



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5144

Introduced 2/9/2024, by Rep. Marcus C. Evans, Jr.

SYNOPSIS AS INTRODUCED:

35 ILCS 145/2	from Ch. 120, par. 481b.32
35 ILCS 145/3	from Ch. 120, par. 481b.33
35 ILCS 145/3-2 new	
35 ILCS 145/3-3 new	
35 ILCS 145/4	from Ch. 120, par. 481b.34
35 ILCS 145/5	from Ch. 120, par. 481b.35
35 ILCS 145/6	from Ch. 120, par. 481b.36

Amends the Hotel Operators' Occupation Tax Act. Provides that re-renters of hotel rooms who meet certain criteria related to gross receipts or number of transactions are required to collect and remit the tax under the Act. Effective immediately.

LRB103 37917 HLH 68049 b

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 Hotel Operators' Occupation Tax Act is
5 amended by changing Sections 2, 3, 4, 5, and 6 and by adding
6 Sections 3-2 and 3-3 as follows:

7 (35 ILCS 145/2) (from Ch. 120, par. 481b.32)

8 Sec. 2. Definitions. As used in this Act, unless the
9 context otherwise requires:

10 (1) "Hotel" means any building or buildings in which the
11 public may, for a consideration, obtain living quarters,
12 sleeping or housekeeping accommodations. The term includes,
13 but is not limited to, inns, motels, tourist homes or courts,
14 lodging houses, rooming houses and apartment houses, retreat
15 centers, conference centers, and hunting lodges.

16 (2) "Operator" means any person engaged in the business of
17 renting, leasing, or letting rooms in ~~operating~~ a hotel.

18 (3) "Occupancy" means the use or possession, or the right
19 to the use or possession, of any room or rooms in a hotel for
20 any purpose, or the right to the use or possession of the
21 furnishings or to the services and accommodations accompanying
22 the use and possession of the room or rooms.

23 (4) "Room" or "rooms" means any living quarters, sleeping

1 or housekeeping accommodations.

2 (5) "Permanent resident" means any person who occupied or
3 has the right to occupy any room or rooms, regardless of
4 whether or not it is the same room or rooms, in a hotel for at
5 least 30 consecutive days.

6 (6) "Rent" or "rental" means the consideration received
7 for occupancy, valued in money, whether received in money or
8 otherwise, including all receipts, cash, credits and property
9 or services of any kind or nature. "Rent" or "rental" includes
10 any fee, charge, or commission received by a re-renter of
11 hotel rooms specifically in connection with the re-rental of
12 hotel rooms.

13 (7) "Department" means the Department of Revenue.

14 (8) "Person" means any natural individual, firm,
15 partnership, association, joint stock company, joint
16 adventure, public or private corporation, limited liability
17 company, or a receiver, executor, trustee, guardian or other
18 representative appointed by order of any court.

19 (9) "Re-renter of hotel rooms" means a person who is not
20 employed by the hotel operator but who (i) obtains from the
21 hotel operator the right or authority to grant control of,
22 access to, or occupancy of a hotel room in this State to a
23 guest of the hotel or (ii) facilitates the booking of a hotel
24 room located in this State. A person who obtains those rights
25 or authorities from the hotel operator is not considered a
26 re-renter of a hotel room if the person operates under a shared

1 hotel brand with the operator.

2 (Source: P.A. 100-213, eff. 8-18-17.)

3 (35 ILCS 145/3) (from Ch. 120, par. 481b.33)

4 Sec. 3. Rate; exemptions.

5 (a) A tax is imposed upon hotel operators ~~persons engaged~~
6 ~~in the business of renting, leasing or letting rooms in a hotel~~
7 at the rate of 5% of 94% of the gross rental receipts from
8 engaging in business as a hotel operator ~~such renting, leasing~~
9 ~~or letting~~, excluding, however, from gross rental receipts,
10 the proceeds of ~~such~~ renting, leasing or letting hotel rooms
11 to permanent residents of a ~~that~~ hotel and proceeds from the
12 tax imposed under subsection (c) of Section 13 of the
13 Metropolitan Pier and Exposition Authority Act.

