



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB3012

Introduced 1/20/2006, by Sen. Debbie DeFrancesco Halvorson

SYNOPSIS AS INTRODUCED:

35 ILCS 105/12	from Ch. 120, par. 439.12
35 ILCS 110/12	from Ch. 120, par. 439.42
35 ILCS 115/12	from Ch. 120, par. 439.112
35 ILCS 120/2-6 new	
35 ILCS 120/1p rep.	
55 ILCS 5/5-1006.5	
65 ILCS 5/11-74.4-3.1	

Amends the Retailers' Occupation Tax Act. Repeals and reinstates, with a different placement within the Act, a Section concerning an exemption for building materials for intermodal terminal facility areas. Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Counties Code to make corresponding changes. Amends the Tax Increment Allocation Redevelopment Act in the Illinois Municipal Code. Authorizes municipalities to establish a project redevelopment area in an intermodal terminal facility area for the purpose of improving existing terminal facilities and related infrastructure. Makes corresponding changes. Effective immediately.

LRB094 15231 BDD 52241 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning municipalities.

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

4 Section 5. The Use Tax Act is amended by changing Section
5 12 as follows:

6 (35 ILCS 105/12) (from Ch. 120, par. 439.12)

7 Sec. 12. Applicability of Retailers' Occupation Tax Act and
8 Uniform Penalty and Interest Act. All of the provisions of
9 Sections 1d, 1e, 1f, 1i, 1j, 1j.1, 1k, 1m, 1n, 1o, 2-6, 2a, 2b,
10 2c, 3, 4 (except that the time limitation provisions shall run
11 from the date when the tax is due rather than from the date
12 when gross receipts are received), 5 (except that the time
13 limitation provisions on the issuance of notices of tax
14 liability shall run from the date when the tax is due rather
15 than from the date when gross receipts are received and except
16 that in the case of a failure to file a return required by this
17 Act, no notice of tax liability shall be issued on and after
18 each July 1 and January 1 covering tax due with that return
19 during any month or period more than 6 years before that July 1
20 or January 1, respectively), 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h,
21 5j, 5k, 5l, 7, 8, 9, 10, 11 and 12 of the Retailers' Occupation
22 Tax Act and Section 3-7 of the Uniform Penalty and Interest
23 Act, which are not inconsistent with this Act, shall apply, as
24 far as practicable, to the subject matter of this Act to the
25 same extent as if such provisions were included herein.

26 (Source: P.A. 90-42, eff. 1-1-98; 90-792, eff. 1-1-99.)

27 Section 10. The Service Use Tax Act is amended by changing
28 Section 12 as follows:

29 (35 ILCS 110/12) (from Ch. 120, par. 439.42)

30 Sec. 12. Applicability of Retailers' Occupation Tax Act and

1 Uniform Penalty and Interest Act. All of the provisions of
2 Sections 1d, 1e, 1f, 1i, 1j, 1j.1, 1k, 1m, 1n, 1o, 2-6, 2a, 2b,
3 2c, 3 (except as to the disposition by the Department of the
4 money collected under this Act), 4 (except that the time
5 limitation provisions shall run from the date when gross
6 receipts are received), 5 (except that the time limitation
7 provisions on the issuance of notices of tax liability shall
8 run from the date when the tax is due rather than from the date
9 when gross receipts are received and except that in the case of
10 a failure to file a return required by this Act, no notice of
11 tax liability shall be issued on and after July 1 and January 1
12 covering tax due with that return during any month or period
13 more than 6 years before that July 1 or January 1,
14 respectively), 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5j, 5k, 5l, 7, 8, 9,
15 10, 11 and 12 of the Retailers' Occupation Tax Act which are
16 not inconsistent with this Act, and Section 3-7 of the Uniform
17 Penalty and Interest Act, shall apply, as far as practicable,
18 to the subject matter of this Act to the same extent as if such
19 provisions were included herein.

20 (Source: P.A. 90-42, eff. 1-1-98; 90-792, eff. 1-1-99.)

21 Section 15. The Service Occupation Tax Act is amended by
22 changing Section 12 as follows:

23 (35 ILCS 115/12) (from Ch. 120, par. 439.112)

24 Sec. 12. All of the provisions of Sections 1d, 1e, 1f, 1i,
25 1j, 1j.1, 1k, 1m, 1n, 1o, 2-6, 2a, 2b, 2c, 3 (except as to the
26 disposition by the Department of the tax collected under this
27 Act), 4 (except that the time limitation provisions shall run
28 from the date when the tax is due rather than from the date
29 when gross receipts are received), 5 (except that the time
30 limitation provisions on the issuance of notices of tax
31 liability shall run from the date when the tax is due rather
32 than from the date when gross receipts are received), 5a, 5b,
33 5c, 5d, 5e, 5f, 5g, 5j, 5k, 5l, 7, 8, 9, 10, 11 and 12 of the
34 "Retailers' Occupation Tax Act" which are not inconsistent with

1 this Act, and Section 3-7 of the Uniform Penalty and Interest
2 Act shall apply, as far as practicable, to the subject matter
3 of this Act to the same extent as if such provisions were
4 included herein.

