

HB2947



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2947

by Rep. Michael J. Zalewski

SYNOPSIS AS INTRODUCED:

35 ILCS 120/11

from Ch. 120, par. 450

Amends the Retailers' Occupation Tax Act. Provides that, subject to certain restrictions, if the Department of Revenue may disclose confidential financial information to a municipality or county, then the Department of Revenue may also disclose that financial information to an independent third party who is authorized in writing by that municipality or county to receive the information. Effective immediately.

LRB101 08698 HLH 53783 b

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Retailers' Occupation Tax Act is amended by
5 changing Section 11 as follows:

6 (35 ILCS 120/11) (from Ch. 120, par. 450)

7 Sec. 11. All information received by the Department from
8 returns filed under this Act, or from any investigation
9 conducted under this Act, shall be confidential, except for
10 official purposes, and any person, including an eligible third
11 party, who divulges any such information in any manner, except
12 in accordance with a proper judicial order or as otherwise
13 provided by law including, but not limited to, this Section,
14 shall be guilty of a Class B misdemeanor with a fine not to
15 exceed \$7,500.

16 Nothing in this Act prevents the Director of Revenue from
17 publishing or making available to the public the names and
18 addresses of persons filing returns under this Act, or
19 reasonable statistics concerning the operation of the tax by
20 grouping the contents of returns so the information in any
21 individual return is not disclosed.

22 Nothing in this Act prevents a municipality or county from
23 aggregating the information provided to the municipality or

1 county by the Department under this Section and presenting that
2 information to the public, as long as the information in any
3 individual return is not disclosed.

4 Nothing in this Act prevents the Director of Revenue from
5 divulging to the United States Government or the government of
6 any other state, or any officer or agency thereof, for
7 exclusively official purposes, information received by the
8 Department in administering this Act, provided that such other
9 governmental agency agrees to divulge requested tax
10 information to the Department.

11 The Department's furnishing of information derived from a
12 taxpayer's return or from an investigation conducted under this
13 Act to the surety on a taxpayer's bond that has been furnished
14 to the Department under this Act, either to provide notice to
15 such surety of its potential liability under the bond or, in
16 order to support the Department's demand for payment from such
17 surety under the bond, is an official purpose within the
18 meaning of this Section.

19 The furnishing upon request of information obtained by the
20 Department from returns filed under this Act or investigations
21 conducted under this Act to the Illinois Liquor Control
22 Commission for official use is deemed to be an official purpose
23 within the meaning of this Section.

24 Notice to a surety of potential liability shall not be
25 given unless the taxpayer has first been notified, not less
26 than 10 days prior thereto, of the Department's intent to so

1 notify the surety.

2 The furnishing upon request of the Auditor General, or his
3 authorized agents, for official use, of returns filed and
4 information related thereto under this Act is deemed to be an
5 official purpose within the meaning of this Section.

6 Where an appeal or a protest has been filed on behalf of a
7 taxpayer, the furnishing upon request of the attorney for the
8 taxpayer of returns filed by the taxpayer and information
9 related thereto under this Act is deemed to be an official
10 purpose within the meaning of this Section.

11 The furnishing of financial information to a municipality
12 or county, upon request of the chief executive officer thereof,
13 including the furnishing of financial information to an
14 eligible third party as provided in this paragraph, is an
15 official purpose within the meaning of this Section, provided
16 the municipality, ~~or~~ county, and, if applicable, the eligible
17 third party agree ~~agrees~~ in writing to the requirements of this
18 Section. Information provided to municipalities and counties
19 under this paragraph shall be limited to: (1) the business
20 name; (2) the business address; (3) the standard classification
21 number assigned to the business; (4) net revenue distributed to
22 the requesting municipality or county that is directly related
23 to the requesting municipality's or county's local share of the
24 proceeds under the Use Tax Act, the Service Use Tax Act, the
25 Service Occupation Tax Act, and the Retailers' Occupation Tax
26 Act distributed from the Local Government Tax Fund, and, if

1 applicable, any locally imposed retailers' occupation tax or
2 service occupation tax; and (5) a listing of all businesses
3 within the requesting municipality or county by account
4 identification number and address. Notwithstanding the first
5 paragraph of this Section, the incidental or inadvertent
6 disclosure of such information to an employee of a county or
7 municipality, or to a public official representing that county
8 or municipality, in the scope of his or her employment or
9 representation is not a criminal offense under this Section. On
10 and after July 1, 2015, the furnishing of financial information
11 to municipalities and counties under this paragraph may be by
12 electronic means. If the Department may furnish financial
13 information to a municipality or county under this paragraph,
14 then the chief executive officer of the municipality or county
15 may in writing authorize the Department to disclose that
16 information to eligible third parties, including, but not
17 limited to, consultants, attorneys, accountants, auditors, and
18 financial advisors. The furnishing of financial information to
19 an eligible third party is an official purpose within the
20 meaning of this Section, provided the third party agrees in
21 writing to the requirements of this Section and meets the
22 criteria set forth in this paragraph. To be eligible to receive
23 information from the Department, the third party (1) must enter
24 into a confidentiality agreement with the Department prior to
25 receiving the financial information, (2) must have an existing
26 contract with the municipality or county at the time the third

1 party enters into the confidentiality agreement with the
2 Department, and (3) must abide by the same conditions as the
3 municipality or county with respect to the furnishing of
4 financial information. The third party may use the financial
5 information only for the purpose of providing services to the
6 municipality as specified in the contract with the municipality
7 and may not use the information for any other purpose,
8 including verifying the accuracy of amounts indicated on
9 returns submitted to the Department by a taxpayer; however, the
10 third party may verify the accuracy of amounts remitted to the
11 municipality, except as otherwise prohibited by law.
12 Electronic data submitted to third parties under this paragraph
13 must be encrypted and must be accessible only to authorized
14 users with secure passwords. Notwithstanding the first
15 paragraph of this Section, disclosure of information under the
16 requirements of this paragraph is not a criminal offense under
17 this Section.