14 (b) There shall be imposed an additional tax upon hotel
15 operators ~~persons engaged in the business of renting, leasing~~
16 ~~or letting rooms in a hotel~~ at the rate of 1% of 94% of the
17 gross rental receipts received by the hotel operator from
18 engaging in business as a hotel operator ~~from such renting,~~
19 ~~leasing or letting~~, excluding, however, from gross rental
20 receipts, the proceeds of such renting, leasing or letting to
21 permanent residents of that hotel and proceeds from the tax
22 imposed under subsection (c) of Section 13 of the Metropolitan
23 Pier and Exposition Authority Act.

24 (b-5) Beginning on January 1, 2025, if the renting,
25 leasing, or letting of a hotel room is done through a re-renter

1 of hotel rooms who meets either of the following thresholds,
2 then, subject to the provisions of Section 3-2 and 3-3, the
3 re-renter is considered the hotel operator for the purposes of
4 the taxes under subsections (a) and (b):

5 (1) the cumulative gross receipts from rentals in
6 Illinois by the re-renter of hotel rooms are \$100,000 or
7 more; or

8 (2) the re-renter of hotel rooms cumulatively enters
9 into 200 or more separate transactions for rentals in
10 Illinois.

11 A re-renter of hotel rooms shall determine on a quarterly
12 basis, ending on the last day of March, June, September, and
13 December, whether he or she meets the threshold of either
14 paragraph (1) or (2) of this subsection (b-5) for the
15 preceding 12-month period. If the re-renter of hotel rooms
16 meets the threshold of either paragraph (1) or (2) for a
17 12-month period, he or she is subject to tax under this Act and
18 is required to remit the tax imposed under this Act and file
19 returns for the 12-month period beginning on the first day of
20 the next month after he or she determines that he or she meets
21 the threshold of paragraph (1) or (2). At the end of that
22 12-month period, the re-renter of hotel rooms shall determine
23 whether he or she continued to meet the threshold of either
24 paragraph (1) or (2) during the preceding 12-month period. If
25 he or she met the threshold in either paragraph (1) or (2) for
26 the preceding 12-month period, he or she is considered a hotel

1 operator in this State and is required to remit the tax imposed
2 under this Act and file returns for the subsequent 12-month
3 period. If, at the end of a 12-month period during which a
4 re-renter is required to remit the tax imposed under this Act,
5 the re-renter determines that he or she did not meet the
6 threshold in either paragraph (1) or (2) during the preceding
7 12-month period, he or she shall subsequently determine on a
8 quarterly basis, ending on the last day of March, June,
9 September, and December, whether he or she meets the threshold
10 of either paragraph (1) or (2) for the preceding 12-month
11 period.

12 (c) No funds received pursuant to this Act shall be used to
13 advertise for or otherwise promote new competition in the
14 hotel business.

15 (d) However, such tax is not imposed upon the privilege of
16 engaging in any business in Interstate Commerce or otherwise,
17 which business may not, under the Constitution and Statutes of
18 the United States, be made the subject of taxation by this
19 State. In addition, the tax is not imposed upon gross rental
20 receipts for which the hotel operator is prohibited from
21 obtaining reimbursement for the tax from the customer by
22 reason of a federal treaty.

23 (d-5) On and after July 1, 2017, the tax imposed by this
24 Act shall not apply to gross rental receipts received by an
25 entity that is organized and operated exclusively for
26 religious purposes and possesses an active Exemption

1 Identification Number issued by the Department pursuant to the
2 Retailers' Occupation Tax Act when acting as a hotel operator
3 renting, leasing, or letting rooms:

4 (1) in furtherance of the purposes for which it is
5 organized; or

6 (2) to entities that (i) are organized and operated
7 exclusively for religious purposes, (ii) possess an active
8 Exemption Identification Number issued by the Department
9 pursuant to the Retailers' Occupation Tax Act, and (iii)
10 rent the rooms in furtherance of the purposes for which
11 they are organized.

