



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3880

Introduced 2/22/2021, by Rep. Anthony DeLuca

SYNOPSIS AS INTRODUCED:

65 ILCS 5/8-11-1	from Ch. 24, par. 8-11-1
65 ILCS 5/8-11-1.3	from Ch. 24, par. 8-11-1.3
65 ILCS 5/8-11-1.4	from Ch. 24, par. 8-11-1.4
65 ILCS 5/8-11-1.6	
65 ILCS 5/8-11-1.7	
65 ILCS 5/8-11-5	from Ch. 24, par. 8-11-5
65 ILCS 5/8-11-6	from Ch. 24, par. 8-11-6

Amends the Illinois Municipal Code. Provides that a municipality may, by ordinance, provide that its use and occupation taxes shall be collected and enforced by the municipality (currently, the Department of Revenue). Provides that, if the tax is collected and enforced by the municipality, none of the proceeds collected from the tax shall be transferred into the Tax Compliance and Administration Fund. Effective immediately.

LRB102 02597 AWJ 12600 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

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

4 Section 5. The Illinois Municipal Code is amended by
5 changing Sections 8-11-1, 8-11-1.3, 8-11-1.4, 8-11-1.6,
6 8-11-1.7, 8-11-5, and 8-11-6 as follows:

7 (65 ILCS 5/8-11-1) (from Ch. 24, par. 8-11-1)

8 Sec. 8-11-1. Home Rule Municipal Retailers' Occupation Tax
9 Act. The corporate authorities of a home rule municipality may
10 impose a tax upon all persons engaged in the business of
11 selling tangible personal property, other than an item of
12 tangible personal property titled or registered with an agency
13 of this State's government, at retail in the municipality on
14 the gross receipts from these sales made in the course of such
15 business. If imposed, the tax shall only be imposed in 1/4%
16 increments. On and after September 1, 1991, this additional
17 tax may not be imposed on tangible personal property taxed at
18 the 1% rate under the Retailers' Occupation Tax Act. Beginning
19 December 1, 2019, this tax is not imposed on sales of aviation
20 fuel unless the tax revenue is expended for airport-related
21 purposes. If a municipality does not have an airport-related
22 purpose to which it dedicates aviation fuel tax revenue, then
23 aviation fuel is excluded from the tax. Each municipality must

1 comply with the certification requirements for airport-related
2 purposes under Section 2-22 of the Retailers' Occupation Tax
3 Act. For purposes of this Section, "airport-related purposes"
4 has the meaning ascribed in Section 6z-20.2 of the State
5 Finance Act. This exclusion for aviation fuel only applies for
6 so long as the revenue use requirements of 49 U.S.C. 47107(b)
7 and 49 U.S.C. 47133 are binding on the municipality. The
8 changes made to this Section by this amendatory Act of the
9 101st General Assembly are a denial and limitation of home
10 rule powers and functions under subsection (g) of Section 6 of
11 Article VII of the Illinois Constitution. The tax imposed by a
12 home rule municipality under this Section and all civil
13 penalties that may be assessed as an incident of the tax shall
14 be collected and enforced by the State Department of Revenue,
15 except that a municipality may, by ordinance, provide that the
16 tax shall be collected and enforced by the municipality. If
17 the tax is collected and enforced by the municipality, none of
18 the proceeds collected from the tax shall be transferred into
19 the Tax Compliance and Administration Fund. The certificate of
20 registration that is issued by the Department to a retailer
21 under the Retailers' Occupation Tax Act shall permit the
22 retailer to engage in a business that is taxable under any
23 ordinance or resolution enacted pursuant to this Section
24 without registering separately with the Department under such
25 ordinance or resolution or under this Section. The Department
26 shall have full power to administer and enforce this Section;

1 to collect all taxes and penalties due hereunder; to dispose
2 of taxes and penalties so collected in the manner hereinafter
3 provided; and to determine all rights to credit memoranda
4 arising on account of the erroneous payment of tax or penalty
5 hereunder. In the administration of, and compliance with, this
6 Section the Department and persons who are subject to this
7 Section shall have the same rights, remedies, privileges,
8 immunities, powers and duties, and be subject to the same
9 conditions, restrictions, limitations, penalties and
10 definitions of terms, and employ the same modes of procedure,
11 as are prescribed in Sections 1, 1a, 1d, 1e, 1f, 1i, 1j, 1k,
12 1m, 1n, 2 through 2-65 (in respect to all provisions therein
13 other than the State rate of tax), 2c, 3 (except as to the
14 disposition of taxes and penalties collected, and except that
15 the retailer's discount is not allowed for taxes paid on
16 aviation fuel that are subject to the revenue use requirements
17 of 49 U.S.C. 47107(b) and 49 U.S.C. 47133), 4, 5, 5a, 5b, 5c,
18 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 6d, 7, 8, 9,
19 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and
20 Section 3-7 of the Uniform Penalty and Interest Act, as fully
21 as if those provisions were set forth herein.

22 No tax may be imposed by a home rule municipality under
23 this Section unless the municipality also imposes a tax at the
24 same rate under Section 8-11-5 of this Act.

25 Persons subject to any tax imposed under the authority
26 granted in this Section may reimburse themselves for their

1 seller's tax liability hereunder by separately stating that
2 tax as an additional charge, which charge may be stated in
3 combination, in a single amount, with State tax which sellers
4 are required to collect under the Use Tax Act, pursuant to such
5 bracket schedules as the Department may prescribe.

6 Whenever the Department determines that a refund should be
7 made under this Section to a claimant instead of issuing a
8 credit memorandum, the Department shall notify the State
9 Comptroller, who shall cause the order to be drawn for the
10 amount specified and to the person named in the notification
11 from the Department. The refund shall be paid by the State
12 Treasurer out of the home rule municipal retailers' occupation
13 tax fund or the Local Government Aviation Trust Fund, as
14 appropriate.

15 Except as otherwise provided in this paragraph, the
16 Department shall immediately pay over to the State Treasurer,
17 ex officio, as trustee, all taxes and penalties collected
18 hereunder for deposit into the Home Rule Municipal Retailers'
19 Occupation Tax Fund. Taxes and penalties collected on aviation
20 fuel sold on or after December 1, 2019, shall be immediately
21 paid over by the Department to the State Treasurer, ex
22 officio, as trustee, for deposit into the Local Government
23 Aviation Trust Fund. The Department shall only pay moneys into
24 the Local Government Aviation Trust Fund under this Section
25 for so long as the revenue use requirements of 49 U.S.C.
26 47107(b) and 49 U.S.C. 47133 are binding on the State.

1 As soon as possible after the first day of each month,
2 beginning January 1, 2011, upon certification of the
3 Department of Revenue, the Comptroller shall order
4 transferred, and the Treasurer shall transfer, to the STAR
5 Bonds Revenue Fund the local sales tax increment, as defined
6 in the Innovation Development and Economy Act, collected under
7 this Section during the second preceding calendar month for
8 sales within a STAR bond district.

9 After the monthly transfer to the STAR Bonds Revenue Fund,
10 on or before the 25th day of each calendar month, the
11 Department shall prepare and certify to the Comptroller the
12 disbursement of stated sums of money to named municipalities,
13 the municipalities to be those from which retailers have paid
14 taxes or penalties hereunder to the Department during the
15 second preceding calendar month. The amount to be paid to each
16 municipality shall be the amount (not including credit
17 memoranda and not including taxes and penalties collected on
18 aviation fuel sold on or after December 1, 2019) collected
19 hereunder during the second preceding calendar month by the
20 Department plus an amount the Department determines is
21 necessary to offset any amounts that were erroneously paid to
22 a different taxing body, and not including an amount equal to
23 the amount of refunds made during the second preceding
24 calendar month by the Department on behalf of such
25 municipality, and not including any amount that the Department
26 determines is necessary to offset any amounts that were

1 payable to a different taxing body but were erroneously paid
2 to the municipality, and not including any amounts that are
3 transferred to the STAR Bonds Revenue Fund, less 1.5% of the
4 remainder, which the Department shall transfer into the Tax
5 Compliance and Administration Fund. The Department, at the
6 time of each monthly disbursement to the municipalities, shall
7 prepare and certify to the State Comptroller the amount to be
8 transferred into the Tax Compliance and Administration Fund
9 under this Section. Within 10 days after receipt by the
10 Comptroller of the disbursement certification to the
11 municipalities and the Tax Compliance and Administration Fund
12 provided for in this Section to be given to the Comptroller by
13 the Department, the Comptroller shall cause the orders to be
14 drawn for the respective amounts in accordance with the
15 directions contained in the certification.

