



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 02/09/04, by Angelo Saviano

SYNOPSIS AS INTRODUCED:

65 ILCS 5/8-11-1.1	from Ch. 24, par. 8-11-1.1
65 ILCS 5/8-11-1.2	from Ch. 24, par. 8-11-1.2
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 5/8-11-1.5	from Ch. 24, par. 8-11-1.5

Amends the Illinois Municipal Code. Provides that the corporate authorities of a non-home rule municipality imposing a 1/2 of 1% retailer's occupation tax, service occupation tax, or use tax may impose the tax by ordinance or resolution (now, the municipality may by ordinance or resolution call for submission to the electors of the municipality the question of whether the municipality shall impose the tax). Provides that if a petition signed by a number of electors equal to at least 3% of the registered voters of the municipality is filed with the county clerk within 30 days after the publication or posting of the ordinance or resolution imposing the tax, the clerk shall submit the question of whether the tax shall be imposed to the electors at an election in accordance with the general election law. Provides that the taxes may be imposed for expenditure on public infrastructure, police and fire protection, police and fire pensions, property tax relief, or a combination (now, may be provided for expenditure on public infrastructure or for property tax relief, or both). Defines "police and fire protection" and "police and fire pensions".

LRB093 20480 MKM 46268 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 Illinois Municipal Code is amended by
5 changing Sections 8-11-1.1, 8-11-1.2, 8-11-1.3, 8-11-1.4, and
6 8-11-1.5 as follows:

7 (65 ILCS 5/8-11-1.1) (from Ch. 24, par. 8-11-1.1)

8 Sec. 8-11-1.1. Non-home rule municipalities; imposition of
9 taxes.

10 (a) The corporate authorities of a non-home rule
11 municipality may, upon approval of the electors of the
12 municipality pursuant to subsection (b) of this Section, impose
13 by ordinance or resolution the tax authorized in Sections
14 8-11-1.3, 8-11-1.4 and 8-11-1.5 of this Act.

15 (b) The corporate authorities of the municipality may pass
16 an ~~by~~ ordinance or resolution imposing the tax. The publication
17 or posting of the resolution or ordinance levying the tax must
18 include a notice of (i) the specific number of electors
19 required to sign a petition requesting that the question of the
20 adoption of the resolution or ordinance be submitted to the
21 electors of the municipality, (ii) the time in which the
22 petition must be filed, and (iii) the date of the prospective
23 referendum. ~~call for the submission to the electors of the~~
24 ~~municipality the question of whether the municipality shall~~
25 ~~impose such tax. Such question shall be certified by the~~
26 ~~municipal clerk to the election authority in accordance with~~
27 ~~Section 28-5 of the Election Code and shall be in a form in~~
28 ~~accordance with Section 16-7 of the Election Code.~~

29 The clerk of the municipality must provide a petition form
30 to any individual requesting one.

31 If no petition is filed with the corporate authorities
32 within 30 days after publication or posting of the ordinance,

1 the municipality is authorized to levy the tax. If, however,
2 within the 30-day period a petition is filed with the corporate
3 authorities, signed by electors of the municipality equal in
4 number to 3% or more of the total number of registered voters
5 in the municipality, asking that the question of levying the
6 tax be submitted to the electors of the municipality, the
7 corporate authorities must certify the question to the proper
8 election authority, which must submit the question at an
9 election in accordance with the Election Code.

10 The election authority must submit the question in
11 substantially the following form:

12 Shall the corporate authorities of the municipality be
13 authorized to levy a tax at the rate of 1/2 of 1% for the
14 purpose of (purpose)?

15 If a majority of the electors in the municipality voting
16 upon the question vote in the affirmative, the corporate
17 authorities may thereafter levy the tax ~~such tax shall be~~
18 ~~imposed.~~

19 An ordinance or resolution imposing the tax of not more
20 than 1/2 of 1% hereunder or discontinuing the same shall be
21 adopted and a certified copy thereof, together with a
22 certification that the ordinance or resolution received
23 referendum approval in the case of the imposition of such tax,
24 filed with the Department of Revenue, on or before the first
25 day of June, whereupon the Department shall proceed to
26 administer and enforce the additional tax or to discontinue the
27 tax, as the case may be, as of the first day of September next
28 following such adoption and filing. Beginning January 1, 1992,
29 an ordinance or resolution imposing or discontinuing the tax
30 hereunder shall be adopted and a certified copy thereof filed
31 with the Department on or before the first day of July,
32 whereupon the Department shall proceed to administer and
33 enforce this Section as of the first day of October next
34 following such adoption and filing. Beginning January 1, 1993,
35 an ordinance or resolution imposing or discontinuing the tax
36 hereunder shall be adopted and a certified copy thereof filed