12 No gross rental receipts are exempt under paragraph (2) of
13 this subsection (d-5) unless the hotel operator obtains the
14 active Exemption Identification Number from the exclusively
15 religious entity to whom it is renting and maintains that
16 number in its books and records. Gross rental receipts from
17 all rentals other than those described in items (1) or (2) of
18 this subsection (d-5) are subject to the tax imposed by this
19 Act unless otherwise exempt under this Act.

20 This subsection (d-5) is exempt from the sunset provisions
21 of Section 3-5 of this Act.

22 (d-10) On and after July 1, 2023, the tax imposed by this
23 Act shall not apply to gross rental receipts received from the
24 renting, leasing, or letting of rooms to an entity that is
25 organized and operated exclusively by an organization
26 chartered by the United States Congress for the purpose of

1 providing disaster relief and that possesses an active
2 Exemption Identification Number issued by the Department
3 pursuant to the Retailers' Occupation Tax Act if the renting,
4 leasing, or letting of the rooms is in furtherance of the
5 purposes for which the exempt organization is organized. This
6 subsection (d-10) is exempt from the sunset provisions of
7 Section 3-5 of this Act.

8 (e) Persons subject to the tax imposed by this Act may
9 reimburse themselves for their tax liability under this Act by
10 separately stating such tax as an additional charge, which
11 charge may be stated in combination, in a single amount, with
12 any tax imposed pursuant to Sections 8-3-13 and 8-3-14 of the
13 Illinois Municipal Code, and Section 25.05-10 of "An Act to
14 revise the law in relation to counties".

15 (f) If any hotel operator collects an amount (however
16 designated) which purports to reimburse such operator for
17 hotel operators' occupation tax liability measured by receipts
18 which are not subject to hotel operators' occupation tax, or
19 if any hotel operator, in collecting an amount (however
20 designated) which purports to reimburse such operator for
21 hotel operators' occupation tax liability measured by receipts
22 which are subject to tax under this Act, collects more from the
23 guest customer ~~customer~~ than the operators' hotel operators' occupation
24 tax liability in the transaction is, the guest customer ~~customer~~ shall
25 have a legal right to claim a refund of such amount from such
26 operator. However, if such amount is not refunded to the guest

1 ~~customer~~ for any reason, the hotel operator is liable to pay
2 such amount to the Department.

3 (Source: P.A. 103-9, eff. 6-7-23.)

4 (35 ILCS 145/3-2 new)

5 Sec. 3-2. No resale exemption; tax incurred by re-renters
6 of hotel rooms. A hotel operator who rents, leases, or lets
7 rooms subject to tax under this Act to a re-renter of hotel
8 rooms incurs the tax under this Act on the gross rental
9 receipts it receives from that re-renter of hotel rooms and
10 cannot claim any resale exemption. In such situations, the
11 re-renter of hotel rooms incurs tax under this Act on its gross
12 rental receipts as provided in Section 3 of this Act.

13 (35 ILCS 145/3-3 new)

14 Sec. 3-3. Re-renter of hotel rooms; credit for tax
15 reimbursement. A re-renter of hotel rooms may take a credit
16 against the tax it incurs on the rental of a hotel room under
17 this Act for the amount it paid under subsection (f) of Section
18 3 of this Act to a hotel operator as reimbursement for the tax
19 incurred under this Act for the rental of that room for the
20 purposes of re-rental.

21 (35 ILCS 145/4) (from Ch. 120, par. 481b.34)

22 Sec. 4. Books and records. Every operator shall keep
23 separate books or records of his business as an operator so as

1 to show the rents and occupancies taxable under this Act
2 separately from his transactions not taxable under this Act.
3 If any operator fails to keep such separate books or records,
4 he shall be liable to tax at the rate designated in Section 3
5 hereof upon the entire proceeds from his business ~~hotel~~. The
6 Department may adopt rules that establish requirements,
7 including record forms and formats, for records required to be
8 kept and maintained by taxpayers. For purposes of this
9 Section, "records" means all data maintained by the taxpayer,
10 including data on paper, microfilm, microfiche or any type of
11 machine-sensible data compilation.

