

1 AN ACT concerning county taxes.

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

4 Section 5. The Counties Code is amended by changing  
5 Section 5-1006.5 as follows:

6 (55 ILCS 5/5-1006.5)

7 Sec. 5-1006.5. Special County Retailers' Occupation Tax  
8 For Public Safety or Transportation.

9 (a) The county board of any county may impose a tax upon  
10 all persons engaged in the business of selling tangible  
11 personal property, other than personal property titled or  
12 registered with an agency of this State's government, at  
13 retail in the county on the gross receipts from the sales  
14 made in the course of business to provide revenue to be used  
15 exclusively for public safety or transportation purposes in  
16 that county, if a proposition for the tax has been submitted  
17 to the electors of that county and approved by a majority of  
18 those voting on the question. If imposed, this tax shall be  
19 imposed only in one-quarter percent increments. By  
20 resolution, the county board may order the proposition to be  
21 submitted at any election. If the tax is imposed for  
22 transportation purposes, the county board must publish notice  
23 of the existence of its long-range highway transportation  
24 plan as required or described in Section 5-301 of the  
25 Illinois Highway Code and must make the plan publicly  
26 available prior to approval of the ordinance or resolution  
27 imposing the tax. The county clerk shall certify the  
28 question to the proper election authority, who shall submit  
29 the proposition at an election in accordance with the general  
30 election law.

31 (1) The proposition for public safety purposes

1 shall be in substantially the following form:

2 "Shall (name of county) be authorized to impose a  
3 public safety tax at the rate of .... upon all persons  
4 engaged in the business of selling tangible personal  
5 property at retail in the county on gross receipts from  
6 the sales made in the course of their business ~~to be used~~  
7 ~~for crime prevention, detention, and other public safety~~  
8 ~~purposes?"~~

9 For the purposes of the paragraph, "public safety  
10 purposes" means crime prevention, detention, fire  
11 fighting, police, medical, ambulance, or other emergency  
12 services.

13 Votes shall be recorded as "Yes" or "No".

14 (2) The proposition for transportation purposes  
15 shall be in substantially the following form:

16 "Shall (name of county) be authorized to impose a  
17 tax at the rate of (insert rate) upon all persons engaged  
18 in the business of selling tangible personal property at  
19 retail in the county on gross receipts from the sales  
20 made in the course of their business to be used for  
21 transportation purposes?

22 For the purposes of this paragraph, transportation  
23 purposes means construction, maintenance, operation, and  
24 improvements of public highways.

25 The votes shall be recorded as "Yes" or "No".

26 If a majority of the electors voting on the proposition  
27 vote in favor of it, the county may impose the tax. A county  
28 may not submit more than one proposition authorized by this  
29 Section to the electors at any one time.

30 This additional tax may not be imposed on the sales of  
31 food for human consumption that is to be consumed off the  
32 premises where it is sold (other than alcoholic beverages,  
33 soft drinks, and food which has been prepared for immediate  
34 consumption) and prescription and non-prescription medicines,

1 drugs, medical appliances and insulin, urine testing  
2 materials, syringes, and needles used by diabetics. The tax  
3 imposed by a county under this Section and all civil  
4 penalties that may be assessed as an incident of the tax  
5 shall be collected and enforced by the Illinois Department of  
6 Revenue and deposited into a special fund created for that  
7 purpose. The certificate of registration that is issued by  
8 the Department to a retailer under the Retailers' Occupation  
9 Tax Act shall permit the retailer to engage in a business  
10 that is taxable without registering separately with the  
11 Department under an ordinance or resolution under this  
12 Section. The Department has full power to administer and  
13 enforce this Section, to collect all taxes and penalties due  
14 under this Section, to dispose of taxes and penalties so  
15 collected in the manner provided in this Section, and to  
16 determine all rights to credit memoranda arising on account  
17 of the erroneous payment of a tax or penalty under this  
18 Section. In the administration of and compliance with this  
19 Section, the Department and persons who are subject to this  
20 Section shall (i) have the same rights, remedies, privileges,  
21 immunities, powers, and duties, (ii) be subject to the same  
22 conditions, restrictions, limitations, penalties, and  
23 definitions of terms, and (iii) employ the same modes of  
24 procedure as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e,  
25 1f, 1i, 1j, 1k, 1m, 1n, 2, 2-5, 2-5.5, 2-10 (in respect to  
26 all provisions contained in those Sections other than the  
27 State rate of tax), 2-15 through 2-70, 2a, 2b, 2c, 3 (except  
28 provisions relating to transaction returns and quarter  
29 monthly payments), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i,  
30 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13  
31 of the Retailers' Occupation Tax Act and Section 3-7 of the  
32 Uniform Penalty and Interest Act as if those provisions were  
33 set forth in this Section.