1 with the Department on or before the first day of October,
2 whereupon the Department shall proceed to administer and
3 enforce this Section as of the first day of January next
4 following such adoption and filing. Beginning October 1, 2002,
5 an ordinance or resolution imposing or discontinuing the tax
6 under this Section or effecting a change in the rate of tax
7 must either (i) be adopted and a certified copy of the
8 ordinance or resolution filed with the Department on or before
9 the first day of April, whereupon the Department shall proceed
10 to administer and enforce this Section as of the first day of
11 July next following the adoption and filing; or (ii) be adopted
12 and a certified copy of the ordinance or resolution filed with
13 the Department on or before the first day of October, whereupon
14 the Department shall proceed to administer and enforce this
15 Section as of the first day of January next following the
16 adoption and filing. A non-home rule municipality may file a
17 certified copy of an ordinance or resolution, with a
18 certification that the ordinance or resolution received
19 referendum approval in the case of the imposition of the tax,
20 with the Department of Revenue, as required under this Section,
21 only after October 2, 2000.

22 The tax authorized by this Section may not be more than 1/2
23 of 1% and may be imposed only in 1/4% increments.

24 (Source: P.A. 91-51, eff. 6-30-99; 91-649, eff. 1-1-00; 92-739,
25 eff. 1-1-03.)

26 (65 ILCS 5/8-11-1.2) (from Ch. 24, par. 8-11-1.2)

27 Sec. 8-11-1.2. Definition. As used in Sections 8-11-1.3,
28 8-11-1.4 and 8-11-1.5 of this Act:

29 (a) "Public infrastructure" means municipal roads and
30 streets, access roads, bridges, and sidewalks; waste disposal
31 systems; and water and sewer line extensions, water
32 distribution and purification facilities, storm water drainage
33 and retention facilities, and sewage treatment facilities. For
34 purposes of referenda authorizing the imposition of taxes by
35 the City of DuQuoin under Sections 8-11-1.3, 8-11-1.4, and

1 8-11-1.5 of this Act that are approved in November, 2002,
2 "public infrastructure" shall also include public schools.

3 (b) "Property tax relief" means the action of a
4 municipality to reduce the levy for real estate taxes or avoid
5 an increase in the levy for real estate taxes that would
6 otherwise have been required. Property tax relief or the
7 avoidance of property tax must uniformly apply to all classes
8 of property.

9 (c) "Police and fire protection" means services provided by
10 a municipal police department or municipal fire department.

11 (d) "Police and fire pensions" means contributions due from
12 the municipality to the Illinois Municipal Retirement Fund for
13 municipal police officer and municipal firefighter pensions.

14 (Source: P.A. 91-51, eff. 6-30-99; 92-739, eff. 1-1-03; 92-815,
15 eff. 8-21-02; revised 9-10-02.)

16 (65 ILCS 5/8-11-1.3) (from Ch. 24, par. 8-11-1.3)

17 Sec. 8-11-1.3. Non-Home Rule Municipal Retailers'
18 Occupation Tax Act. The corporate authorities of a non-home
19 rule municipality may impose a tax upon all persons engaged in
20 the business of selling tangible personal property, other than
21 on an item of tangible personal property which is titled and
22 registered by an agency of this State's Government, at retail
23 in the municipality for expenditure on public infrastructure,
24 police and fire protection, police and fire pensions, or for
25 property tax relief, or a combination, both as defined in
26 Section 8-11-1.2 if approved by referendum as provided in
27 Section 8-11-1.1, of the gross receipts from such sales made in
28 the course of such business. The tax imposed may not be more
29 than 1/2 of 1% and may be imposed only in 1/4% increments. The
30 tax may not be imposed on the sale of food for human
31 consumption that is to be consumed off the premises where it is
32 sold (other than alcoholic beverages, soft drinks, and food
33 that has been prepared for immediate consumption) and
34 prescription and nonprescription medicines, drugs, medical
35 appliances, and insulin, urine testing materials, syringes,