5 (Source: P.A. 90-42, eff. 1-1-98; 90-792, eff. 1-1-99.)

6 Section 20. The Retailers' Occupation Tax Act is amended by
7 adding Section 2-6 as follows:

8 (35 ILCS 120/2-6 new)

9 Sec. 2-6. Building materials exemption; intermodal
10 terminal facility areas. Each retailer that makes a qualified
11 sale of building materials to be incorporated into real estate
12 in a redevelopment project area within an intermodal terminal
13 facility area in accordance with Section 11-74.4-3.1 of the
14 Illinois Municipal Code by remodeling, rehabilitating, or new
15 construction may deduct receipts from those sales when
16 calculating the tax imposed by this Act. For purposes of this
17 Section, "qualified sale" means a sale of building materials
18 that will be incorporated into real estate as part of an
19 industrial or commercial project for which a Certificate of
20 Eligibility for Sales Tax Exemption has been issued by the
21 corporate authorities of the municipality in which the building
22 project is located. To document the exemption allowed under
23 this Section, the retailer must obtain from the purchaser a
24 copy of the Certificate of Eligibility for Sales Tax Exemption
25 issued by the corporate authorities of the municipality in
26 which the real estate into which the building materials will be
27 incorporated is located. The Certificate of Eligibility for
28 Sales Tax Exemption must contain all of the following:

29 (1) A statement that the commercial or industrial
30 project identified in the Certificate meets all the
31 requirements of the jurisdiction in which the project is
32 located.

33 (2) The location or address of the building project.

34 (3) The signature of the chief executive officer of the

1 municipality in which the building project is located, or
2 the chief executive officer's delegate.

3 In addition, the retailer must obtain a certificate from
4 the purchaser that contains all of the following:

5 (1) A statement that the building materials are being
6 purchased for incorporation into real estate located in an
7 intermodal terminal facility area included in a
8 redevelopment project area in accordance with Section
9 11-74.4-3.1 of the Illinois Municipal Code.

10 (2) The location or address of the real estate into
11 which the building materials will be incorporated.

12 (3) The name of the intermodal terminal facility area
13 in which that real estate is located.

14 (4) A description of the building materials being
15 purchased.

16 (5) The purchaser's signature and date of purchase. The
17 provisions of this Section are exempt from Section 2-70.

18 (35 ILCS 120/1p rep.)

19 Section 25. The Retailers' Occupation Tax Act is amended by
20 repealing Section 1p.

21 Section 30. The Counties Code is amended by changing
22 Section 5-1006.5 as follows:

23 (55 ILCS 5/5-1006.5)

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

26 (a) The county board of any county may impose a tax upon
27 all persons engaged in the business of selling tangible
28 personal property, other than personal property titled or
29 registered with an agency of this State's government, at retail
30 in the county on the gross receipts from the sales made in the
31 course of business to provide revenue to be used exclusively
32 for public safety or transportation purposes in that county, if
33 a proposition for the tax has been submitted to the electors of

1 that county and approved by a majority of those voting on the
2 question. If imposed, this tax shall be imposed only in
3 one-quarter percent increments. By resolution, the county
4 board may order the proposition to be submitted at any
5 election. If the tax is imposed for transportation purposes for
6 expenditures for public highways or as authorized under the
7 Illinois Highway Code, the county board must publish notice of
8 the existence of its long-range highway transportation plan as
9 required or described in Section 5-301 of the Illinois Highway
10 Code and must make the plan publicly available prior to
11 approval of the ordinance or resolution imposing the tax. If
12 the tax is imposed for transportation purposes for expenditures
13 for passenger rail transportation, the county board must
14 publish notice of the existence of its long-range passenger
15 rail transportation plan and must make the plan publicly
16 available prior to approval of the ordinance or resolution
17 imposing the tax. The county clerk shall certify the question
18 to the proper election authority, who shall submit the
19 proposition at an election in accordance with the general
20 election law.

21 (1) The proposition for public safety purposes shall be
22 in substantially the following form:

23 "Shall (name of county) be authorized to impose a
24 public safety tax at the rate of upon all persons
25 engaged in the business of selling tangible personal
26 property at retail in the county on gross receipts from the
27 sales made in the course of their business?"