34 Persons subject to any tax imposed under the authority

1 granted in this Section may reimburse themselves for their  
2 sellers' tax liability by separately stating the tax as an  
3 additional charge, which charge may be stated in combination,  
4 in a single amount, with State tax which sellers are required  
5 to collect under the Use Tax Act, pursuant to such bracketed  
6 schedules as the Department may prescribe.

7 Whenever the Department determines that a refund should  
8 be made under this Section to a claimant instead of issuing a  
9 credit memorandum, the Department shall notify the State  
10 Comptroller, who shall cause the order to be drawn for the  
11 amount specified and to the person named in the notification  
12 from the Department. The refund shall be paid by the State  
13 Treasurer out of the County Public Safety or Transportation  
14 Retailers' Occupation Tax Fund.

15 (b) If a tax has been imposed under subsection (a), a  
16 service occupation tax shall also be imposed at the same rate  
17 upon all persons engaged, in the county, in the business of  
18 making sales of service, who, as an incident to making those  
19 sales of service, transfer tangible personal property within  
20 the county as an incident to a sale of service. This tax may  
21 not be imposed on sales of food for human consumption that is  
22 to be consumed off the premises where it is sold (other than  
23 alcoholic beverages, soft drinks, and food prepared for  
24 immediate consumption) and prescription and non-prescription  
25 medicines, drugs, medical appliances and insulin, urine  
26 testing materials, syringes, and needles used by diabetics.  
27 The tax imposed under this subsection and all civil penalties  
28 that may be assessed as an incident thereof shall be  
29 collected and enforced by the Department of Revenue. The  
30 Department has full power to administer and enforce this  
31 subsection; to collect all taxes and penalties due hereunder;  
32 to dispose of taxes and penalties so collected in the manner  
33 hereinafter provided; and to determine all rights to credit  
34 memoranda arising on account of the erroneous payment of tax

1 or penalty hereunder. In the administration of, and  
2 compliance with this subsection, the Department and persons  
3 who are subject to this paragraph shall (i) have the same  
4 rights, remedies, privileges, immunities, powers, and duties,  
5 (ii) be subject to the same conditions, restrictions,  
6 limitations, penalties, exclusions, exemptions, and  
7 definitions of terms, and (iii) employ the same modes of  
8 procedure as are prescribed in Sections 2 (except that the  
9 reference to State in the definition of supplier maintaining  
10 a place of business in this State shall mean the county), 2a,  
11 2b, 2c, 3 through 3-50 (in respect to all provisions therein  
12 other than the State rate of tax), 4 (except that the  
13 reference to the State shall be to the county), 5, 7, 8  
14 (except that the jurisdiction to which the tax shall be a  
15 debt to the extent indicated in that Section 8 shall be the  
16 county), 9 (except as to the disposition of taxes and  
17 penalties collected), 10, 11, 12 (except the reference  
18 therein to Section 2b of the Retailers' Occupation Tax Act),  
19 13 (except that any reference to the State shall mean the  
20 county), Section 15, 16, 17, 18, 19 and 20 of the Service  
21 Occupation Tax Act and Section 3-7 of the Uniform Penalty and  
22 Interest Act, as fully as if those provisions were set forth  
23 herein.

24 Persons subject to any tax imposed under the authority  
25 granted in this subsection may reimburse themselves for their  
26 serviceman's tax liability by separately stating the tax as  
27 an additional charge, which charge may be stated in  
28 combination, in a single amount, with State tax that  
29 servicemen are authorized to collect under the Service Use  
30 Tax Act, in accordance with such bracket schedules as the  
31 Department may prescribe.

32 Whenever the Department determines that a refund should  
33 be made under this subsection to a claimant instead of  
34 issuing a credit memorandum, the Department shall notify the

1 State Comptroller, who shall cause the warrant to be drawn  
2 for the amount specified, and to the person named, in the  
3 notification from the Department. The refund shall be paid  
4 by the State Treasurer out of the County Public Safety or  
5 Transportation Retailers' Occupation Fund.

