



## CARES Act--Illinois Question #1

### Deductibility of Employee Retention Credit Wages

- CARES Act 2301(e):  
For purposes of this section, rules similar to the rules of sections 51(i)(1) and 280C(a) of the Internal Revenue Code of 1986 shall apply.
- In other words, no deduction for wages generating the credit.
- Illinois has a subtraction modification for “amounts disallowed as deductions by” IRC 280C (IITA 203(a)(2)(M), (b)(2)(I), (c)(2)(L), and (d)(2)(J))
- Is nondeductibility pursuant to “rules similar to” 280C the same as “disallowed by” 280C?



## CARES Act--Illinois Question #2

### Consequences of Federal NOL Carrybacks

- CARES Act 2303(b) allows NOLs generated in 2018, 2019, and 2020 to be carried back 5 years
- Illinois has its own NOL rules, so there is no direct impact
- However: if the NOL carryback impacts other components of federal taxable income, there can be an Illinois impact.
- For example, Illinois did not decouple from the FDII deduction until 2019. Losses carried back to 2018 could change that calculation.



## CARES Act--Illinois Question #3

### Bonus Depreciation—a Messy Decoupling

- CARES Act §2307 fixes the “retail glitch”, allowing bonus depreciation for qualified improvement property.
- Illinois:
  - disallows all bonus depreciation (IITA 203(b)(2)(E-10)), then
  - recalculates a deduction for years when bonus is at 30% or 50%, then
  - creates a catch-up provision for the year of disposition or final year of depreciation (IITA 203(b)(2)(T))
- Effectively, Illinois is re-coupled to 100% bonus depreciation, but not 80% and other % in new law.
- Time to FIX THIS!



# Regulation Update

- New/Pending Income Tax Rules:
  - 100.2197 new “service days” approach to taxing nonresidents (2nd notice ~4/22)
  - 100.2055 new means-testing requirements (final 1/30)
  - 100.2430 addback provisions after 163(j) and noncombination repeal (2nd notice 4/16)
  - 100.7390 minimum wage tax credit (emergency 3/4; 1st notice 3/20)
- New/Pending Sales Tax Rules:
  - 130.330 MM&E and 130.1957 data centers (final 3/16)
  - 130.425 Trade-in credit cap for motor vehicles (emergency 12/27; 1st notice 1/10)
  - 150.804 Marketplace facilitators (emergency 12/20)
  - 130.310 Cannabis-infused items taxed at high rate (JCAR 2/18)



## Regulation Update, cont'd

- New/Pending Procedural Rules:
  - 200.115 DOR hearings practice and procedure (final 1/1)
  - 520.101 Tax amnesty program (JCAR 4/21)
- New/Pending Misc. Tax Rules:
  - 195.100 et seq New parking excise tax (JCAR 3/31)
  - 422.100 et seq (and others) Cannabis cultivation (and purchasers) privilege tax (JCAR 4/21)
  - More MFT, tobacco, HOOT



# Unclaimed Property Updates

- Emergency amendment to Rule 760.620 increases threshold from \$500 to \$2000 for filing fast-track claims, effective 3/16 for 150 days
- Automatic 30-day extension for annual reports due by April 30, 2020, if requests were emailed (to [up\\_report@illinoistreasurer.gov](mailto:up_report@illinoistreasurer.gov)) at least 15 business days before the due date. (per website)
- Interest and late-filing penalties will be waived for up to 60 days after the end of the emergency declaration in Illinois (per website)



# Franchise Tax Updates

- Emergency Rule 150.740 (effective 3/20):
  - “the Secretary of State hereby extends **for the duration** of the disaster proclaimed by the Governor in Gubernatorial Proclamation number 2020-038 issued on March 9, 2020, **and for a period of 30 days thereafter**, the filing deadlines for **materials** required to be filed with the Secretary of State pursuant to Chapter 805 of the Illinois Compiled Statutes and which were due to be filed on or after March 17, 2020. This extension period may be rescinded by the Secretary of State through the adoption of an emergency rule. **Any fees for late filings of materials shall be waived** for materials subject to this Section.”
- Per website: all online filings are being processed; paper filings suspended; certified copy requests can be submitted by fax. FAQ adds little:  
<https://www.cyberdriveillinois.com/special/covidfaq.pdf>