28 For the purposes of the paragraph, "public safety
29 purposes" means crime prevention, detention, fire
30 fighting, police, medical, ambulance, or other emergency
31 services.

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

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

35 "Shall (name of county) be authorized to impose a tax
36 at the rate of (insert rate) upon all persons engaged in

1 the business of selling tangible personal property at
2 retail in the county on gross receipts from the sales made
3 in the course of their business to be used for
4 transportation purposes?

5 For the purposes of this paragraph, transportation
6 purposes means construction, maintenance, operation, and
7 improvement of public highways, any other purpose for which
8 a county may expend funds under the Illinois Highway Code,
9 and passenger rail transportation.

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

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

15 This additional tax may not be imposed on the sales of food
16 for human consumption that is to be consumed off the premises
17 where it is sold (other than alcoholic beverages, soft drinks,
18 and food which has been prepared for immediate consumption) and
19 prescription and non-prescription medicines, drugs, medical
20 appliances and insulin, urine testing materials, syringes, and
21 needles used by diabetics. The tax imposed by a county under
22 this Section and all civil penalties that may be assessed as an
23 incident of the tax shall be collected and enforced by the
24 Illinois Department of Revenue and deposited into a special
25 fund created for that purpose. The certificate of registration
26 that is issued by the Department to a retailer under the
27 Retailers' Occupation Tax Act shall permit the retailer to
28 engage in a business that is taxable without registering
29 separately with the Department under an ordinance or resolution
30 under this Section. The Department has full power to administer
31 and enforce this Section, to collect all taxes and penalties
32 due under this Section, to dispose of taxes and penalties so
33 collected in the manner provided in this Section, and to
34 determine all rights to credit memoranda arising on account of
35 the erroneous payment of a tax or penalty under this Section.
36 In the administration of and compliance with this Section, the

1 Department and persons who are subject to this Section shall
2 (i) have the same rights, remedies, privileges, immunities,
3 powers, and duties, (ii) be subject to the same conditions,
4 restrictions, limitations, penalties, and definitions of
5 terms, and (iii) employ the same modes of procedure as are
6 prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 1k, 1m,
7 1n, 2 through 2-70, ~~2-5, 2-5.5, 2-10~~ (in respect to all
8 provisions contained in those Sections other than the State
9 rate of tax), ~~2-15 through 2-70~~, 2a, 2b, 2c, 3 (except
10 provisions relating to transaction returns and quarter monthly
11 payments), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l,
12 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13 of the
13 Retailers' Occupation Tax Act and Section 3-7 of the Uniform
14 Penalty and Interest Act as if those provisions were set forth
15 in this Section.

16 Persons subject to any tax imposed under the authority
17 granted in this Section may reimburse themselves for their
18 sellers' tax liability by separately stating the tax as an
19 additional charge, which charge may be stated in combination,
20 in a single amount, with State tax which sellers are required
21 to collect under the Use Tax Act, pursuant to such bracketed
22 schedules as the Department may prescribe.

23 Whenever the Department determines that a refund should be
24 made under this Section to a claimant instead of issuing a
25 credit memorandum, the Department shall notify the State
26 Comptroller, who shall cause the order to be drawn for the
27 amount specified and to the person named in the notification
28 from the Department. The refund shall be paid by the State
29 Treasurer out of the County Public Safety or Transportation
30 Retailers' Occupation Tax Fund.

31 (b) If a tax has been imposed under subsection (a), a
32 service occupation tax shall also be imposed at the same rate
33 upon all persons engaged, in the county, in the business of
34 making sales of service, who, as an incident to making those
35 sales of service, transfer tangible personal property within
36 the county as an incident to a sale of service. This tax may