18 Information so provided shall be subject to all
19 confidentiality provisions of this Section. The written
20 agreement shall provide for reciprocity, limitations on
21 access, disclosure, and procedures for requesting information.

22 The Department may make available to the Board of Trustees
23 of any Metro East Mass Transit District information contained
24 on transaction reporting returns required to be filed under
25 Section 3 of this Act that report sales made within the
26 boundary of the taxing authority of that Metro East Mass

1 Transit District, as provided in Section 5.01 of the Local Mass
2 Transit District Act. The disclosure shall be made pursuant to
3 a written agreement between the Department and the Board of
4 Trustees of a Metro East Mass Transit District, which is an
5 official purpose within the meaning of this Section. The
6 written agreement between the Department and the Board of
7 Trustees of a Metro East Mass Transit District shall provide
8 for reciprocity, limitations on access, disclosure, and
9 procedures for requesting information. Information so provided
10 shall be subject to all confidentiality provisions of this
11 Section.

12 The Director may make available to any State agency,
13 including the Illinois Supreme Court, which licenses persons to
14 engage in any occupation, information that a person licensed by
15 such agency has failed to file returns under this Act or pay
16 the tax, penalty and interest shown therein, or has failed to
17 pay any final assessment of tax, penalty or interest due under
18 this Act. The Director may make available to any State agency,
19 including the Illinois Supreme Court, information regarding
20 whether a bidder, contractor, or an affiliate of a bidder or
21 contractor has failed to collect and remit Illinois Use tax on
22 sales into Illinois, or any tax under this Act or pay the tax,
23 penalty, and interest shown therein, or has failed to pay any
24 final assessment of tax, penalty, or interest due under this
25 Act, for the limited purpose of enforcing bidder and contractor
26 certifications. The Director may make available to units of

1 local government and school districts that require bidder and
2 contractor certifications, as set forth in Sections 50-11 and
3 50-12 of the Illinois Procurement Code, information regarding
4 whether a bidder, contractor, or an affiliate of a bidder or
5 contractor has failed to collect and remit Illinois Use tax on
6 sales into Illinois, file returns under this Act, or pay the
7 tax, penalty, and interest shown therein, or has failed to pay
8 any final assessment of tax, penalty, or interest due under
9 this Act, for the limited purpose of enforcing bidder and
10 contractor certifications. For purposes of this Section, the
11 term "affiliate" means any entity that (1) directly,
12 indirectly, or constructively controls another entity, (2) is
13 directly, indirectly, or constructively controlled by another
14 entity, or (3) is subject to the control of a common entity.
15 For purposes of this Section, an entity controls another entity
16 if it owns, directly or individually, more than 10% of the
17 voting securities of that entity. As used in this Section, the
18 term "voting security" means a security that (1) confers upon
19 the holder the right to vote for the election of members of the
20 board of directors or similar governing body of the business or
21 (2) is convertible into, or entitles the holder to receive upon
22 its exercise, a security that confers such a right to vote. A
23 general partnership interest is a voting security.

24 The Director may make available to any State agency,
25 including the Illinois Supreme Court, units of local
26 government, and school districts, information regarding

1 whether a bidder or contractor is an affiliate of a person who
2 is not collecting and remitting Illinois Use taxes for the
3 limited purpose of enforcing bidder and contractor
4 certifications.

5 The Director may also make available to the Secretary of
6 State information that a limited liability company, which has
7 filed articles of organization with the Secretary of State, or
8 corporation which has been issued a certificate of
9 incorporation by the Secretary of State has failed to file
10 returns under this Act or pay the tax, penalty and interest
11 shown therein, or has failed to pay any final assessment of
12 tax, penalty or interest due under this Act. An assessment is
13 final when all proceedings in court for review of such
14 assessment have terminated or the time for the taking thereof
15 has expired without such proceedings being instituted.

16 The Director shall make available for public inspection in
17 the Department's principal office and for publication, at cost,
18 administrative decisions issued on or after January 1, 1995.
19 These decisions are to be made available in a manner so that
20 the following taxpayer information is not disclosed:

21 (1) The names, addresses, and identification numbers
22 of the taxpayer, related entities, and employees.

23 (2) At the sole discretion of the Director, trade
24 secrets or other confidential information identified as
25 such by the taxpayer, no later than 30 days after receipt
26 of an administrative decision, by such means as the

1 Department shall provide by rule.

2 The Director shall determine the appropriate extent of the
3 deletions allowed in paragraph (2). In the event the taxpayer
4 does not submit deletions, the Director shall make only the
5 deletions specified in paragraph (1).

6 The Director shall make available for public inspection and
7 publication an administrative decision within 180 days after
8 the issuance of the administrative decision. The term
9 "administrative decision" has the same meaning as defined in
10 Section 3-101 of Article III of the Code of Civil Procedure.
11 Costs collected under this Section shall be paid into the Tax
12 Compliance and Administration Fund.

13 Nothing contained in this Act shall prevent the Director
14 from divulging information to any person pursuant to a request
15 or authorization made by the taxpayer or by an authorized
16 representative of the taxpayer.

17 (Source: P.A. 98-1058, eff. 1-1-15; 99-517, eff. 6-30-16.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.