12 (Source: P.A. 88-480.)

13 (35 ILCS 145/5) (from Ch. 120, par. 481b.35)

14 Sec. 5. Certificate of registration; retailers' occupation
15 tax registration provisions apply. It shall be unlawful for
16 any person to engage in ~~the business~~ as a hotel operator ~~of~~
17 ~~renting, leasing or letting rooms in a hotel~~ in this State
18 without a certificate of registration from the Department.

19 All of the provisions of Sections 2a and 2b of the
20 Retailers' Occupation Tax Act, in effect on the effective date
21 of this Act, as subsequently amended, shall apply to persons
22 in ~~the business~~ as hotel operators ~~of renting, leasing or~~
23 ~~letting rooms in a hotel~~ in this State, to the same extent as
24 if such provisions were included herein.

25 (Source: Laws 1961, p. 1728.)

1 (35 ILCS 145/6) (from Ch. 120, par. 481b.36)

2 Sec. 6. Returns; allocation of proceeds ~~Filing of returns~~
3 ~~and distribution of revenue.~~ Except as provided hereinafter in
4 this Section, on or before the last day of each calendar month,
5 every person engaged as a hotel operator ~~in the business of~~
6 ~~renting, leasing or letting rooms in a hotel~~ in this State
7 during the preceding calendar month shall file a return with
8 the Department, stating:

9 1. The name of the operator;

10 2. His residence address and the address of his
11 principal place of business and the address of the
12 principal place of business (if that is a different
13 address) from which he engages in ~~the business as a hotel~~
14 operator ~~of renting, leasing or letting rooms in a hotel~~
15 in this State (including, if required by the Department,
16 the address of each hotel from which rental receipts were
17 received);

18 3. Total amount of rental receipts received by him
19 during the preceding calendar month from engaging in
20 business as a hotel operator ~~renting, leasing or letting~~
21 ~~rooms~~ during such preceding calendar month;

22 4. Total amount of rental receipts received by him
23 during the preceding calendar month from renting, leasing
24 or letting rooms to permanent residents during such
25 preceding calendar month;

1 5. Total amount of other exclusions from gross rental
2 receipts allowed by this Act;

3 6. Gross rental receipts which were received by him
4 during the preceding calendar month and upon the basis of
5 which the tax is imposed;

6 7. The amount of tax due;

7 8. Credit for any reimbursement of tax paid by a
8 re-renter of hotel rooms to hotel operators for rentals
9 purchased for re-rental, as provided in Section 3-3 of
10 this Act;

11 9. ~~8.~~ Such other reasonable information as the
12 Department may require.

13 If the operator's average monthly tax liability to the
14 Department does not exceed \$200, the Department may authorize
15 his returns to be filed on a quarter annual basis, with the
16 return for January, February and March of a given year being
17 due by April 30 of such year; with the return for April, May
18 and June of a given year being due by July 31 of such year;
19 with the return for July, August and September of a given year
20 being due by October 31 of such year, and with the return for
21 October, November and December of a given year being due by
22 January 31 of the following year.

23 If the operator's average monthly tax liability to the
24 Department does not exceed \$50, the Department may authorize
25 his returns to be filed on an annual basis, with the return for
26 a given year being due by January 31 of the following year.

1 Such quarter annual and annual returns, as to form and
2 substance, shall be subject to the same requirements as
3 monthly returns.

4 Notwithstanding any other provision in this Act concerning
5 the time within which an operator may file his return, in the
6 case of any operator who ceases to engage in a kind of business
7 which makes him responsible for filing returns under this Act,
8 such operator shall file a final return under this Act with the
9 Department not more than 1 month after discontinuing such
10 business.

11 Where the same person has more than 1 business registered
12 with the Department under separate registrations under this
13 Act, such person shall not file each return that is due as a
14 single return covering all such registered businesses, but
15 shall file separate returns for each such registered business.