1 and needles used by diabetics. The tax imposed by a
2 municipality pursuant to this Section and all civil penalties
3 that may be assessed as an incident thereof shall be collected
4 and enforced by the State Department of Revenue. The
5 certificate of registration which is issued by the Department
6 to a retailer under the Retailers' Occupation Tax Act shall
7 permit such retailer to engage in a business which is taxable
8 under any ordinance or resolution enacted pursuant to this
9 Section without registering separately with the Department
10 under such ordinance or resolution or under this Section. The
11 Department shall have full power to administer and enforce this
12 Section; to collect all taxes and penalties due hereunder; to
13 dispose of taxes and penalties so collected in the manner
14 hereinafter provided, and to determine all rights to credit
15 memoranda, arising on account of the erroneous payment of tax
16 or penalty hereunder. In the administration of, and compliance
17 with, this Section, the Department and persons who are subject
18 to this Section shall have the same rights, remedies,
19 privileges, immunities, powers and duties, and be subject to
20 the same conditions, restrictions, limitations, penalties and
21 definitions of terms, and employ the same modes of procedure,
22 as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j,
23 2 through 2-65 (in respect to all provisions therein other than
24 the State rate of tax), 2c, 3 (except as to the disposition of
25 taxes and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f,
26 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and
27 13 of the Retailers' Occupation Tax Act and Section 3-7 of the
28 Uniform Penalty and Interest Act as fully as if those
29 provisions were set forth herein.

30 No municipality may impose a tax under this Section unless
31 the municipality also imposes a tax at the same rate under
32 Section 8-11-1.4 of this Code.

33 Persons subject to any tax imposed pursuant to the
34 authority granted in this Section may reimburse themselves for
35 their seller's tax liability hereunder by separately stating
36 such tax as an additional charge, which charge may be stated in

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

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

12 The Department shall forthwith pay over to the State
13 Treasurer, ex officio, as trustee, all taxes and penalties
14 collected hereunder. On or before the 25th day of each calendar
15 month, the Department shall prepare and certify to the
16 Comptroller the disbursement of stated sums of money to named
17 municipalities, the municipalities to be those from which
18 retailers have paid taxes or penalties hereunder to the
19 Department during the second preceding calendar month. The
20 amount to be paid to each municipality shall be the amount (not
21 including credit memoranda) collected hereunder during the
22 second preceding calendar month by the Department plus an
23 amount the Department determines is necessary to offset any
24 amounts which were erroneously paid to a different taxing body,
25 and not including an amount equal to the amount of refunds made
26 during the second preceding calendar month by the Department on
27 behalf of such municipality, and not including any amount which
28 the Department determines is necessary to offset any amounts
29 which were payable to a different taxing body but were
30 erroneously paid to the municipality. Within 10 days after
31 receipt, by the Comptroller, of the disbursement certification
32 to the municipalities, provided for in this Section to be given
33 to the Comptroller by the Department, the Comptroller shall
34 cause the orders to be drawn for the respective amounts in
35 accordance with the directions contained in such
36 certification.

1 For the purpose of determining the local governmental unit
2 whose tax is applicable, a retail sale, by a producer of coal
3 or other mineral mined in Illinois, is a sale at retail at the
4 place where the coal or other mineral mined in Illinois is
5 extracted from the earth. This paragraph does not apply to coal
6 or other mineral when it is delivered or shipped by the seller
7 to the purchaser at a point outside Illinois so that the sale
8 is exempt under the Federal Constitution as a sale in
9 interstate or foreign commerce.

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

14 When certifying the amount of a monthly disbursement to a
15 municipality under this Section, the Department shall increase
16 or decrease such amount by an amount necessary to offset any
17 misallocation of previous disbursements. The offset amount
18 shall be the amount erroneously disbursed within the previous 6
19 months from the time a misallocation is discovered.

20 The Department of Revenue shall implement this amendatory
21 Act of the 91st General Assembly so as to collect the tax on
22 and after January 1, 2002.

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
27 "Non-Home Rule Municipal Retailers' Occupation Tax Act".

28 (Source: P.A. 91-51, eff. 6-30-99; 91-649, eff. 1-1-00; 92-739,
29 eff. 1-1-03.)

30 (65 ILCS 5/8-11-1.4) (from Ch. 24, par. 8-11-1.4)

31 Sec. 8-11-1.4. Non-Home Rule Municipal Service Occupation
32 Tax Act. The corporate authorities of a non-home rule
33 municipality may impose a tax upon all persons engaged, in such
34 municipality, in the business of making sales of service for
35 expenditure on public infrastructure, police and fire