16 In addition to the disbursement required by the preceding
17 paragraph and in order to mitigate delays caused by
18 distribution procedures, an allocation shall, if requested, be
19 made within 10 days after January 14, 1991, and in November of
20 1991 and each year thereafter, to each municipality that
21 received more than \$500,000 during the preceding fiscal year,
22 (July 1 through June 30) whether collected by the municipality
23 or disbursed by the Department as required by this Section.
24 Within 10 days after January 14, 1991, participating
25 municipalities shall notify the Department in writing of their
26 intent to participate. In addition, for the initial

1 distribution, participating municipalities shall certify to
2 the Department the amounts collected by the municipality for
3 each month under its home rule occupation and service
4 occupation tax during the period July 1, 1989 through June 30,
5 1990. The allocation within 10 days after January 14, 1991,
6 shall be in an amount equal to the monthly average of these
7 amounts, excluding the 2 months of highest receipts. The
8 monthly average for the period of July 1, 1990 through June 30,
9 1991 will be determined as follows: the amounts collected by
10 the municipality under its home rule occupation and service
11 occupation tax during the period of July 1, 1990 through
12 September 30, 1990, plus amounts collected by the Department
13 and paid to such municipality through June 30, 1991, excluding
14 the 2 months of highest receipts. The monthly average for each
15 subsequent period of July 1 through June 30 shall be an amount
16 equal to the monthly distribution made to each such
17 municipality under the preceding paragraph during this period,
18 excluding the 2 months of highest receipts. The distribution
19 made in November 1991 and each year thereafter under this
20 paragraph and the preceding paragraph shall be reduced by the
21 amount allocated and disbursed under this paragraph in the
22 preceding period of July 1 through June 30. The Department
23 shall prepare and certify to the Comptroller for disbursement
24 the allocations made in accordance with this paragraph.

25 For the purpose of determining the local governmental unit
26 whose tax is applicable, a retail sale by a producer of coal or

1 other mineral mined in Illinois is a sale at retail at the
2 place where the coal or other mineral mined in Illinois is
3 extracted from the earth. This paragraph does not apply to
4 coal or other mineral when it is delivered or shipped by the
5 seller to the purchaser at a point outside Illinois so that the
6 sale is exempt under the United States Constitution as a sale
7 in interstate or foreign commerce.

8 Nothing in this Section shall be construed to authorize a
9 municipality to impose a tax upon the privilege of engaging in
10 any business which under the Constitution of the United States
11 may not be made the subject of taxation by this State.

12 An ordinance or resolution imposing or discontinuing a tax
13 hereunder or effecting a change in the rate thereof shall be
14 adopted and a certified copy thereof filed with the Department
15 on or before the first day of June, whereupon the Department
16 shall proceed to administer and enforce this Section as of the
17 first day of September next following the adoption and filing.
18 Beginning January 1, 1992, an ordinance or resolution imposing
19 or discontinuing the tax hereunder or effecting a change in
20 the rate thereof shall be adopted and a certified copy thereof
21 filed with the Department on or before the first day of July,
22 whereupon the Department shall proceed to administer and
23 enforce this Section as of the first day of October next
24 following such adoption and filing. Beginning January 1, 1993,
25 an ordinance or resolution imposing or discontinuing the tax
26 hereunder or effecting a change in the rate thereof shall be

1 adopted and a certified copy thereof filed with the Department
2 on or before the first day of October, whereupon the
3 Department shall proceed to administer and enforce this
4 Section as of the first day of January next following the
5 adoption and filing. However, a municipality located in a
6 county with a population in excess of 3,000,000 that elected
7 to become a home rule unit at the general primary election in
8 1994 may adopt an ordinance or resolution imposing the tax
9 under this Section and file a certified copy of the ordinance
10 or resolution with the Department on or before July 1, 1994.
11 The Department shall then proceed to administer and enforce
12 this Section as of October 1, 1994. Beginning April 1, 1998, an
13 ordinance or resolution imposing or discontinuing the tax
14 hereunder or effecting a change in the rate thereof shall
15 either (i) be adopted and a certified copy thereof filed with
16 the Department on or before the first day of April, whereupon
17 the Department shall proceed to administer and enforce this
18 Section as of the first day of July next following the adoption
19 and filing; or (ii) be adopted and a certified copy thereof
20 filed with the Department on or before the first day of
21 October, whereupon the Department shall proceed to administer
22 and enforce this Section as of the first day of January next
23 following the adoption and filing.

24 When certifying the amount of a monthly disbursement to a
25 municipality under this Section, the Department shall increase
26 or decrease the amount by an amount necessary to offset any

1 misallocation of previous disbursements. The offset amount
2 shall be the amount erroneously disbursed within the previous
3 6 months from the time a misallocation is discovered.

4 Any unobligated balance remaining in the Municipal
5 Retailers' Occupation Tax Fund on December 31, 1989, which
6 fund was abolished by Public Act 85-1135, and all receipts of
7 municipal tax as a result of audits of liability periods prior
8 to January 1, 1990, shall be paid into the Local Government Tax
9 Fund for distribution as provided by this Section prior to the
10 enactment of Public Act 85-1135. All receipts of municipal tax
11 as a result of an assessment not arising from an audit, for
12 liability periods prior to January 1, 1990, shall be paid into
13 the Local Government Tax Fund for distribution before July 1,
14 1990, as provided by this Section prior to the enactment of
15 Public Act 85-1135; and on and after July 1, 1990, all such
16 receipts shall be distributed as provided in Section 6z-18 of
17 the State Finance Act.

18 As used in this Section, "municipal" and "municipality"
19 means a city, village or incorporated town, including an
20 incorporated town that has superseded a civil township.

21 This Section shall be known and may be cited as the Home
22 Rule Municipal Retailers' Occupation Tax Act.

23 (Source: P.A. 100-23, eff. 7-6-17; 100-587, eff. 6-4-18;
24 100-1171, eff. 1-4-19; 101-10, eff. 6-5-19; 101-81, eff.
25 7-12-19; 101-604, eff. 12-13-19.)

1 (65 ILCS 5/8-11-1.3) (from Ch. 24, par. 8-11-1.3)

2 Sec. 8-11-1.3. Non-Home Rule Municipal Retailers'
3 Occupation Tax Act. The corporate authorities of a non-home
4 rule municipality may impose a tax upon all persons engaged in
5 the business of selling tangible personal property, other than
6 on an item of tangible personal property which is titled and
7 registered by an agency of this State's Government, at retail
8 in the municipality for expenditure on public infrastructure
9 or for property tax relief or both as defined in Section
10 8-11-1.2 if approved by referendum as provided in Section
11 8-11-1.1, of the gross receipts from such sales made in the
12 course of such business. If the tax is approved by referendum
13 on or after July 14, 2010 (the effective date of Public Act
14 96-1057), the corporate authorities of a non-home rule
15 municipality may, until July 1, 2030, use the proceeds of the
16 tax for expenditure on municipal operations, in addition to or
17 in lieu of any expenditure on public infrastructure or for
18 property tax relief. The tax imposed may not be more than 1%
19 and may be imposed only in 1/4% increments. The tax may not be
20 imposed on tangible personal property taxed at the 1% rate
21 under the Retailers' Occupation Tax Act. Beginning December 1,
22 2019, this tax is not imposed on sales of aviation fuel unless
23 the tax revenue is expended for airport-related purposes. If a
24 municipality does not have an airport-related purpose to which
25 it dedicates aviation fuel tax revenue, then aviation fuel is
26 excluded from the tax. Each municipality must comply with the

1 certification requirements for airport-related purposes under
2 Section 2-22 of the Retailers' Occupation Tax Act. For
3 purposes of this Section, "airport-related purposes" has the
4 meaning ascribed in Section 6z-20.2 of the State Finance Act.
5 This exclusion for aviation fuel only applies for so long as
6 the revenue use requirements of 49 U.S.C. 47107(b) and 49
7 U.S.C. 47133 are binding on the municipality. The tax imposed
8 by a municipality pursuant to this Section and all civil
9 penalties that may be assessed as an incident thereof shall be
10 collected and enforced by the State Department of Revenue,
11 except that a municipality may, by ordinance, provide that the
12 tax shall be collected and enforced by the municipality. If
13 the tax is collected and enforced by the municipality, none of
14 the proceeds collected from the tax shall be transferred into
15 the Tax Compliance and Administration Fund. The certificate of
16 registration which is issued by the Department to a retailer
17 under the Retailers' Occupation Tax Act shall permit such
18 retailer to engage in a business which is taxable under any
19 ordinance or resolution enacted pursuant to this Section
20 without registering separately with the Department under such
21 ordinance or resolution or under this Section. The Department
22 shall have full power to administer and enforce this Section;
23 to collect all taxes and penalties due hereunder; to dispose
24 of taxes and penalties so collected in the manner hereinafter
25 provided, and to determine all rights to credit memoranda,
26 arising on account of the erroneous payment of tax or penalty

1 hereunder. In the administration of, and compliance with, this
2 Section, the Department and persons who are subject to this
3 Section shall have the same rights, remedies, privileges,
4 immunities, powers and duties, and be subject to the same
5 conditions, restrictions, limitations, penalties and
6 definitions of terms, and employ the same modes of procedure,
7 as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j,
8 2 through 2-65 (in respect to all provisions therein other
9 than the State rate of tax), 2c, 3 (except as to the
10 disposition of taxes and penalties collected, and except that
11 the retailer's discount is not allowed for taxes paid on
12 aviation fuel that are subject to the revenue use requirements
13 of 49 U.S.C. 47107(b) and 49 U.S.C. 47133), 4, 5, 5a, 5b, 5c,
14 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 6d, 7, 8, 9,
15 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and
16 Section 3-7 of the Uniform Penalty and Interest Act as fully as
17 if those provisions were set forth herein.