16 In his return, the operator shall determine the value of
17 any consideration other than money received by him in
18 connection with engaging in business as a hotel operator ~~the~~
19 ~~renting, leasing or letting of rooms in the course of his~~
20 ~~business~~ and he shall include such value in his return. Such
21 determination shall be subject to review and revision by the
22 Department in the manner hereinafter provided for the
23 correction of returns.

24 Where the operator is a corporation, the return filed on
25 behalf of such corporation shall be signed by the president,
26 vice-president, secretary or treasurer or by the properly

1 accredited agent of such corporation.

2 The person filing the return herein provided for shall, at
3 the time of filing such return, pay to the Department the
4 amount of tax herein imposed. The operator filing the return
5 under this Section shall, at the time of filing such return,
6 pay to the Department the amount of tax imposed by this Act
7 less a discount of 2.1% or \$25 per calendar year, whichever is
8 greater, which is allowed to reimburse the operator for the
9 expenses incurred in keeping records, preparing and filing
10 returns, remitting the tax and supplying data to the
11 Department on request.

12 If any payment provided for in this Section exceeds the
13 operator's liabilities under this Act, as shown on an original
14 return, the Department may authorize the operator to credit
15 such excess payment against liability subsequently to be
16 remitted to the Department under this Act, in accordance with
17 reasonable rules adopted by the Department. If the Department
18 subsequently determines that all or any part of the credit
19 taken was not actually due to the operator, the operator's
20 discount shall be reduced by an amount equal to the difference
21 between the discount as applied to the credit taken and that
22 actually due, and that operator shall be liable for penalties
23 and interest on such difference.

24 There shall be deposited into the Build Illinois Fund in
25 the State Treasury for each State fiscal year 40% of the amount
26 of total net revenue from the tax imposed by subsection (a) of

1 Section 3. Of the remaining 60%: (i) \$5,000,000 shall be
2 deposited into the Illinois Sports Facilities Fund and
3 credited to the Subsidy Account each fiscal year by making
4 monthly deposits in the amount of 1/8 of \$5,000,000 plus
5 cumulative deficiencies in such deposits for prior months, and
6 (ii) an amount equal to the then applicable Advance Amount
7 shall be deposited into the Illinois Sports Facilities Fund
8 and credited to the Advance Account each fiscal year by making
9 monthly deposits in the amount of 1/8 of the then applicable
10 Advance Amount plus any cumulative deficiencies in such
11 deposits for prior months. (The deposits of the then
12 applicable Advance Amount during each fiscal year shall be
13 treated as advances of funds to the Illinois Sports Facilities
14 Authority for its corporate purposes to the extent paid to the
15 Authority or its trustee and shall be repaid into the General
16 Revenue Fund in the State Treasury by the State Treasurer on
17 behalf of the Authority pursuant to Section 19 of the Illinois
18 Sports Facilities Authority Act, as amended. If in any fiscal
19 year the full amount of the then applicable Advance Amount is
20 not repaid into the General Revenue Fund, then the deficiency
21 shall be paid from the amount in the Local Government
22 Distributive Fund that would otherwise be allocated to the
23 City of Chicago under the State Revenue Sharing Act.)

24 For purposes of the foregoing paragraph, the term "Advance
25 Amount" means, for fiscal year 2002, \$22,179,000, and for
26 subsequent fiscal years through fiscal year 2033, 105.615% of

1 the Advance Amount for the immediately preceding fiscal year,
2 rounded up to the nearest \$1,000.