# City of Chicago Tax Guidance

- Payments for February, March and April deferred until June 1 for the following taxes:
  - Amusement tax
  - Bottled Water tax
  - Checkout Bag tax
  - Ground Transportation tax
  - Hotel Accommodations tax
  - Parking tax
  - Restaurant tax
- See the City's website for instructions and a FAQ document—DEFERRAL IS NOT AUTOMATIC
- No additional interest will accrue from 3/17/2020 – 6/1/2020 on late payments for the periods July 2019 through January 2020.



# Cook County Tax Guidance

- Home rule taxes filing/payment dates for February and March extended to May 1.
- Assessments, collection efforts and defaults for these taxes also delayed (with no interest accruing).
- Property tax assessment appeal deadlines extended until further notice.
- Assessor will take impact of pandemic into account in assessing all properties.



# What's Going to Happen?

- Budget?
- Emergency Provisions?
- Election?
- Constitutional Amendment?
- How to fill the budget hole?



# Legislation We Were Watching—Sales Tax

- SB 2481: Repeal trade-in credit limitation, increase in Vehicle Use Tax
- HB 4440: A teacher using school's E number purchasing supplies and materials is presumed to be purchasing the items for the school and thus the purchase is exempt from sales tax.
- HB 4487: Updates diabetes testing materials exemption language. IDOR Initiative.
- HB 4669: Prepaid phone minutes are not taxable if there is no TPP involved.
- HB 4840: Changes sales tax exclusion on demonstration TPP. IDOR initiative.
- HB 5135/SB 3352: Lease payments subject to ROTA.
- HB 5207/SB 3221: Reinstates central purchasing exemption.
- SB 2521: Repair of TPP is not use.
- SB 3380: Sales tax task force.



# Legislation We Were Watching—Income Tax

- HB 4021: Deduction up to \$50,000 for contributions to a small business's asset purchase account.
- HB 4544: Unitary group includes all domestic corporations regardless of how much of their income is from foreign sources. IDOR Initiative.
- HB 5061: Repeals throwback rule.
- HB 5067/SB 3772: Investment partnership.
- SB 3334: Sports wagering in Illinois is sourced to Illinois. IDOR initiative.
- Numerous bills to expand the R&D credit.



# Legislation We Were Watching—Odds and Ends

- HB 4138/SB 2502: Creates the Phase Out Corporate Giveaways Interstate Compact Act.
- HB 4680: Creates the local government Business Anti-Poaching Act.
- HB 4300: Coal severance tax of 5%
- HB 4374: Creates the Quad Cities Regional Metropolitan Authority Act. States its bonds are exempt from income tax. Can impose a vague sales tax.
- HB 4573/SB 3153: Unclaimed property. Adds language for digital currency. Requires certain entities to file annual returns even if they don't have any unclaimed property. Initiative of State Treasurer.
- HB 4813/SB 3455: Other unclaimed property bills.
- HB 4705/SB 3512: Municipalities can impose a 5% tax on resale ticket facilitators



## Legislation We Were Watching—Odds and Ends, cont'd

- HB 4826/SB 3243: Graduated real estate transfer tax.
- SB 1379/HB 4947: Requires income producing properties to disclose financial information. Initiative of Cook County Assessor.
- HB 5212: Creates new process for tax related False Claims Act cases.
- SB 3014: Over collection of tax does not violate Consumer Fraud and Deceptive Business Practices Act if remitted to the relevant government
- HB 5584: 1% tax on wire transfers.
- Numerous bills to exempt parking lots owned by local governments from the Parking Excise Tax.
- Numerous bills to reinstate the small business jobs credit.



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