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

11 (c) The Department shall immediately pay over to the  
12 State Treasurer, ex officio, as trustee, all taxes and  
13 penalties collected under this Section to be deposited into  
14 the County Public Safety or Transportation Retailers'  
15 Occupation Tax Fund, which shall be an unappropriated trust  
16 fund held outside of the State treasury. On or before the  
17 25th day of each calendar month, the Department shall prepare  
18 and certify to the Comptroller the disbursement of stated  
19 sums of money to the counties from which retailers have paid  
20 taxes or penalties to the Department during the second  
21 preceding calendar month. The amount to be paid to each  
22 county, and deposited by the county into its special fund  
23 created for the purposes of this Section, shall be the amount  
24 (not including credit memoranda) collected under this Section  
25 during the second preceding calendar month by the Department  
26 plus an amount the Department determines is necessary to  
27 offset any amounts that were erroneously paid to a different  
28 taxing body, and not including (i) an amount equal to the  
29 amount of refunds made during the second preceding calendar  
30 month by the Department on behalf of the county and (ii) any  
31 amount that the Department determines is necessary to offset  
32 any amounts that were payable to a different taxing body but  
33 were erroneously paid to the county. Within 10 days after  
34 receipt by the Comptroller of the disbursement certification

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

5 In addition to the disbursement required by the preceding  
6 paragraph, an allocation shall be made in March of each year  
7 to each county that received more than \$500,000 in  
8 disbursements under the preceding paragraph in the preceding  
9 calendar year. The allocation shall be in an amount equal to  
10 the average monthly distribution made to each such county  
11 under the preceding paragraph during the preceding calendar  
12 year (excluding the 2 months of highest receipts). The  
13 distribution made in March of each year subsequent to the  
14 year in which an allocation was made pursuant to this  
15 paragraph and the preceding paragraph shall be reduced by the  
16 amount allocated and disbursed under this paragraph in the  
17 preceding calendar year. The Department shall prepare and  
18 certify to the Comptroller for disbursement the allocations  
19 made in accordance with this paragraph.

20 (d) For the purpose of determining the local  
21 governmental unit whose tax is applicable, a retail sale by a  
22 producer of coal or another mineral mined in Illinois is a  
23 sale at retail at the place where the coal or other mineral  
24 mined in Illinois is extracted from the earth. This  
25 paragraph does not apply to coal or another mineral when it  
26 is delivered or shipped by the seller to the purchaser at a  
27 point outside Illinois so that the sale is exempt under the  
28 United States Constitution as a sale in interstate or foreign  
29 commerce.

30 (e) Nothing in this Section shall be construed to  
31 authorize a county to impose a tax upon the privilege of  
32 engaging in any business that under the Constitution of the  
33 United States may not be made the subject of taxation by this  
34 State.

1 (e-5) If a county imposes a tax under this Section, the  
2 county board may, by ordinance, discontinue or lower the rate  
3 of the tax. If the county board lowers the tax rate or  
4 discontinues the tax, a referendum must be held in accordance  
5 with subsection (a) of this Section in order to increase the  
6 rate of the tax or to reimpose the discontinued tax.

7 (f) Beginning April 1, 1998, the results of any election  
8 authorizing a proposition to impose a tax under this Section  
9 or effecting a change in the rate of tax, or any ordinance  
10 lowering the rate or discontinuing the tax, shall be  
11 certified by the county clerk and filed with the Illinois  
12 Department of Revenue either (i) on or before the first day  
13 of April, whereupon the Department shall proceed to  
14 administer and enforce the tax as of the first day of July  
15 next following the filing; or (ii) on or before the first day  
16 of October, whereupon the Department shall proceed to  
17 administer and enforce the tax as of the first day of January  
18 next following the filing.

19 (g) When certifying the amount of a monthly disbursement  
20 to a county under this Section, the Department shall increase  
21 or decrease the amounts by an amount necessary to offset any  
22 miscalculation of previous disbursements. The offset amount  
23 shall be the amount erroneously disbursed within the previous  
24 6 months from the time a miscalculation is discovered.

25 (h) This Section may be cited as the "Special County  
26 Occupation Tax For Public Safety or Transportation Law".

27 (i) For purposes of this Section, "public safety"  
28 includes, but is not limited to, crime prevention, detention,  
29 fire fighting, police, medical, ambulance, or other emergency  
30 services. For the purposes of this Section, "transportation"  
31 includes, but is not limited to, the construction,  
32 maintenance, operation, and improvement of public highways  
33 and any other purpose for which a county may expend funds  
34 under the Illinois Highway Code.



1 (Source: P.A. 89-107, eff. 1-1-96; 89-718, eff. 3-7-97;  
2 90-190, eff. 7-24-97; 90-267, eff. 7-30-97; 90-552, eff.  
3 12-12-97; 90-562, eff. 12-16-97; 90-655, eff. 7-30-98;  
4 90-689, eff. 7-31-98.)

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