18 No municipality may impose a tax under this Section unless
19 the municipality also imposes a tax at the same rate under
20 Section 8-11-1.4 of this Code.

21 Persons subject to any tax imposed pursuant to the
22 authority granted in this Section may reimburse themselves for
23 their seller's tax liability hereunder by separately stating
24 such tax as an additional charge, which charge may be stated in
25 combination, in a single amount, with State tax which sellers
26 are required to collect under the Use Tax Act, pursuant to such

1 bracket schedules as the Department may prescribe.

2 Whenever the Department determines that a refund should be
3 made under this Section to a claimant instead of issuing a
4 credit memorandum, the Department shall notify the State
5 Comptroller, who shall cause the order to be drawn for the
6 amount specified, and to the person named, in such
7 notification from the Department. Such refund shall be paid by
8 the State Treasurer out of the non-home rule municipal
9 retailers' occupation tax fund or the Local Government
10 Aviation Trust Fund, as appropriate.

11 Except as otherwise provided, the Department shall
12 forthwith pay over to the State Treasurer, ex officio, as
13 trustee, all taxes and penalties collected hereunder for
14 deposit into the Non-Home Rule Municipal Retailers' Occupation
15 Tax Fund. Taxes and penalties collected on aviation fuel sold
16 on or after December 1, 2019, shall be immediately paid over by
17 the Department to the State Treasurer, ex officio, as trustee,
18 for deposit into the Local Government Aviation Trust Fund. The
19 Department shall only pay moneys into the Local Government
20 Aviation Trust Fund under this Section for so long as the
21 revenue use requirements of 49 U.S.C. 47107(b) and 49 U.S.C.
22 47133 are binding on the municipality.

23 As soon as possible after the first day of each month,
24 beginning January 1, 2011, upon certification of the
25 Department of Revenue, the Comptroller shall order
26 transferred, and the Treasurer shall transfer, to the STAR

1 Bonds Revenue Fund the local sales tax increment, as defined
2 in the Innovation Development and Economy Act, collected under
3 this Section during the second preceding calendar month for
4 sales within a STAR bond district.

5 After the monthly transfer to the STAR Bonds Revenue Fund,
6 on or before the 25th day of each calendar month, the
7 Department shall prepare and certify to the Comptroller the
8 disbursement of stated sums of money to named municipalities,
9 the municipalities to be those from which retailers have paid
10 taxes or penalties hereunder to the Department during the
11 second preceding calendar month. The amount to be paid to each
12 municipality shall be the amount (not including credit
13 memoranda and not including taxes and penalties collected on
14 aviation fuel sold on or after December 1, 2019) collected
15 hereunder during the second preceding calendar month by the
16 Department plus an amount the Department determines is
17 necessary to offset any amounts which were erroneously paid to
18 a different taxing body, and not including an amount equal to
19 the amount of refunds made during the second preceding
20 calendar month by the Department on behalf of such
21 municipality, and not including any amount which the
22 Department determines is necessary to offset any amounts which
23 were payable to a different taxing body but were erroneously
24 paid to the municipality, and not including any amounts that
25 are transferred to the STAR Bonds Revenue Fund, less 1.5% of
26 the remainder, which the Department shall transfer into the

1 Tax Compliance and Administration Fund. The Department, at the
2 time of each monthly disbursement to the municipalities, shall
3 prepare and certify to the State Comptroller the amount to be
4 transferred into the Tax Compliance and Administration Fund
5 under this Section. Within 10 days after receipt, by the
6 Comptroller, of the disbursement certification to the
7 municipalities and the Tax Compliance and Administration Fund
8 provided for in this Section to be given to the Comptroller by
9 the Department, the Comptroller shall cause the orders to be
10 drawn for the respective amounts in accordance with the
11 directions contained in such certification.

12 For the purpose of determining the local governmental unit
13 whose tax is applicable, a retail sale, by a producer of coal
14 or other mineral mined in Illinois, is a sale at retail at the
15 place where the coal or other mineral mined in Illinois is
16 extracted from the earth. This paragraph does not apply to
17 coal or other mineral when it is delivered or shipped by the
18 seller to the purchaser at a point outside Illinois so that the
19 sale is exempt under the Federal Constitution as a sale in
20 interstate or foreign commerce.

21 Nothing in this Section shall be construed to authorize a
22 municipality to impose a tax upon the privilege of engaging in
23 any business which under the constitution of the United States
24 may not be made the subject of taxation by this State.

25 When certifying the amount of a monthly disbursement to a
26 municipality under this Section, the Department shall increase

1 or decrease such amount by an amount necessary to offset any
2 misallocation of previous disbursements. The offset amount
3 shall be the amount erroneously disbursed within the previous
4 6 months from the time a misallocation is discovered.

5 The Department of Revenue shall implement Public Act
6 91-649 so as to collect the tax on and after January 1, 2002.

7 As used in this Section, "municipal" and "municipality"
8 mean a city, village, or incorporated town, including an
9 incorporated town which has superseded a civil township.

10 This Section shall be known and may be cited as the
11 Non-Home Rule Municipal Retailers' Occupation Tax Act.

12 (Source: P.A. 100-23, eff. 7-6-17; 100-587, eff. 6-4-18;
13 100-1171, eff. 1-4-19; 101-10, eff. 6-5-19; 101-47, eff.
14 1-1-20; 101-81, eff. 7-12-19; 101-604, eff. 12-13-19.)

15 (65 ILCS 5/8-11-1.4) (from Ch. 24, par. 8-11-1.4)

16 Sec. 8-11-1.4. Non-Home Rule Municipal Service Occupation
17 Tax Act. The corporate authorities of a non-home rule
18 municipality may impose a tax upon all persons engaged, in
19 such municipality, in the business of making sales of service
20 for expenditure on public infrastructure or for property tax
21 relief or both as defined in Section 8-11-1.2 if approved by
22 referendum as provided in Section 8-11-1.1, of the selling
23 price of all tangible personal property transferred by such
24 servicemen either in the form of tangible personal property or
25 in the form of real estate as an incident to a sale of service.

1 If the tax is approved by referendum on or after July 14, 2010
2 (the effective date of Public Act 96-1057), the corporate
3 authorities of a non-home rule municipality may, until
4 December 31, 2020, use the proceeds of the tax for expenditure
5 on municipal operations, in addition to or in lieu of any
6 expenditure on public infrastructure or for property tax
7 relief. The tax imposed may not be more than 1% and may be
8 imposed only in 1/4% increments. The tax may not be imposed on
9 tangible personal property taxed at the 1% rate under the
10 Service Occupation Tax Act. Beginning December 1, 2019, this
11 tax is not imposed on sales of aviation fuel unless the tax
12 revenue is expended for airport-related purposes. If a
13 municipality does not have an airport-related purpose to which
14 it dedicates aviation fuel tax revenue, then aviation fuel is
15 excluded from the tax. Each municipality must comply with the
16 certification requirements for airport-related purposes under
17 Section 2-22 of the Retailers' Occupation Tax Act. For
18 purposes of this Section, "airport-related purposes" has the
19 meaning ascribed in Section 6z-20.2 of the State Finance Act.
20 This exclusion for aviation fuel only applies for so long as
21 the revenue use requirements of 49 U.S.C. 47107(b) and 49
22 U.S.C. 47133 are binding on the municipality. The tax imposed
23 by a municipality pursuant to this Section and all civil
24 penalties that may be assessed as an incident thereof shall be
25 collected and enforced by the State Department of Revenue,
26 except that a municipality may, by ordinance, provide that the

1 tax shall be collected and enforced by the municipality. If
2 the tax is collected and enforced by the municipality, none of
3 the proceeds collected from the tax shall be transferred into
4 the Tax Compliance and Administration Fund. The certificate of
5 registration which is issued by the Department to a retailer
6 under the Retailers' Occupation Tax Act or under the Service
7 Occupation Tax Act shall permit such registrant to engage in a
8 business which is taxable under any ordinance or resolution
9 enacted pursuant to this Section without registering
10 separately with the Department under such ordinance or
11 resolution or under this Section. The Department shall have
12 full power to administer and enforce this Section; to collect
13 all taxes and penalties due hereunder; to dispose of taxes and
14 penalties so collected in the manner hereinafter provided, and
15 to determine all rights to credit memoranda arising on account
16 of the erroneous payment of tax or penalty hereunder. In the
17 administration of, and compliance with, this Section the
18 Department and persons who are subject to this Section shall
19 have the same rights, remedies, privileges, immunities, powers
20 and duties, and be subject to the same conditions,
21 restrictions, limitations, penalties and definitions of terms,
22 and employ the same modes of procedure, as are prescribed in
23 Sections 1a-1, 2, 2a, 3 through 3-50 (in respect to all
24 provisions therein other than the State rate of tax), 4
25 (except that the reference to the State shall be to the taxing
26 municipality), 5, 7, 8 (except that the jurisdiction to which

1 the tax shall be a debt to the extent indicated in that Section
2 8 shall be the taxing municipality), 9 (except as to the
3 disposition of taxes and penalties collected, and except that
4 the returned merchandise credit for this municipal tax may not
5 be taken against any State tax, and except that the retailer's
6 discount is not allowed for taxes paid on aviation fuel that
7 are subject to the revenue use requirements of 49 U.S.C.
8 47107(b) and 49 U.S.C. 47133), 10, 11, 12 (except the
9 reference therein to Section 2b of the Retailers' Occupation
10 Tax Act), 13 (except that any reference to the State shall mean
11 the taxing municipality), the first paragraph of Section 15,
12 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and
13 Section 3-7 of the Uniform Penalty and Interest Act, as fully
14 as if those provisions were set forth herein.