1 protection, police and fire pensions, ~~or for~~ property tax
2 relief, or a combination, ~~both~~ as defined in Section 8-11-1.2
3 if approved by referendum as provided in Section 8-11-1.1, of
4 the selling price of all tangible personal property transferred
5 by such servicemen either in the form of tangible personal
6 property or in the form of real estate as an incident to a sale
7 of service. The tax imposed may not be more than 1/2 of 1% and
8 may be imposed only in 1/4% increments. The tax may not be
9 imposed on the sale of food for human consumption that is to be
10 consumed off the premises where it is sold (other than
11 alcoholic beverages, soft drinks, and food that has been
12 prepared for immediate consumption) and prescription and
13 nonprescription medicines, drugs, medical appliances, and
14 insulin, urine testing materials, syringes, and needles used by
15 diabetics. The tax imposed by a municipality pursuant to this
16 Section and all civil penalties that may be assessed as an
17 incident thereof shall be collected and enforced by the State
18 Department of Revenue. The certificate of registration which is
19 issued by the Department to a retailer under the Retailers'
20 Occupation Tax Act or under the Service Occupation Tax Act
21 shall permit such registrant to engage in a business which is
22 taxable under any ordinance or resolution enacted pursuant to
23 this Section without registering separately with the
24 Department under such ordinance or resolution or under this
25 Section. The Department shall have full power to administer and
26 enforce this Section; to collect all taxes and penalties due
27 hereunder; to dispose of taxes and penalties so collected in
28 the manner hereinafter provided, and to determine all rights to
29 credit memoranda arising on account of the erroneous payment of
30 tax or penalty hereunder. In the administration of, and
31 compliance with, this Section the Department and persons who
32 are subject to this Section shall have the same rights,
33 remedies, privileges, immunities, powers and duties, and be
34 subject to the same conditions, restrictions, limitations,
35 penalties and definitions of terms, and employ the same modes
36 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), 10, 11, 12 (except the reference therein to Section
10 2b of the Retailers' Occupation Tax Act), 13 (except that any
11 reference to the State shall mean the taxing municipality), the
12 first paragraph of Section 15, 16, 17, 18, 19 and 20 of the
13 Service Occupation Tax Act and Section 3-7 of the Uniform
14 Penalty and Interest Act, as fully as if those provisions were
15 set forth herein.

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

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

27 Whenever the Department determines that a refund should be
28 made under this Section to a claimant instead of issuing credit
29 memorandum, the Department shall notify the State Comptroller,
30 who shall cause the order to be drawn for the amount specified,
31 and to the person named, in such notification from the
32 Department. Such refund shall be paid by the State Treasurer
33 out of the municipal retailers' occupation tax fund.

34 The Department shall forthwith pay over to the State
35 Treasurer, ex officio, as trustee, all taxes and penalties
36 collected hereunder. On or before the 25th day of each calendar

1 month, the Department shall prepare and certify to the
2 Comptroller the disbursement of stated sums of money to named
3 municipalities, the municipalities to be those from which
4 suppliers and servicemen have paid taxes or penalties hereunder
5 to the Department during the second preceding calendar month.
6 The amount to be paid to each municipality shall be the amount
7 (not including credit memoranda) collected hereunder during
8 the second preceding calendar month by the Department, and not
9 including an amount equal to the amount of refunds made during
10 the second preceding calendar month by the Department on behalf
11 of such municipality. Within 10 days after receipt, by the
12 Comptroller, of the disbursement certification to the
13 municipalities and the General Revenue Fund, provided for in
14 this Section to be given to the Comptroller by the Department,
15 the Comptroller shall cause the orders to be drawn for the
16 respective amounts in accordance with the directions contained
17 in such certification.

18 The Department of Revenue shall implement this amendatory
19 Act of the 91st General Assembly so as to collect the tax on
20 and after January 1, 2002.

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 As used in this Section, "municipal" or "municipality"
26 means or refers to a city, village or incorporated town,
27 including an incorporated town which has superseded a civil
28 township.

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

31 (Source: P.A. 91-51, eff. 6-30-99; 91-649, eff. 1-1-00; 92-739,
32 eff. 1-1-03.)

33 (65 ILCS 5/8-11-1.5) (from Ch. 24, par. 8-11-1.5)

34 Sec. 8-11-1.5. Non-Home Rule Municipal Use Tax Act. The
35 corporate authorities of a non-home rule municipality may

1 impose a tax upon the privilege of using, in such municipality,
2 any item of tangible personal property which is purchased at
3 retail from a retailer, and which is titled or registered with
4 an agency of this State's government, based on the selling
5 price of such tangible personal property, as "selling price" is
6 defined in the Use Tax Act, for expenditure on public
7 infrastructure, police and fire protection, police and fire
8 pensions, or for property tax relief, or a combination, ~~both~~ as
9 defined in Section 8-11-1.2, if approved by referendum as
10 provided in Section 8-11-1.1. The tax imposed may not be more
11 than 1/2 of 1% and may be imposed only in 1/4% increments. Such
12 tax shall be collected from persons whose Illinois address for
13 title or registration purposes is given as being in such
14 municipality. Such tax shall be collected by the municipality
15 imposing such tax. A non-home rule municipality may not impose
16 and collect the tax prior to January 1, 2002.

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

19 (Source: P.A. 91-649, eff. 1-1-00; 92-739, eff. 1-1-03.)