



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5598

by Rep. Barbara Flynn Currie

SYNOPSIS AS INTRODUCED:

See Index

Amends the Department of Revenue Law of the Civil Administrative Code of Illinois. Provides that moneys in the Tax Compliance and Administration Fund shall consist of deposits provided for in tax laws, reimbursements, or other payments received from units of local government for administering a local tax or fee on behalf of the unit of local government in accordance with the Local Tax Collection Act, or other payments designated for deposit into the Fund. Amends the Retailers' Occupation Tax Act. In provisions concerning the disclosure of information, provides that the Department of Revenue may furnish certain information to counties as well as municipalities. Provides that, in addition to other information that the Department of Revenue is authorized to disclose, the Department may also disclose the standard classification number assigned to a business. Makes changes concerning cancellation of agreements. Provides that the Department of Revenue may enter into tax collection agreements with any unit of local government (currently, only counties and municipalities). Contains provisions concerning ordinances or resolutions imposing or discontinuing a tax collected by the Department pursuant to an intergovernmental agreement. Effective immediately.

LRB099 16642 HLH 40980 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Department of Revenue Law of the Civil
5 Administrative Code of Illinois is amended by changing Section
6 2505-190 as follows:

7 (20 ILCS 2505/2505-190) (was 20 ILCS 2505/39c-4)

8 Sec. 2505-190. Tax Compliance and Administration Fund.

9 (a) Amounts deposited into the Tax Compliance and
10 Administration Fund, a special fund in the State treasury that
11 is hereby created, must be appropriated to the Department to
12 reimburse the Department for its costs of collecting,
13 administering, and enforcing the tax laws that provide for
14 deposits into the Fund. Moneys in the Fund shall consist of
15 deposits provided for in tax laws, reimbursements, or other
16 payments received from units of local government for
17 administering a local tax or fee on behalf of the unit of local
18 government in accordance with the Local Tax Collection Act, or
19 other payments designated for deposit into the Fund.

20 (b) As soon as possible after July 1, 2015, and as soon as
21 possible after each July 1 thereafter, the Director of the
22 Department of Revenue shall certify the balance in the Tax
23 Compliance and Administration Fund as of July 1, less any

1 amounts obligated, and the State Comptroller shall order
2 transferred and the State Treasurer shall transfer from the Tax
3 Compliance and Administration Fund to the General Revenue Fund
4 the amount certified that exceeds \$2,500,000.

5 (Source: P.A. 98-1098, eff. 8-26-14.)

6 Section 10. The Retailers' Occupation Tax Act is amended by
7 changing Section 11 as follows:

8 (35 ILCS 120/11) (from Ch. 120, par. 450)

9 Sec. 11. All information received by the Department from
10 returns filed under this Act, or from any investigation
11 conducted under this Act, shall be confidential, except for
12 official purposes, and any person who divulges any such
13 information in any manner, except in accordance with a proper
14 judicial order or as otherwise provided by law, shall be guilty
15 of a Class B misdemeanor with a fine not to exceed \$7,500.

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

22 Nothing in this Act prevents the Director of Revenue from
23 divulging to the United States Government or the government of
24 any other state, or any officer or agency thereof, for

1 exclusively official purposes, information received by the
2 Department in administering this Act, provided that such other
3 governmental agency agrees to divulge requested tax
4 information to the Department.

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

13 The furnishing upon request of information obtained by the
14 Department from returns filed under this Act or investigations
15 conducted under this Act to the Illinois Liquor Control
16 Commission for official use is deemed to be an official purpose
17 within the meaning of this Section.

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

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

26 Where an appeal or a protest has been filed on behalf of a

1 taxpayer, the furnishing upon request of the attorney for the
2 taxpayer of returns filed by the taxpayer and information
3 related thereto under this Act is deemed to be an official
4 purpose within the meaning of this Section.