15 No municipality may impose a tax under this Section unless
16 the municipality also imposes a tax at the same rate under
17 Section 8-11-1.3 of this Code.

18 Persons subject to any tax imposed pursuant to the
19 authority granted in this Section may reimburse themselves for
20 their serviceman's tax liability hereunder by separately
21 stating such tax as an additional charge, which charge may be
22 stated in combination, in a single amount, with State tax
23 which servicemen are authorized to collect under the Service
24 Use Tax Act, pursuant to such bracket schedules as the
25 Department may prescribe.

26 Whenever the Department determines that a refund should be

1 made under this Section to a claimant instead of issuing
2 credit memorandum, the Department shall notify the State
3 Comptroller, who shall cause the order to be drawn for the
4 amount specified, and to the person named, in such
5 notification from the Department. Such refund shall be paid by
6 the State Treasurer out of the municipal retailers' occupation
7 tax fund or the Local Government Aviation Trust Fund, as
8 appropriate.

9 Except as otherwise provided in this paragraph, the
10 Department shall forthwith pay over to the State Treasurer, ex
11 officio, as trustee, all taxes and penalties collected
12 hereunder for deposit into the municipal retailers' occupation
13 tax fund. Taxes and penalties collected on aviation fuel sold
14 on or after December 1, 2019, shall be immediately paid over by
15 the Department to the State Treasurer, ex officio, as trustee,
16 for deposit into the Local Government Aviation Trust Fund. The
17 Department shall only pay moneys into the Local Government
18 Aviation Trust Fund under this Section for so long as the
19 revenue use requirements of 49 U.S.C. 47107(b) and 49 U.S.C.
20 47133 are binding on the municipality.

21 As soon as possible after the first day of each month,
22 beginning January 1, 2011, upon certification of the
23 Department of Revenue, the Comptroller shall order
24 transferred, and the Treasurer shall transfer, to the STAR
25 Bonds Revenue Fund the local sales tax increment, as defined
26 in the Innovation Development and Economy Act, collected under

1 this Section during the second preceding calendar month for
2 sales within a STAR bond district.

3 After the monthly transfer to the STAR Bonds Revenue Fund,
4 on or before the 25th day of each calendar month, the
5 Department shall prepare and certify to the Comptroller the
6 disbursement of stated sums of money to named municipalities,
7 the municipalities to be those from which suppliers and
8 servicemen have paid taxes or penalties hereunder to the
9 Department during the second preceding calendar month. The
10 amount to be paid to each municipality shall be the amount (not
11 including credit memoranda and not including taxes and
12 penalties collected on aviation fuel sold on or after December
13 1, 2019) collected hereunder during the second preceding
14 calendar month by the Department, and not including an amount
15 equal to the amount of refunds made during the second
16 preceding calendar month by the Department on behalf of such
17 municipality, and not including any amounts that are
18 transferred to the STAR Bonds Revenue Fund, less 1.5% of the
19 remainder, which the Department shall transfer into the Tax
20 Compliance and Administration Fund. The Department, at the
21 time of each monthly disbursement to the municipalities, shall
22 prepare and certify to the State Comptroller the amount to be
23 transferred into the Tax Compliance and Administration Fund
24 under this Section. Within 10 days after receipt, by the
25 Comptroller, of the disbursement certification to the
26 municipalities, the General Revenue Fund, and the Tax

1 Compliance and Administration Fund provided for in this
2 Section to be given to the Comptroller by the Department, the
3 Comptroller shall cause the orders to be drawn for the
4 respective amounts in accordance with the directions contained
5 in such certification.

6 The Department of Revenue shall implement Public Act
7 91-649 so as to collect the tax on and after January 1, 2002.

8 Nothing in this Section shall be construed to authorize a
9 municipality to impose a tax upon the privilege of engaging in
10 any business which under the constitution of the United States
11 may not be made the subject of taxation by this State.

12 As used in this Section, "municipal" or "municipality"
13 means or refers to a city, village or incorporated town,
14 including an incorporated town which has superseded a civil
15 township.

16 This Section shall be known and may be cited as the
17 "Non-Home Rule Municipal Service Occupation Tax Act".

18 (Source: P.A. 100-23, eff. 7-6-17; 100-587, eff. 6-4-18;
19 100-1171, eff. 1-4-19; 101-10, eff. 6-5-19; 101-81, eff.
20 7-12-19; 101-604, eff. 12-13-19.)

21 (65 ILCS 5/8-11-1.6)

22 Sec. 8-11-1.6. Non-home rule municipal retailers'
23 occupation tax; municipalities between 20,000 and 25,000. The
24 corporate authorities of a non-home rule municipality with a
25 population of more than 20,000 but less than 25,000 that has,

1 prior to January 1, 1987, established a Redevelopment Project
2 Area that has been certified as a State Sales Tax Boundary and
3 has issued bonds or otherwise incurred indebtedness to pay for
4 costs in excess of \$5,000,000, which is secured in part by a
5 tax increment allocation fund, in accordance with the
6 provisions of Division 11-74.4 of this Code may, by passage of
7 an ordinance, impose a tax upon all persons engaged in the
8 business of selling tangible personal property, other than on
9 an item of tangible personal property that is titled and
10 registered by an agency of this State's Government, at retail
11 in the municipality. This tax may not be imposed on tangible
12 personal property taxed at the 1% rate under the Retailers'
13 Occupation Tax Act. Beginning December 1, 2019, this tax is
14 not imposed on sales of aviation fuel unless the tax revenue is
15 expended for airport-related purposes. If a municipality does
16 not have an airport-related purpose to which it dedicates
17 aviation fuel tax revenue, then aviation fuel is excluded from
18 the tax. Each municipality must comply with the certification
19 requirements for airport-related purposes under Section 2-22
20 of the Retailers' Occupation Tax Act. For purposes of this
21 Section, "airport-related purposes" has the meaning ascribed
22 in Section 6z-20.2 of the State Finance Act. This exclusion
23 for aviation fuel only applies for so long as the revenue use
24 requirements of 49 U.S.C. 47107(b) and 49 U.S.C. 47133 are
25 binding on the municipality. If imposed, the tax shall only be
26 imposed in .25% increments of the gross receipts from such

1 sales made in the course of business. Any tax imposed by a
2 municipality under this Section and all civil penalties that
3 may be assessed as an incident thereof shall be collected and
4 enforced by the State Department of Revenue, except that a
5 municipality may, by ordinance, provide that the tax shall be
6 collected and enforced by the municipality. If the tax is
7 collected and enforced by the municipality, none of the
8 proceeds collected from the tax shall be transferred into the
9 Tax Compliance and Administration Fund. An ordinance imposing
10 a tax hereunder or effecting a change in the rate thereof shall
11 be adopted and a certified copy thereof filed with the
12 Department on or before the first day of October, whereupon
13 the Department shall proceed to administer and enforce this
14 Section as of the first day of January next following such
15 adoption and filing. The certificate of registration that is
16 issued by the Department to a retailer under the Retailers'
17 Occupation Tax Act shall permit the retailer to engage in a
18 business that is taxable under any ordinance or resolution
19 enacted under this Section without registering separately with
20 the Department under the ordinance or resolution or under this
21 Section. The Department shall have full power to administer
22 and enforce this Section, to collect all taxes and penalties
23 due hereunder, to dispose of taxes and penalties so collected
24 in the manner hereinafter provided, and to determine all
25 rights to credit memoranda, arising on account of the
26 erroneous payment of tax or penalty hereunder. In the

1 administration of, and compliance with this Section, the
2 Department and persons who are subject to this Section shall
3 have the same rights, remedies, privileges, immunities,
4 powers, and duties, and be subject to the same conditions,
5 restrictions, limitations, penalties, and definitions of
6 terms, and employ the same modes of procedure, as are
7 prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 2
8 through 2-65 (in respect to all provisions therein other than
9 the State rate of tax), 2c, 3 (except as to the disposition of
10 taxes and penalties collected, and except that the retailer's
11 discount is not allowed for taxes paid on aviation fuel that
12 are subject to the revenue use requirements of 49 U.S.C.
13 47107(b) and 49 U.S.C. 47133), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f,
14 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 6d, 7, 8, 9, 10, 11, 12
15 and 13 of the Retailers' Occupation Tax Act and Section 3-7 of
16 the Uniform Penalty and Interest Act as fully as if those
17 provisions were set forth herein.