1 not be imposed on sales of food for human consumption that is
2 to be consumed off the premises where it is sold (other than
3 alcoholic beverages, soft drinks, and food prepared for
4 immediate consumption) and prescription and non-prescription
5 medicines, drugs, medical appliances and insulin, urine
6 testing materials, syringes, and needles used by diabetics. The
7 tax imposed under this subsection and all civil penalties that
8 may be assessed as an incident thereof shall be collected and
9 enforced by the Department of Revenue. The Department has full
10 power to administer and enforce this subsection; to collect all
11 taxes and penalties due hereunder; to dispose of taxes and
12 penalties so collected in the manner hereinafter provided; and
13 to determine all rights to credit memoranda arising on account
14 of the erroneous payment of tax or penalty hereunder. In the
15 administration of, and compliance with this subsection, the
16 Department and persons who are subject to this paragraph shall
17 (i) have the same rights, remedies, privileges, immunities,
18 powers, and duties, (ii) be subject to the same conditions,
19 restrictions, limitations, penalties, exclusions, exemptions,
20 and definitions of terms, and (iii) employ the same modes of
21 procedure as are prescribed in Sections 2 (except that the
22 reference to State in the definition of supplier maintaining a
23 place of business in this State shall mean the county), 2a, 2b,
24 2c, 3 through 3-50 (in respect to all provisions therein other
25 than the State rate of tax), 4 (except that the reference to
26 the State shall be to the county), 5, 7, 8 (except that the
27 jurisdiction to which the tax shall be a debt to the extent
28 indicated in that Section 8 shall be the county), 9 (except as
29 to the disposition of taxes and penalties collected), 10, 11,
30 12 (except the reference therein to Section 2b of the
31 Retailers' Occupation Tax Act), 13 (except that any reference
32 to the State shall mean the county), Section 15, 16, 17, 18, 19
33 and 20 of the Service Occupation Tax Act and Section 3-7 of the
34 Uniform Penalty and Interest Act, as fully as if those
35 provisions were set forth herein.

36 Persons subject to any tax imposed under the authority

1 granted in this subsection may reimburse themselves for their
2 serviceman's 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 that servicemen are
5 authorized to collect under the Service Use Tax Act, in
6 accordance with such bracket schedules as the Department may
7 prescribe.

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

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

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

1 the amount of refunds made during the second preceding calendar
2 month by the Department on behalf of the county and (ii) any
3 amount that the Department determines is necessary to offset
4 any amounts that were payable to a different taxing body but
5 were erroneously paid to the county. Within 10 days after
6 receipt by the Comptroller of the disbursement certification to
7 the counties provided for in this Section to be given to the
8 Comptroller by the Department, the Comptroller shall cause the
9 orders to be drawn for the respective amounts in accordance
10 with directions contained in the certification.

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

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

35 (e) Nothing in this Section shall be construed to authorize
36 a county to impose a tax upon the privilege of engaging in any

1 business that under the Constitution of the United States may
2 not be made the subject of taxation by this State.

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

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

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

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

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

1 (Source: P.A. 93-556, eff. 8-20-03.)

2 Section 35. The Illinois Municipal Code is amended by
3 changing Section 11-74.4-3.1 as follows:

4 (65 ILCS 5/11-74.4-3.1)

5 Sec. 11-74.4-3.1. Redevelopment project area within an
6 intermodal terminal facility area.

7 (a) Notwithstanding any other provision of law to the
8 contrary, if a municipality designates an area within the
9 territorial limits of the municipality as an intermodal
10 terminal facility area, then that municipality may establish a
11 redevelopment project area within the intermodal terminal
12 facility area for the purpose of developing new intermodal
13 terminal facilities, improving existing intermodal terminal
14 facilities and related infrastructure, or rehabilitating
15 obsolete intermodal terminal facilities, ~~or both.~~

16 If there is no existing intermodal terminal facility within
17 the redevelopment project area, then the municipality must
18 establish a new intermodal terminal facility within the
19 redevelopment project area.

20 If there is an existing intermodal terminal facility within
21 the redevelopment project area, then the municipality may
22 improve that facility and its related infrastructure to enhance
23 its use as an intermodal terminal facility or to include other
24 commercial purposes within the existing facility.

25 If there is an obsolete intermodal terminal facility within
26 the redevelopment project area, then the municipality may
27 establish a new intermodal terminal facility, rehabilitate the
28 existing intermodal terminal facility and related
29 infrastructure for use as an intermodal terminal facility or
30 for any other commercial purpose, or both.

31 (b) For purposes of this Division, an intermodal terminal
32 facility area is deemed to be a blighted area and no proof of
33 blight need be shown in establishing a redevelopment project
34 area in accordance with this Section.

1 (c) As used in this Section:

2 "Intermodal terminal facility area" means an area that: (i)
3 ~~does not include any existing intermodal terminal facility or~~
4 ~~includes an obsolete intermodal terminal facility;~~ (ii)
5 comprises a minimum of 150 acres and not more than 2 square
6 miles in total area, exclusive of lakes and waterways; (ii)
7 ~~(iii)~~ has at least one Class 1 railroad right-of-way located
8 within it or within one quarter mile of it; and (iii) ~~(iv)~~ has
9 no boundary limit further than 3 miles from the right-of-way.

10 "Intermodal terminal facility" means land, improvements to
11 land, equipment, and appliances necessary for the receipt and
12 transfer of goods between one mode of transportation and
13 another, at least one of which must be transportation by rail.

14 (Source: P.A. 94-546, eff. 1-1-06.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.