



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 02/05/04, by Bob Biggins

SYNOPSIS AS INTRODUCED:

35 ILCS 120/11

from Ch. 120, par. 450

Amends the Retailers' Occupation Tax Act. In a provision stating that all information received by the Department of Revenue from returns filed under the Act, or from any investigation conducted under the Act, shall be confidential, except for official purposes, includes as an official purpose the furnishing of financial information to a non-home rule unit that has imposed a tax similar to that imposed by this Act pursuant to the successful passage of a public referendum by a majority of the registered voters of the community if (i) the chief executive of the unit requests the information and (ii) the non-home rule unit with referendum approval agrees in writing to the requirements of the confidentiality provisions of the Act. Effective immediately.

LRB093 18505 SJM 44222 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning taxes.

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

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

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

7 Sec. 11. All information received by the Department from
8 returns filed under this Act, or from any investigation
9 conducted under this Act, shall be confidential, except for
10 official purposes, and any person who divulges any such
11 information in any manner, except in accordance with a proper
12 judicial order or as otherwise provided by law, shall be guilty
13 of a Class B misdemeanor.

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

20 Nothing in this Act prevents the Director of Revenue from
21 divulging to the United States Government or the government of
22 any other state, or any village that does not levy any real
23 property taxes for village operations and that receives more
24 than 60% of its general corporate revenue from taxes under the
25 Use Tax Act, the Service Use Tax Act, the Service Occupation
26 Tax Act, and the Retailers' Occupation Tax Act, or any officer
27 or agency thereof, for exclusively official purposes,
28 information received by the Department in administering this
29 Act, provided that such other governmental agency agrees to
30 divulge requested tax information to the Department.

31 The Department's furnishing of information derived from a
32 taxpayer's return or from an investigation conducted under this

1 Act to the surety on a taxpayer's bond that has been furnished
2 to the Department under this Act, either to provide notice to
3 such surety of its potential liability under the bond or, in
4 order to support the Department's demand for payment from such
5 surety under the bond, is an official purpose within the
6 meaning of this Section.

7 The furnishing upon request of information obtained by the
8 Department from returns filed under this Act or investigations
9 conducted under this Act to the Illinois Liquor Control
10 Commission for official use is deemed to be an official purpose
11 within the meaning of this Section.

12 Notice to a surety of potential liability shall not be
13 given unless the taxpayer has first been notified, not less
14 than 10 days prior thereto, of the Department's intent to so
15 notify the surety.

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

20 Where an appeal or a protest has been filed on behalf of a
21 taxpayer, the furnishing upon request of the attorney for the
22 taxpayer of returns filed by the taxpayer and information
23 related thereto under this Act is deemed to be an official
24 purpose within the meaning of this Section.

25 The furnishing of financial information to a home rule unit
26 or non-home rule unit that has imposed a tax similar to that
27 imposed by this Act pursuant to its home rule powers or the
28 successful passage of a public referendum by a majority of the
29 registered voters of the community, or to any village that does
30 not levy any real property taxes for village operations and
31 that receives more than 60% of its general corporate revenue
32 from taxes under the Use Tax Act, the Service Use Tax Act, the
33 Service Occupation Tax Act, and the Retailers' Occupation Tax
34 Act, upon request of the Chief Executive thereof, is an
35 official purpose within the meaning of this Section, provided
36 the home rule unit, non-home rule unit with referendum

1 approval, or village that does not levy any real property taxes
2 for village operations and that receives more than 60% of its
3 general corporate revenue from taxes under the Use Tax Act, the
4 Service Use Tax Act, the Service Occupation Tax Act, and the
5 Retailers' Occupation Tax Act agrees in writing to the
6 requirements of this Section.

7 For a village that does not levy any real property taxes
8 for village operations and that receives more than 60% of its
9 general corporate revenue from taxes under the Use Tax Act,
10 Service Use Tax Act, Service Occupation Tax Act, and Retailers'
11 Occupation Tax Act, the officers eligible to receive
12 information from the Department of Revenue under this Section
13 are the village manager and the chief financial officer of the
14 village.

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

19 The Department may make available to the Board of Trustees
20 of any Metro East Mass Transit District information contained
21 on transaction reporting returns required to be filed under
22 Section 3 of this Act that report sales made within the
23 boundary of the taxing authority of that Metro East Mass
24 Transit District, as provided in Section 5.01 of the Local Mass
25 Transit District Act. The disclosure shall be made pursuant to
26 a written agreement between the Department and the Board of
27 Trustees of a Metro East Mass Transit District, which is an
28 official purpose within the meaning of this Section. The
29 written agreement between the Department and the Board of
30 Trustees of a Metro East Mass Transit District shall provide
31 for reciprocity, limitations on access, disclosure, and
32 procedures for requesting information. Information so provided
33 shall be subject to all confidentiality provisions of this
34 Section.

35 The Director may make available to any State agency,
36 including the Illinois Supreme Court, which licenses persons to

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

1 The Director may make available to any State agency,
2 including the Illinois Supreme Court, units of local
3 government, and school districts, information regarding
4 whether a bidder or contractor is an affiliate of a person who
5 is not collecting and remitting Illinois Use taxes for the
6 limited purpose of enforcing bidder and contractor
7 certifications.

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

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

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

26 (2) At the sole discretion of the Director, trade
27 secrets or other confidential information identified as
28 such by the taxpayer, no later than 30 days after receipt
29 of an administrative decision, by such means as the
30 Department shall provide by rule.

31 The Director shall determine the appropriate extent of the
32 deletions allowed in paragraph (2). In the event the taxpayer
33 does not submit deletions, the Director shall make only the
34 deletions specified in paragraph (1).

35 The Director shall make available for public inspection and
36 publication an administrative decision within 180 days after

1 the issuance of the administrative decision. The term
2 "administrative decision" has the same meaning as defined in
3 Section 3-101 of Article III of the Code of Civil Procedure.
4 Costs collected under this Section shall be paid into the Tax
5 Compliance and Administration Fund.

6 Nothing contained in this Act shall prevent the Director
7 from divulging information to any person pursuant to a request
8 or authorization made by the taxpayer or by an authorized
9 representative of the taxpayer.

10 (Source: P.A. 93-25, eff. 6-20-03.)

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.