18 A tax may not be imposed by a municipality under this
19 Section unless the municipality also imposes a tax at the same
20 rate under Section 8-11-1.7 of this Act.

21 Persons subject to any tax imposed under the authority
22 granted in this Section may reimburse themselves for their
23 seller's tax liability hereunder by separately stating the tax
24 as an additional charge, which charge may be stated in
25 combination, in a single amount, with State tax which sellers
26 are required to collect under the Use Tax Act, pursuant to such

1 bracket schedules as the Department may prescribe.

2 Whenever the Department determines that a refund should be
3 made under this Section to a claimant, instead of issuing a
4 credit memorandum, the Department shall notify the State
5 Comptroller, who shall cause the order to be drawn for the
6 amount specified, and to the person named in the notification
7 from the Department. The refund shall be paid by the State
8 Treasurer out of the Non-Home Rule Municipal Retailers'
9 Occupation Tax Fund, which is hereby created or the Local
10 Government Aviation Trust Fund, as appropriate.

11 Except as otherwise provided in this paragraph, the
12 Department shall forthwith pay over to the State Treasurer, ex
13 officio, as trustee, all taxes and penalties collected
14 hereunder for deposit into the Non-Home Rule Municipal
15 Retailers' Occupation Tax Fund. Taxes and penalties collected
16 on aviation fuel sold on or after December 1, 2019, shall be
17 immediately paid over by the Department to the State
18 Treasurer, ex officio, as trustee, for deposit into the Local
19 Government Aviation Trust Fund. The Department shall only pay
20 moneys into the Local Government Aviation Trust Fund under
21 this Section for so long as the revenue use requirements of 49
22 U.S.C. 47107(b) and 49 U.S.C. 47133 are binding on the
23 municipality.

24 As soon as possible after the first day of each month,
25 beginning January 1, 2011, upon certification of the
26 Department of Revenue, the Comptroller shall order

1 transferred, and the Treasurer shall transfer, to the STAR
2 Bonds Revenue Fund the local sales tax increment, as defined
3 in the Innovation Development and Economy Act, collected under
4 this Section during the second preceding calendar month for
5 sales within a STAR bond district.

6 After the monthly transfer to the STAR Bonds Revenue Fund,
7 on or before the 25th day of each calendar month, the
8 Department shall prepare and certify to the Comptroller the
9 disbursement of stated sums of money to named municipalities,
10 the municipalities to be those from which retailers have paid
11 taxes or penalties hereunder to the Department during the
12 second preceding calendar month. The amount to be paid to each
13 municipality shall be the amount (not including credit
14 memoranda and not including taxes and penalties collected on
15 aviation fuel sold on or after December 1, 2019) collected
16 hereunder during the second preceding calendar month by the
17 Department plus an amount the Department determines is
18 necessary to offset any amounts that were erroneously paid to
19 a different taxing body, and not including an amount equal to
20 the amount of refunds made during the second preceding
21 calendar month by the Department on behalf of the
22 municipality, and not including any amount that the Department
23 determines is necessary to offset any amounts that were
24 payable to a different taxing body but were erroneously paid
25 to the municipality, and not including any amounts that are
26 transferred to the STAR Bonds Revenue Fund, less 1.5% of the

1 remainder, which the Department shall transfer into the Tax
2 Compliance and Administration Fund. The Department, at the
3 time of each monthly disbursement to the municipalities, shall
4 prepare and certify to the State Comptroller the amount to be
5 transferred into the Tax Compliance and Administration Fund
6 under this Section. Within 10 days after receipt by the
7 Comptroller of the disbursement certification to the
8 municipalities and the Tax Compliance and Administration Fund
9 provided for in this Section to be given to the Comptroller by
10 the Department, the Comptroller shall cause the orders to be
11 drawn for the respective amounts in accordance with the
12 directions contained in the certification.

13 For the purpose of determining the local governmental unit
14 whose tax is applicable, a retail sale by a producer of coal or
15 other mineral mined in Illinois is a sale at retail at the
16 place where the coal or other mineral mined in Illinois is
17 extracted from the earth. This paragraph does not apply to
18 coal or other mineral when it is delivered or shipped by the
19 seller to the purchaser at a point outside Illinois so that the
20 sale is exempt under the federal Constitution as a sale in
21 interstate or foreign commerce.

22 Nothing in this Section shall be construed to authorize a
23 municipality to impose a tax upon the privilege of engaging in
24 any business which under the constitution of the United States
25 may not be made the subject of taxation by this State.

26 When certifying the amount of a monthly disbursement to a

1 municipality under this Section, the Department shall increase
2 or decrease the amount by an amount necessary to offset any
3 misallocation of previous disbursements. The offset amount
4 shall be the amount erroneously disbursed within the previous
5 6 months from the time a misallocation is discovered.

6 As used in this Section, "municipal" and "municipality"
7 means a city, village, or incorporated town, including an
8 incorporated town that has superseded a civil township.

9 (Source: P.A. 100-23, eff. 7-6-17; 100-587, eff. 6-4-18;
10 100-863, eff. 8-14-18; 100-1171, eff. 1-4-19; 101-10, eff.
11 6-5-19; 101-81, eff. 7-12-19; 101-604, eff. 12-13-19.)

12 (65 ILCS 5/8-11-1.7)

13 Sec. 8-11-1.7. Non-home rule municipal service occupation
14 tax; municipalities between 20,000 and 25,000. The corporate
15 authorities of a non-home rule municipality with a population
16 of more than 20,000 but less than 25,000 as determined by the
17 last preceding decennial census that has, prior to January 1,
18 1987, established a Redevelopment Project Area that has been
19 certified as a State Sales Tax Boundary and has issued bonds or
20 otherwise incurred indebtedness to pay for costs in excess of
21 \$5,000,000, which is secured in part by a tax increment
22 allocation fund, in accordance with the provisions of Division
23 11-74.4 of this Code may, by passage of an ordinance, impose a
24 tax upon all persons engaged in the municipality in the
25 business of making sales of service. If imposed, the tax shall

1 only be imposed in .25% increments of the selling price of all
2 tangible personal property transferred by such servicemen
3 either in the form of tangible personal property or in the form
4 of real estate as an incident to a sale of service. This tax
5 may not be imposed on tangible personal property taxed at the
6 1% rate under the Service Occupation Tax Act. Beginning
7 December 1, 2019, this tax is not imposed on sales of aviation
8 fuel unless the tax revenue is expended for airport-related
9 purposes. If a municipality does not have an airport-related
10 purpose to which it dedicates aviation fuel tax revenue, then
11 aviation fuel is excluded from the tax. Each municipality must
12 comply with the certification requirements for airport-related
13 purposes under Section 2-22 of the Retailers' Occupation Tax
14 Act. For purposes of this Section, "airport-related purposes"
15 has the meaning ascribed in Section 6z-20.2 of the State
16 Finance Act. This exclusion for aviation fuel only applies for
17 so long as the revenue use requirements of 49 U.S.C. 47107(b)
18 and 49 U.S.C. 47133 are binding on the municipality. The tax
19 imposed by a municipality under this Section and all civil
20 penalties that may be assessed as an incident thereof shall be
21 collected and enforced by the State Department of Revenue,
22 except that a municipality may, by ordinance, provide that the
23 tax shall be collected and enforced by the municipality. If
24 the tax is collected and enforced by the municipality, none of
25 the proceeds collected from the tax shall be transferred into
26 the Tax Compliance and Administration Fund. An ordinance

1 imposing a tax hereunder or effecting a change in the rate
2 thereof shall be adopted and a certified copy thereof filed
3 with the Department on or before the first day of October,
4 whereupon the Department shall proceed to administer and
5 enforce this Section as of the first day of January next
6 following such adoption and filing. The certificate of
7 registration that is issued by the Department to a retailer
8 under the Retailers' Occupation Tax Act or under the Service
9 Occupation Tax Act shall permit the registrant to engage in a
10 business that is taxable under any ordinance or resolution
11 enacted under this Section without registering separately with
12 the Department under the ordinance or resolution or under this
13 Section. The Department shall have full power to administer
14 and enforce this Section, to collect all taxes and penalties
15 due hereunder, to dispose of taxes and penalties so collected
16 in a manner hereinafter provided, and to determine all rights
17 to credit memoranda arising on account of the erroneous
18 payment of tax or penalty hereunder. In the administration of
19 and compliance with this Section, the Department and persons
20 who are subject to this Section shall have the same rights,
21 remedies, privileges, immunities, powers, and duties, and be
22 subject to the same conditions, restrictions, limitations,
23 penalties and definitions of terms, and employ the same modes
24 of procedure, as are prescribed in Sections 1a-1, 2, 2a, 3
25 through 3-50 (in respect to all provisions therein other than
26 the State rate of tax), 4 (except that the reference to the