3 Of the remaining 60% of the amount of total net revenue
4 beginning on August 1, 2011 through June 30, 2023, from the tax
5 imposed by subsection (a) of Section 3 after all required
6 deposits into the Illinois Sports Facilities Fund, an amount
7 equal to 8% of the net revenue realized from this Act during
8 the preceding month shall be deposited as follows: 18% of such
9 amount shall be deposited into the Chicago Travel Industry
10 Promotion Fund for the purposes described in subsection (n) of
11 Section 5 of the Metropolitan Pier and Exposition Authority
12 Act and the remaining 82% of such amount shall be deposited
13 into the Local Tourism Fund each month for purposes authorized
14 by Section 605-705 of the Department of Commerce and Economic
15 Opportunity Law. Beginning on August 1, 2011 and through June
16 30, 2023, an amount equal to 4.5% of the net revenue realized
17 from this Act during the preceding month shall be deposited as
18 follows: 55% of such amount shall be deposited into the
19 Chicago Travel Industry Promotion Fund for the purposes
20 described in subsection (n) of Section 5 of the Metropolitan
21 Pier and Exposition Authority Act and the remaining 45% of
22 such amount deposited into the International Tourism Fund for
23 the purposes authorized in Section 605-707 of the Department
24 of Commerce and Economic Opportunity Law. "Net revenue
25 realized" means the revenue collected by the State under this
26 Act less the amount paid out as refunds to taxpayers for

1 overpayment of liability under this Act.

2 Beginning on July 1, 2023, of the remaining 60% of the
3 amount of total net revenue realized from the tax imposed
4 under subsection (a) of Section 3, after all required deposits
5 into the Illinois Sports Facilities Fund:

6 (1) an amount equal to 8% of the net revenue realized
7 under this Act for the preceding month shall be deposited
8 as follows: 82% to the Local Tourism Fund and 18% to the
9 Chicago Travel Industry Promotion Fund; and

10 (2) an amount equal to 4.5% of the net revenue
11 realized under this Act for the preceding month shall be
12 deposited as follows: 55% to the Chicago Travel Industry
13 Promotion Fund and 45% to the International Tourism Fund.

14 After making all these deposits, any remaining net revenue
15 realized from the tax imposed under subsection (a) of Section
16 3 shall be deposited into the Tourism Promotion Fund in the
17 State Treasury. All moneys received by the Department from the
18 additional tax imposed under subsection (b) of Section 3 shall
19 be deposited into the Build Illinois Fund in the State
20 Treasury.

21 The Department may, upon separate written notice to a
22 taxpayer, require the taxpayer to prepare and file with the
23 Department on a form prescribed by the Department within not
24 less than 60 days after receipt of the notice an annual
25 information return for the tax year specified in the notice.
26 Such annual return to the Department shall include a statement

1 of gross receipts as shown by the operator's last State income
2 tax return. If the total receipts of the business as reported
3 in the State income tax return do not agree with the gross
4 receipts reported to the Department for the same period, the
5 operator shall attach to his annual information return a
6 schedule showing a reconciliation of the 2 amounts and the
7 reasons for the difference. The operator's annual information
8 return to the Department shall also disclose payroll
9 information of the operator's business during the year covered
10 by such return and any additional reasonable information which
11 the Department deems would be helpful in determining the
12 accuracy of the monthly, quarterly or annual tax returns by
13 such operator as hereinbefore provided for in this Section.

14 If the annual information return required by this Section
15 is not filed when and as required the taxpayer shall be liable
16 for a penalty in an amount determined in accordance with
17 Section 3-4 of the Uniform Penalty and Interest Act until such
18 return is filed as required, the penalty to be assessed and
19 collected in the same manner as any other penalty provided for
20 in this Act.

21 The chief executive officer, proprietor, owner or highest
22 ranking manager shall sign the annual return to certify the
23 accuracy of the information contained therein. Any person who
24 willfully signs the annual return containing false or
25 inaccurate information shall be guilty of perjury and punished
26 accordingly. The annual return form prescribed by the

1 Department shall include a warning that the person signing the
2 return may be liable for perjury.

3 The foregoing portion of this Section concerning the
4 filing of an annual information return shall not apply to an
5 operator who is not required to file an income tax return with
6 the United States Government.

7 (Source: P.A. 102-16, eff. 6-17-21; 103-8, eff. 6-7-23.)

8 Section 999. Effective date. This Act takes effect upon
9 becoming law.