

**Illinois Department of Revenue  
Regulations**

**Title 86 Part 210 Section 210.126 Voluntary Disclosure**

**TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUE**

**PART 210  
BOARD OF APPEALS; VOLUNTARY DISCLOSURE**

**Section 210.126 Voluntary Disclosure**

- a) Statutory Authority. Section 3-10 of the Uniform Penalty and Interest Act sets forth limitation periods for the assessment of taxes by the Illinois Department of Revenue. *In the case of a failure to file a return required by law that is voluntarily disclosed to the Department, in accordance with this Section, the tax may be assessed no more than 4 years after the original due date of each return required to have been filed.* [35 ILCS 735/3-10 (c)]
  
- b) Taxpayers must voluntarily come forward and disclose. In order for the statute of limitations to be limited to no more than four years under Illinois law, a taxpayer must voluntarily come forward and disclose its liability to the Problems Resolution Division (PRD) of the Taxpayer Services Program. A taxpayer has voluntarily come forward and disclosed its liability to the PRD when it has done the following:
  - 1) The taxpayer files an application for voluntary disclosure. The taxpayer must file an application for voluntary disclosure in a form prescribed by the PRD prior to the date the Department of Revenue has initiated an audit or investigation of the taxpayer. The Application is not accepted by the PRD until it has been approved and signed by a Board of Appeals member. A Board member may not sign the Application until the Department has notified the PRD that the Department had not initiated an audit or investigation of the taxpayer, as those terms are explained in subsection (c)(1), prior to the filing date of the taxpayer's Application with the PRD. The filing date of the taxpayer's Application with the PRD is the date the Application is received by the PRD. Once a Board member has signed the Application, the PRD will furnish the taxpayer with a copy of the executed Application.
  
  - 2) The taxpayer files returns and pays liability. Once the taxpayer has received a copy of the executed Application, the taxpayer must file Illinois tax returns for the tax being disclosed for the last four years with the PRD and pay all tax and interest within 30 days from the Board of Appeals member's Signature Date. The Board of Appeals member's Signature Date is the date the Board member signs the Application. The taxpayer's determination of its tax liability, including the methodology used by the taxpayer, must be documented and in a manner reviewable by the Department. A taxpayer who maintains that it was not required to file returns and pay tax for the entire four years shall file returns and pay tax for the period that it maintains it was required to do so under Illinois law. In addition, the taxpayer will provide in its Application to the PRD its reasons why

it maintains it does not owe tax for the entire voluntary disclosure period (immediately preceding four years). The PRD will determine the number of years (up to the four year maximum) the taxpayer is subject to Illinois tax under voluntary disclosure. The PRD will notify the taxpayer of its decision. The taxpayer will file returns and pay tax for the number of years (up to four years maximum) the PRD has determined the taxpayer is subject to tax under voluntary disclosure. The taxpayer will file any additional returns and pay any additional liability owed within 60 days from the date of notification to the taxpayer. The date of notification is the date shown on the notification sent to the taxpayer by the PRD.

- c) Disqualification from Voluntary Disclosure. A taxpayer does not qualify for voluntary disclosure if:
- 1) The Department has initiated an audit or investigation prior to the date the taxpayer filed its Application with the PRD.
    - A) Initiation of an Audit. The Department has initiated an audit of the taxpayer if, at a minimum:
      - i) The Audit Bureau of the Department has contacted the taxpayer to schedule an appointment to audit the taxpayer for the particular Illinois tax type being disclosed; or
      - ii) The Audit Bureau of the Department has contacted the taxpayer in writing regarding a possible tax liability or a notice of intent to audit for the particular Illinois tax type being disclosed.
    - B) Initiation of an Investigation. The Criminal Investigations Division of the Department has initiated an investigation of a taxpayer if, at a minimum, the Department has opened a criminal investigation file on the taxpayer.
    - C) Partnerships. Once the Department has initiated an audit or investigation of a partnership or a general partner of the partnership, the Department is deemed to have initiated an audit or investigation of the partnership and all partners of that partnership, with respect to the liability from the partnership, for purposes of qualifying for voluntary disclosure.
  - 2) The taxpayer does not file tax returns within 30 days from the Signature Date.
  - 3) The taxpayer does not pay all tax and interest within 30 days from the Signature Date.
  - 4) The taxpayer does not begin prospective compliance. The taxpayer must begin prospective compliance with Illinois tax law as a part of voluntary disclosure. The taxpayer has begun prospective compliance when the taxpayer has made a good faith effort to comply with Illinois tax law. This would include prospectively filing all returns that are due, paying the tax liability owed, registering with the Department, and remitting all taxes collected.
  - 5) The taxpayer has not remitted all taxes collected for the Illinois tax type being disclosed as part of voluntary disclosure. The taxpayer must remit all taxes (and

interest) previously collected for all periods by the taxpayer for the Illinois tax type being disclosed as part of the taxpayer's voluntary disclosure with the Department. This includes periods beyond the four-year limitation for which the taxes were collected but not remitted. Failure to remit all taxes (and interest) previously collected for the Illinois tax type being disclosed will disqualify the taxpayer from the relief provided under voluntary disclosure.

- d) Extensions. The taxpayer may request in writing, before the expiration of the 30-day period, an automatic 60-day extension in order to file its tax returns or make payment. The taxpayer may request in writing, before the expiration of any extension, a further extension in order to file its tax returns or make payment. The PRD, in its discretion, may grant an additional extension when the taxpayer's facts warrant a further extension of time in order to comply with the PRD's filing requirements.
- e) The Department retains the right to audit the taxpayer and verify accurate reporting. The taxpayer has made a good faith effort to accurately report its tax liability under voluntary disclosure when the taxpayer has made a reasonable and honest effort to calculate and report its correct tax liability due and does not intentionally or purposefully misrepresent its tax liability to the Department. The Department retains the right to audit the taxpayer for all open years of the voluntary disclosure period and assess all tax, penalty and interest that is owed by the taxpayer. The taxpayer will not qualify for the relief provided under voluntary disclosure when the Department finds that the taxpayer understated its final tax liability to the PRD by 10% or more and cannot demonstrate to the Department that a good faith effort was made to accurately report its liability for the voluntary disclosure period.

(Source: Amended at 43 Ill. Reg. 5315, effective April 24, 2019)