1 State shall be to the taxing municipality), 5, 7, 8 (except
2 that the jurisdiction to which the tax shall be a debt to the
3 extent indicated in that Section 8 shall be the taxing
4 municipality), 9 (except as to the disposition of taxes and
5 penalties collected, and except that the returned merchandise
6 credit for this municipal tax may not be taken against any
7 State tax, and except that the retailer's discount is not
8 allowed for taxes paid on aviation fuel that are subject to the
9 revenue use requirements of 49 U.S.C. 47107(b) and 49 U.S.C.
10 47133), 10, 11, 12, (except the reference therein to Section
11 2b of the Retailers' Occupation Tax Act), 13 (except that any
12 reference to the State shall mean the taxing municipality),
13 the first paragraph of Sections 15, 16, 17, 18, 19, and 20 of
14 the Service Occupation Tax Act and Section 3-7 of the Uniform
15 Penalty and Interest Act, as fully as if those provisions were
16 set forth herein.

17 A tax may not be imposed by a municipality under this
18 Section unless the municipality also imposes a tax at the same
19 rate under Section 8-11-1.6 of this Act.

20 Person subject to any tax imposed under the authority
21 granted in this Section may reimburse themselves for their
22 servicemen's tax liability hereunder by separately stating the
23 tax as an additional charge, which charge may be stated in
24 combination, in a single amount, with State tax that
25 servicemen are authorized to collect under the Service Use Tax
26 Act, under such bracket schedules as the Department may

1 prescribe.

2 Whenever the Department determines that a refund should be
3 made under this Section to a claimant instead of issuing
4 credit memorandum, the Department shall notify the State
5 Comptroller, who shall cause the order to be drawn for the
6 amount specified, and to the person named, in such
7 notification from the Department. The refund shall be paid by
8 the State Treasurer out of the Non-Home Rule Municipal
9 Retailers' Occupation Tax Fund or the Local Government
10 Aviation Trust Fund, as appropriate.

11 Except as otherwise provided in this paragraph, the
12 Department shall forthwith pay over to the State Treasurer, ex
13 officio, as trustee, all taxes and penalties collected
14 hereunder for deposit into the Non-Home Rule Municipal
15 Retailers' Occupation Tax Fund. Taxes and penalties collected
16 on aviation fuel sold on or after December 1, 2019, shall be
17 immediately paid over by the Department to the State
18 Treasurer, ex officio, as trustee, for deposit into the Local
19 Government Aviation Trust Fund. The Department shall only pay
20 moneys into the Local Government Aviation Trust Fund under
21 this Section for so long as the revenue use requirements of 49
22 U.S.C. 47107(b) and 49 U.S.C. 47133 are binding on the
23 Municipality.

24 As soon as possible after the first day of each month,
25 beginning January 1, 2011, upon certification of the
26 Department of Revenue, the Comptroller shall order

1 transferred, and the Treasurer shall transfer, to the STAR
2 Bonds Revenue Fund the local sales tax increment, as defined
3 in the Innovation Development and Economy Act, collected under
4 this Section during the second preceding calendar month for
5 sales within a STAR bond district.

6 After the monthly transfer to the STAR Bonds Revenue Fund,
7 on or before the 25th day of each calendar month, the
8 Department shall prepare and certify to the Comptroller the
9 disbursement of stated sums of money to named municipalities,
10 the municipalities to be those from which suppliers and
11 servicemen have paid taxes or penalties hereunder to the
12 Department during the second preceding calendar month. The
13 amount to be paid to each municipality shall be the amount (not
14 including credit memoranda and not including taxes and
15 penalties collected on aviation fuel sold on or after December
16 1, 2019) collected hereunder during the second preceding
17 calendar month by the Department, and not including an amount
18 equal to the amount of refunds made during the second
19 preceding calendar month by the Department on behalf of such
20 municipality, and not including any amounts that are
21 transferred to the STAR Bonds Revenue Fund, less 1.5% of the
22 remainder, which the Department shall transfer into the Tax
23 Compliance and Administration Fund. The Department, at the
24 time of each monthly disbursement to the municipalities, shall
25 prepare and certify to the State Comptroller the amount to be
26 transferred into the Tax Compliance and Administration Fund

1 under this Section. Within 10 days after receipt by the
2 Comptroller of the disbursement certification to the
3 municipalities, the Tax Compliance and Administration Fund,
4 and the General Revenue Fund, provided for in this Section to
5 be given to the Comptroller by the Department, the Comptroller
6 shall cause the orders to be drawn for the respective amounts
7 in accordance with the directions contained in the
8 certification.

9 When certifying the amount of a monthly disbursement to a
10 municipality under this Section, the Department shall increase
11 or decrease the amount by an amount necessary to offset any
12 misallocation of previous disbursements. The offset amount
13 shall be the amount erroneously disbursed within the previous
14 6 months from the time a misallocation is discovered.

15 Nothing in this Section shall be construed to authorize a
16 municipality to impose a tax upon the privilege of engaging in
17 any business which under the constitution of the United States
18 may not be made the subject of taxation by this State.

19 (Source: P.A. 100-23, eff. 7-6-17; 100-587, eff. 6-4-18;
20 100-863, eff. 8-14-18; 100-1171, eff. 1-4-19; 101-10, eff.
21 6-5-19; 101-81, eff. 7-12-19; 101-604, eff. 12-13-19.)

22 (65 ILCS 5/8-11-5) (from Ch. 24, par. 8-11-5)

23 Sec. 8-11-5. Home Rule Municipal Service Occupation Tax
24 Act. The corporate authorities of a home rule municipality may
25 impose a tax upon all persons engaged, in such municipality,

1 in the business of making sales of service at the same rate of
2 tax imposed pursuant to Section 8-11-1, of the selling price
3 of all tangible personal property transferred by such
4 servicemen either in the form of tangible personal property or
5 in the form of real estate as an incident to a sale of service.
6 If imposed, such tax shall only be imposed in 1/4% increments.
7 On and after September 1, 1991, this additional tax may not be
8 imposed on tangible personal property taxed at the 1% rate
9 under the Retailers' Occupation Tax Act. Beginning December 1,
10 2019, this tax may not be imposed on sales of aviation fuel
11 unless the tax revenue is expended for airport-related
12 purposes. If a municipality does not have an airport-related
13 purpose to which it dedicates aviation fuel tax revenue, then
14 aviation fuel shall be excluded from tax. Each municipality
15 must comply with the certification requirements for
16 airport-related purposes under Section 2-22 of the Retailers'
17 Occupation Tax Act. For purposes of this Section,
18 "airport-related purposes" has the meaning ascribed in Section
19 6z-20.2 of the State Finance Act. This exception for aviation
20 fuel only applies for so long as the revenue use requirements
21 of 49 U.S.C. 47107(b) and 49 U.S.C. 47133 are binding on the
22 State. The changes made to this Section by this amendatory Act
23 of the 101st General Assembly are a denial and limitation of
24 home rule powers and functions under subsection (g) of Section
25 6 of Article VII of the Illinois Constitution. The tax imposed
26 by a home rule municipality pursuant to this Section and all

1 civil penalties that may be assessed as an incident thereof
2 shall be collected and enforced by the State Department of
3 Revenue, except that a municipality may, by ordinance, provide
4 that the tax shall be collected and enforced by the
5 municipality. If the tax is collected and enforced by the
6 municipality, none of the proceeds collected from the tax
7 shall be transferred into the Tax Compliance and
8 Administration Fund. The certificate of registration which is
9 issued by the Department to a retailer under the Retailers'
10 Occupation Tax Act or under the Service Occupation Tax Act
11 shall permit such registrant to engage in a business which is
12 taxable under any ordinance or resolution enacted pursuant to
13 this Section without registering separately with the
14 Department under such ordinance or resolution or under this
15 Section. The Department shall have full power to administer
16 and enforce this Section; to collect all taxes and penalties
17 due hereunder; to dispose of taxes and penalties so collected
18 in the manner hereinafter provided, and to determine all
19 rights to credit memoranda arising on account of the erroneous
20 payment of tax or penalty hereunder. In the administration of,
21 and compliance with, this Section the Department and persons
22 who are subject to this Section shall have the same rights,
23 remedies, privileges, immunities, powers and duties, and be
24 subject to the same conditions, restrictions, limitations,
25 penalties and definitions of terms, and employ the same modes
26 of procedure, as are prescribed in Sections 1a-1, 2, 2a, 3

1 through 3-50 (in respect to all provisions therein other than
2 the State rate of tax), 4 (except that the reference to the
3 State shall be to the taxing municipality), 5, 7, 8 (except
4 that the jurisdiction to which the tax shall be a debt to the
5 extent indicated in that Section 8 shall be the taxing
6 municipality), 9 (except as to the disposition of taxes and
7 penalties collected, and except that the returned merchandise
8 credit for this municipal tax may not be taken against any
9 State tax, and except that the retailer's discount is not
10 allowed for taxes paid on aviation fuel that are subject to the
11 revenue use requirements of 49 U.S.C. 47107(b) and 49 U.S.C.
12 47133), 10, 11, 12 (except the reference therein to Section 2b
13 of the Retailers' Occupation Tax Act), 13 (except that any
14 reference to the State shall mean the taxing municipality),
15 the first paragraph of Section 15, 16, 17 (except that credit
16 memoranda issued hereunder may not be used to discharge any
17 State tax liability), 18, 19 and 20 of the Service Occupation
18 Tax Act and Section 3-7 of the Uniform Penalty and Interest
19 Act, as fully as if those provisions were set forth herein.

