



Sen. Michael E. Hastings

Filed: 5/4/2015

09900HB3121sam001

LRB099 09692 HLH 35041 a

1 AMENDMENT TO HOUSE BILL 3121

2 AMENDMENT NO. _____. Amend House Bill 3121 by replacing
3 everything after the enacting clause with the following:

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 with a fine not to exceed \$7,500.

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

1 reasonable statistics concerning the operation of the tax by
2 grouping the contents of returns so the information in any
3 individual return is not disclosed.

4 Nothing in this Act prevents the Director of Revenue from
5 divulging to the United States Government or the government of
6 any other state, or any officer or agency thereof, for
7 exclusively official purposes, information received by the
8 Department in administering this Act, provided that such other
9 governmental agency agrees to divulge requested tax
10 information to the Department.

11 The Department's furnishing of information derived from a
12 taxpayer's return or from an investigation conducted under this
13 Act to the surety on a taxpayer's bond that has been furnished
14 to the Department under this Act, either to provide notice to
15 such surety of its potential liability under the bond or, in
16 order to support the Department's demand for payment from such
17 surety under the bond, is an official purpose within the
18 meaning of this Section.

19 The furnishing upon request of information obtained by the
20 Department from returns filed under this Act or investigations
21 conducted under this Act to the Illinois Liquor Control
22 Commission for official use is deemed to be an official purpose
23 within the meaning of this Section.

24 Notice to a surety of potential liability shall not be
25 given unless the taxpayer has first been notified, not less
26 than 10 days prior thereto, of the Department's intent to so

1 notify the surety.

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

6 Where an appeal or a protest has been filed on behalf of a
7 taxpayer, the furnishing upon request of the attorney for the
8 taxpayer of returns filed by the taxpayer and information
9 related thereto under this Act is deemed to be an official
10 purpose within the meaning of this Section.

11 The furnishing of financial information to a municipality
12 or county, upon request of the Chief Executive thereof, is an
13 official purpose within the meaning of this Section, provided
14 the municipality or county agrees in writing to the
15 requirements of this Section. Information provided to
16 municipalities or counties under this paragraph shall be
17 limited to: (1) the business name; (2) the business address;
18 (3) net revenue distributed to the requesting municipality that
19 is directly related to the requesting municipality's or
20 county's local share of the proceeds under the Use Tax Act, the
21 Service Use Tax Act, the Service Occupation Tax Act, and the
22 Retailers' Occupation Tax Act, and, if applicable, any locally
23 imposed retailers' occupation tax or service occupation tax;
24 and (4) a listing of all businesses within the requesting
25 municipality or county by account identification number and
26 address. On and after July 1, 2015, the furnishing of financial

1 information to municipalities or counties under this paragraph
2 may be by electronic means.

3 Information so provided shall be subject to all
4 confidentiality provisions of this Section. The written
5 agreement shall provide for reciprocity, limitations on
6 access, disclosure, and procedures for requesting information.

7 The Department may make available to the Board of Trustees
8 of any Metro East Mass Transit District information contained
9 on transaction reporting returns required to be filed under
10 Section 3 of this Act that report sales made within the
11 boundary of the taxing authority of that Metro East Mass
12 Transit District, as provided in Section 5.01 of the Local Mass
13 Transit District Act. The disclosure shall be made pursuant to
14 a written agreement between the Department and the Board of
15 Trustees of a Metro East Mass Transit District, which is an
16 official purpose within the meaning of this Section. The
17 written agreement between the Department and the Board of
18 Trustees of a Metro East Mass Transit District shall provide
19 for reciprocity, limitations on access, disclosure, and
20 procedures for requesting information. Information so provided
21 shall be subject to all confidentiality provisions of this
22 Section.

23 The Director may make available to any State agency,
24 including the Illinois Supreme Court, which licenses persons to
25 engage in any occupation, information that a person licensed by
26 such agency has failed to file returns under this Act or pay

1 the tax, penalty and interest shown therein, or has failed to
2 pay any final assessment of tax, penalty or interest due under
3 this Act. The Director may make available to any State agency,
4 including the Illinois Supreme Court, information regarding
5 whether a bidder, contractor, or an affiliate of a bidder or
6 contractor has failed to collect and remit Illinois Use tax on
7 sales into Illinois, or any tax under this Act or pay the tax,
8 penalty, and interest shown therein, or has failed to pay any
9 final assessment of tax, penalty, or interest due under this
10 Act, for the limited purpose of enforcing bidder and contractor
11 certifications. The Director may make available to units of
12 local government and school districts that require bidder and
13 contractor certifications, as set forth in Sections 50-11 and
14 50-12 of the Illinois Procurement Code, information regarding
15 whether a bidder, contractor, or an affiliate of a bidder or
16 contractor has failed to collect and remit Illinois Use tax on
17 sales into Illinois, file returns under this Act, or pay the
18 tax, penalty, and interest shown therein, or has failed to pay
19 any final assessment of tax, penalty, or interest due under
20 this Act, for the limited purpose of enforcing bidder and
21 contractor certifications. For purposes of this Section, the
22 term "affiliate" means any entity that (1) directly,
23 indirectly, or constructively controls another entity, (2) is
24 directly, indirectly, or constructively controlled by another
25 entity, or (3) is subject to the control of a common entity.
26 For purposes of this Section, an entity controls another entity

1 if it owns, directly or individually, more than 10% of the
2 voting securities of that entity. As used in this Section, the
3 term "voting security" means a security that (1) confers upon
4 the holder the right to vote for the election of members of the
5 board of directors or similar governing body of the business or
6 (2) is convertible into, or entitles the holder to receive upon
7 its exercise, a security that confers such a right to vote. A
8 general partnership interest is a voting security.

9 The Director may make available to any State agency,
10 including the Illinois Supreme Court, units of local
11 government, and school districts, information regarding
12 whether a bidder or contractor is an affiliate of a person who
13 is not collecting and remitting Illinois Use taxes for the
14 limited purpose of enforcing bidder and contractor
15 certifications.

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

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

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

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

13 The Director shall determine the appropriate extent of the
14 deletions allowed in paragraph (2). In the event the taxpayer
15 does not submit deletions, the Director shall make only the
16 deletions specified in paragraph (1).

17 The Director shall make available for public inspection and
18 publication an administrative decision within 180 days after
19 the issuance of the administrative decision. The term
20 "administrative decision" has the same meaning as defined in
21 Section 3-101 of Article III of the Code of Civil Procedure.
22 Costs collected under this Section shall be paid into the Tax
23 Compliance and Administration Fund.

24 Nothing contained in this Act shall prevent the Director
25 from divulging information to any person pursuant to a request
26 or authorization made by the taxpayer or by an authorized

1 representative of the taxpayer.

2 (Source: P.A. 98-1058, eff. 1-1-15.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.".