20 No tax may be imposed by a home rule municipality pursuant
21 to this Section unless such municipality also imposes a tax at
22 the same rate pursuant to Section 8-11-1 of this Act.

23 Persons subject to any tax imposed pursuant to the
24 authority granted in this Section may reimburse themselves for
25 their serviceman's tax liability hereunder by separately
26 stating such tax as an additional charge, which charge may be

1 stated in combination, in a single amount, with State tax
2 which servicemen are authorized to collect under the Service
3 Use Tax Act, pursuant to such bracket schedules as the
4 Department may prescribe.

5 Whenever the Department determines that a refund should be
6 made under this Section to a claimant instead of issuing
7 credit memorandum, the Department shall notify the State
8 Comptroller, who shall cause the order to be drawn for the
9 amount specified, and to the person named, in such
10 notification from the Department. Such refund shall be paid by
11 the State Treasurer out of the home rule municipal retailers'
12 occupation tax fund or the Local Government Aviation Trust
13 Fund, as appropriate.

14 Except as otherwise provided in this paragraph, the
15 Department shall forthwith pay over to the State Treasurer, ex
16 officio, as trustee, all taxes and penalties collected
17 hereunder for deposit into the Home Rule Municipal Retailers'
18 Occupation Tax Fund. Taxes and penalties collected on aviation
19 fuel sold on or after December 1, 2019, shall be immediately
20 paid over by the Department to the State Treasurer, ex
21 officio, as trustee, for deposit into the Local Government
22 Aviation Trust Fund. The Department shall only pay moneys into
23 the Local Government Aviation Trust Fund under this Section
24 for so long as the revenue use requirements of 49 U.S.C.
25 47107(b) and 49 U.S.C. 47133 are binding on the municipality.

26 As soon as possible after the first day of each month,

1 beginning January 1, 2011, upon certification of the
2 Department of Revenue, the Comptroller shall order
3 transferred, and the Treasurer shall transfer, to the STAR
4 Bonds Revenue Fund the local sales tax increment, as defined
5 in the Innovation Development and Economy Act, collected under
6 this Section during the second preceding calendar month for
7 sales within a STAR bond district.

8 After the monthly transfer to the STAR Bonds Revenue Fund,
9 on or before the 25th day of each calendar month, the
10 Department shall prepare and certify to the Comptroller the
11 disbursement of stated sums of money to named municipalities,
12 the municipalities to be those from which suppliers and
13 servicemen have paid taxes or penalties hereunder to the
14 Department during the second preceding calendar month. The
15 amount to be paid to each municipality shall be the amount (not
16 including credit memoranda and not including taxes and
17 penalties collected on aviation fuel sold on or after December
18 1, 2019) collected hereunder during the second preceding
19 calendar month by the Department, and not including an amount
20 equal to the amount of refunds made during the second
21 preceding calendar month by the Department on behalf of such
22 municipality, and not including any amounts that are
23 transferred to the STAR Bonds Revenue Fund, less 1.5% of the
24 remainder, which the Department shall transfer into the Tax
25 Compliance and Administration Fund. The Department, at the
26 time of each monthly disbursement to the municipalities, shall

1 prepare and certify to the State Comptroller the amount to be
2 transferred into the Tax Compliance and Administration Fund
3 under this Section. Within 10 days after receipt, by the
4 Comptroller, of the disbursement certification to the
5 municipalities and the Tax Compliance and Administration Fund
6 provided for in this Section to be given to the Comptroller by
7 the Department, the Comptroller shall cause the orders to be
8 drawn for the respective amounts in accordance with the
9 directions contained in such certification.

10 In addition to the disbursement required by the preceding
11 paragraph and in order to mitigate delays caused by
12 distribution procedures, an allocation shall, if requested, be
13 made within 10 days after January 14, 1991, and in November of
14 1991 and each year thereafter, to each municipality that
15 received more than \$500,000 during the preceding fiscal year,
16 (July 1 through June 30) whether collected by the municipality
17 or disbursed by the Department as required by this Section.
18 Within 10 days after January 14, 1991, participating
19 municipalities shall notify the Department in writing of their
20 intent to participate. In addition, for the initial
21 distribution, participating municipalities shall certify to
22 the Department the amounts collected by the municipality for
23 each month under its home rule occupation and service
24 occupation tax during the period July 1, 1989 through June 30,
25 1990. The allocation within 10 days after January 14, 1991,
26 shall be in an amount equal to the monthly average of these

1 amounts, excluding the 2 months of highest receipts. Monthly
2 average for the period of July 1, 1990 through June 30, 1991
3 will be determined as follows: the amounts collected by the
4 municipality under its home rule occupation and service
5 occupation tax during the period of July 1, 1990 through
6 September 30, 1990, plus amounts collected by the Department
7 and paid to such municipality through June 30, 1991, excluding
8 the 2 months of highest receipts. The monthly average for each
9 subsequent period of July 1 through June 30 shall be an amount
10 equal to the monthly distribution made to each such
11 municipality under the preceding paragraph during this period,
12 excluding the 2 months of highest receipts. The distribution
13 made in November 1991 and each year thereafter under this
14 paragraph and the preceding paragraph shall be reduced by the
15 amount allocated and disbursed under this paragraph in the
16 preceding period of July 1 through June 30. The Department
17 shall prepare and certify to the Comptroller for disbursement
18 the allocations made in accordance with this paragraph.

19 Nothing in this Section shall be construed to authorize a
20 municipality to impose a tax upon the privilege of engaging in
21 any business which under the constitution of the United States
22 may not be made the subject of taxation by this State.

23 An ordinance or resolution imposing or discontinuing a tax
24 hereunder or effecting a change in the rate thereof shall be
25 adopted and a certified copy thereof filed with the Department
26 on or before the first day of June, whereupon the Department

1 shall proceed to administer and enforce this Section as of the
2 first day of September next following such adoption and
3 filing. Beginning January 1, 1992, an ordinance or resolution
4 imposing or discontinuing the tax hereunder or effecting a
5 change in the rate thereof shall be adopted and a certified
6 copy thereof filed with the Department on or before the first
7 day of July, whereupon the Department shall proceed to
8 administer and enforce this Section as of the first day of
9 October next following such adoption and filing. Beginning
10 January 1, 1993, an ordinance or resolution imposing or
11 discontinuing the tax hereunder or effecting a change in the
12 rate thereof shall be adopted and a certified copy thereof
13 filed with the Department on or before the first day of
14 October, whereupon the Department shall proceed to administer
15 and enforce this Section as of the first day of January next
16 following such adoption and filing. However, a municipality
17 located in a county with a population in excess of 3,000,000
18 that elected to become a home rule unit at the general primary
19 election in 1994 may adopt an ordinance or resolution imposing
20 the tax under this Section and file a certified copy of the
21 ordinance or resolution with the Department on or before July
22 1, 1994. The Department shall then proceed to administer and
23 enforce this Section as of October 1, 1994. Beginning April 1,
24 1998, an ordinance or resolution imposing or discontinuing the
25 tax hereunder or effecting a change in the rate thereof shall
26 either (i) be adopted and a certified copy thereof filed with

1 the Department on or before the first day of April, whereupon
2 the Department shall proceed to administer and enforce this
3 Section as of the first day of July next following the adoption
4 and filing; or (ii) be adopted and a certified copy thereof
5 filed with the Department on or before the first day of
6 October, whereupon the Department shall proceed to administer
7 and enforce this Section as of the first day of January next
8 following the adoption and filing.

9 Any unobligated balance remaining in the Municipal
10 Retailers' Occupation Tax Fund on December 31, 1989, which
11 fund was abolished by Public Act 85-1135, and all receipts of
12 municipal tax as a result of audits of liability periods prior
13 to January 1, 1990, shall be paid into the Local Government Tax
14 Fund, for distribution as provided by this Section prior to
15 the enactment of Public Act 85-1135. All receipts of municipal
16 tax as a result of an assessment not arising from an audit, for
17 liability periods prior to January 1, 1990, shall be paid into
18 the Local Government Tax Fund for distribution before July 1,
19 1990, as provided by this Section prior to the enactment of
20 Public Act 85-1135, and on and after July 1, 1990, all such
21 receipts shall be distributed as provided in Section 6z-18 of
22 the State Finance Act.

23 As used in this Section, "municipal" and "municipality"
24 means a city, village or incorporated town, including an
25 incorporated town which has superseded a civil township.

26 This Section shall be known and may be cited as the Home

1 Rule Municipal Service Occupation Tax Act.

2 (Source: P.A. 100-23, eff. 7-6-17; 100-587, eff. 6-4-18;
3 100-1171, eff. 1-4-19; 101-10, eff. 6-5-19; 101-81, eff.
4 7-12-19; 101-604, eff. 12-13-19.)

5 (65 ILCS 5/8-11-6) (from Ch. 24, par. 8-11-6)

6 Sec. 8-11-6. Home Rule Municipal Use Tax Act.

7 (a) The corporate authorities of a home rule municipality
8 may impose a tax upon the privilege of using, in such
9 municipality, any item of tangible personal property which is
10 purchased at retail from a retailer, and which is titled or
11 registered at a location within the corporate limits of such
12 home rule municipality with an agency of this State's
13 government, at a rate which is an increment of 1/4% and based
14 on the selling price of such tangible personal property, as
15 "selling price" is defined in the Use Tax Act. In home rule
16 municipalities with less than 2,000,000 inhabitants, the tax
17 shall be collected by the municipality imposing the tax from
18 persons whose Illinois address for titling or registration
19 purposes is given as being in such municipality.

20 (b) In home rule municipalities with 2,000,000 or more
21 inhabitants, the corporate authorities of the municipality may
22 additionally impose a tax beginning July 1, 1991 upon the
23 privilege of using in the municipality, any item of tangible
24 personal property, other than tangible personal property
25 titled or registered with an agency of the State's government,

1 that is purchased at retail from a retailer located outside
2 the corporate limits of the municipality, at a rate that is an
3 increment of 1/4% not to exceed 1% and based on the selling
4 price of the tangible personal property, as "selling price" is
5 defined in the Use Tax Act. Such tax shall be collected from
6 the purchaser either by the municipality imposing such tax or
7 by the Department of Revenue pursuant to an agreement between
8 the Department and the municipality. If the tax is collected
9 and enforced by the municipality, none of the proceeds
10 collected from the tax shall be transferred into the Tax
11 Compliance and Administration Fund.

12 To prevent multiple home rule taxation, the use in a home
13 rule municipality of tangible personal property that is
14 acquired outside the municipality and caused to be brought
15 into the municipality by a person who has already paid a home
16 rule municipal tax in another municipality in respect to the
17 sale, purchase, or use of that property, shall be exempt to the
18 extent of the amount of the tax properly due and paid in the
19 other home rule municipality.

20 (c) If a municipality having 2,000,000 or more inhabitants
21 imposes the tax authorized by subsection (a), then the tax
22 shall be collected by the Illinois Department of Revenue when
23 the property is purchased at retail from a retailer in the
24 county in which the home rule municipality imposing the tax is
25 located, and in all contiguous counties. The tax shall be
26 remitted to the State, or an exemption determination must be

1 obtained from the Department before the title or certificate
2 of registration for the property may be issued. The tax or
3 proof of exemption may be transmitted to the Department by way
4 of the State agency with which, or State officer with whom, the
5 tangible personal property must be titled or registered if the
6 Department and that agency or State officer determine that
7 this procedure will expedite the processing of applications
8 for title or registration.

9 The Department shall have full power to administer and
10 enforce this Section to collect all taxes, penalties and
11 interest due hereunder, to dispose of taxes, penalties and
12 interest so collected in the manner hereinafter provided, and
13 determine all rights to credit memoranda or refunds arising on
14 account of the erroneous payment of tax, penalty or interest
15 hereunder. In the administration of and compliance with this
16 Section the Department and persons who are subject to this
17 Section shall have the same rights, remedies, privileges,
18 immunities, powers and duties, and be subject to the same
19 conditions, restrictions, limitations, penalties and
20 definitions of terms, and employ the same modes of procedure
21 as are prescribed in Sections 2 (except the definition of
22 "retailer maintaining a place of business in this State"), 3
23 (except provisions pertaining to the State rate of tax, and
24 except provisions concerning collection or refunding of the
25 tax by retailers), 4, 11, 12, 12a, 14, 15, 19, 20, 21 and 22 of
26 the Use Tax Act, which are not inconsistent with this Section,

1 as fully as if provisions contained in those Sections of the
2 Use Tax Act were set forth herein.

3 Whenever the Department determines that a refund shall be
4 made under this Section to a claimant instead of issuing a
5 credit memorandum, the Department shall notify the State
6 Comptroller, who shall cause the order to be drawn for the
7 amount specified, and to the person named, in such
8 notification from the Department. Such refund shall be paid by
9 the State Treasurer out of the home rule municipal retailers'
10 occupation tax fund.

11 The Department shall forthwith pay over to the State
12 Treasurer, ex officio, as trustee, all taxes, penalties and
13 interest collected hereunder. On or before the 25th day of
14 each calendar month, the Department shall prepare and certify
15 to the State Comptroller the disbursement of stated sums of
16 money to named municipalities, the municipality in each
17 instance to be that municipality from which the Department
18 during the second preceding calendar month, collected
19 municipal use tax from any person whose Illinois address for
20 titling or registration purposes is given as being in such
21 municipality. The amount to be paid to each municipality shall
22 be the amount (not including credit memoranda) collected
23 hereunder during the second preceding calendar month by the
24 Department, and not including an amount equal to the amount of
25 refunds made during the second preceding calendar month by the
26 Department on behalf of such municipality, less 2% of the

1 balance, which sum shall be retained by the State Treasurer to
2 cover the costs incurred by the Department in administering
3 and enforcing the provisions of this Section. The Department,
4 at the time of each monthly disbursement to the
5 municipalities, shall prepare and certify to the Comptroller
6 the amount so retained by the State Treasurer, which shall be
7 transferred into the Tax Compliance and Administration Fund.
8 Within 10 days after receipt by the State Comptroller of the
9 disbursement certification to the municipalities provided for
10 in this Section to be given to the State Comptroller by the
11 Department, the State Comptroller shall cause the orders to be
12 drawn for the respective amounts in accordance with the
13 directions contained in that certification.

14 Any ordinance imposing or discontinuing any tax to be
15 collected and enforced by the Department under this Section
16 shall be adopted and a certified copy thereof filed with the
17 Department on or before October 1, whereupon the Department of
18 Revenue shall proceed to administer and enforce this Section
19 on behalf of the municipalities as of January 1 next following
20 such adoption and filing. Beginning April 1, 1998, any
21 ordinance imposing or discontinuing any tax to be collected
22 and enforced by the Department under this Section shall either
23 (i) be adopted and a certified copy thereof filed with the
24 Department on or before April 1, whereupon the Department of
25 Revenue shall proceed to administer and enforce this Section
26 on behalf of the municipalities as of July 1 next following the

1 adoption and filing; or (ii) be adopted and a certified copy
2 thereof filed with the Department on or before October 1,
3 whereupon the Department of Revenue shall proceed to
4 administer and enforce this Section on behalf of the
5 municipalities as of January 1 next following the adoption and
6 filing.

7 Nothing in this subsection (c) shall prevent a home rule
8 municipality from collecting the tax pursuant to subsection
9 (a) in any situation where such tax is not collected by the
10 Department of Revenue under this subsection (c).

11 (d) Any unobligated balance remaining in the Municipal
12 Retailers' Occupation Tax Fund on December 31, 1989, which
13 fund was abolished by Public Act 85-1135, and all receipts of
14 municipal tax as a result of audits of liability periods prior
15 to January 1, 1990, shall be paid into the Local Government Tax
16 Fund, for distribution as provided by this Section prior to
17 the enactment of Public Act 85-1135. All receipts of municipal
18 tax as a result of an assessment not arising from an audit, for
19 liability periods prior to January 1, 1990, shall be paid into
20 the Local Government Tax Fund for distribution before July 1,
21 1990, as provided by this Section prior to the enactment of
22 Public Act 85-1135, and on and after July 1, 1990, all such
23 receipts shall be distributed as provided in Section 6z-18 of
24 the State Finance Act.

25 (e) As used in this Section, "Municipal" and
26 "Municipality" means a city, village or incorporated town,

1 including an incorporated town which has superseded a civil
2 township.

3 (f) This Section shall be known and may be cited as the
4 Home Rule Municipal Use Tax Act.

5 (Source: P.A. 98-1049, eff. 8-25-14.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.