5 The furnishing of financial information to a municipality
6 or county, upon request of the chief executive officer ~~Chief~~
7 ~~Executive~~ thereof, is an official purpose within the meaning of
8 this Section, provided the municipality or county agrees in
9 writing to the requirements of this Section. Information
10 provided to municipalities and counties under this paragraph
11 shall be limited to: (1) the business name; (2) the business
12 address; (3) the standard classification number assigned to the
13 business; (4) net revenue distributed to the requesting
14 municipality or county that is directly related to the
15 requesting municipality's or county's local share of the
16 proceeds under the Use Tax Act, the Service Use Tax Act, the
17 Service Occupation Tax Act, and the Retailers' Occupation Tax
18 Act distributed from the Local Government Tax Fund, and, if
19 applicable, any locally imposed retailers' occupation tax or
20 service occupation tax; and (5) ~~(4)~~ a listing of all businesses
21 within the requesting municipality or county by account
22 identification number and address. On and after July 1, 2015,
23 the furnishing of financial information to municipalities and
24 counties under this paragraph may be by electronic means.

25 Information so provided shall be subject to all
26 confidentiality provisions of this Section. The written

1 agreement shall provide for reciprocity, limitations on
2 access, disclosure, and procedures for requesting information.

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

19 The Director may make available to any State agency,
20 including the Illinois Supreme Court, which licenses persons to
21 engage in any occupation, information that a person licensed by
22 such agency has failed to file returns under this Act or pay
23 the tax, penalty and interest shown therein, or has failed to
24 pay any final assessment of tax, penalty or interest due under
25 this Act. The Director may make available to any State agency,
26 including the Illinois Supreme Court, information regarding

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

1 board of directors or similar governing body of the business or
2 (2) is convertible into, or entitles the holder to receive upon
3 its exercise, a security that confers such a right to vote. A
4 general partnership interest is a voting security.

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

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

23 The Director shall make available for public inspection in
24 the Department's principal office and for publication, at cost,
25 administrative decisions issued on or after January 1, 1995.
26 These decisions are to be made available in a manner so that

1 the following taxpayer information is not disclosed:

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

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

9 The Director shall determine the appropriate extent of the
10 deletions allowed in paragraph (2). In the event the taxpayer
11 does not submit deletions, the Director shall make only the
12 deletions specified in paragraph (1).

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

20 Nothing contained in this Act shall prevent the Director
21 from divulging information to any person pursuant to a request
22 or authorization made by the taxpayer or by an authorized
23 representative of the taxpayer.

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

25 Section 15. The Local Tax Collection Act is amended by

1 changing Section 1 as follows:

2 (35 ILCS 720/1) (from Ch. 120, par. 1901)

3 Sec. 1. (a) The Department of Revenue and any unit of local
4 government ~~county or municipality~~ may agree to the Department's
5 collecting, and transmitting back to the unit of local
6 government ~~such county or municipality~~, any tax lawfully
7 imposed by that unit of local government ~~county or~~
8 ~~municipality~~, the subject of which is similar to that of a tax
9 imposed by the State and collected by the Department of
10 Revenue, unless the General Assembly has specifically required
11 a different method of collection for such tax. However, the
12 Department may not enter into a contract with any unit of local
13 government ~~municipality or county~~ pursuant to this Act for the
14 collection of any tax based on the sale or use of tangible
15 personal property generally, not including taxes based only on
16 the sale or use of specifically limited kinds of tangible
17 personal property, unless the ~~municipal or county~~ ordinance
18 adopted by the unit of local government imposes a sales or use
19 tax which is substantively identical to and which contains the
20 same exemptions as the taxes imposed by the unit of local
21 government's ~~municipalities' or counties'~~ ordinances
22 authorized by the Home Rule or Non-Home Rule Municipal or
23 County Retailers' Occupation Tax Act, the Home Rule or Non-Home
24 Rule ~~or the~~ Municipal or County Use Tax, or any other
25 Retailers' Occupation Tax Act or Law that is administered by

1 the Department of Revenue, as interpreted by the Department
2 through its regulations as those Acts and as those regulations
3 may from time to time be amended.

4 (b) Regarding the collection of a tax pursuant to this
5 Section, the Department and any person subject to a tax
6 collected by the Department pursuant to this Section shall, as
7 much as practicable, have the same rights, remedies,
8 privileges, immunities, powers and duties, and be subject to
9 the same conditions, restrictions, limitations, penalties,
10 definitions of terms and procedures, as those set forth in the
11 Act imposing the State tax, the subject of which is similar to
12 the tax being collected by the Department pursuant to this
13 Section. The Department and unit of local government ~~county or~~
14 ~~municipality~~ shall specifically agree in writing to such
15 rights, remedies, privileges, immunities, powers, duties,
16 conditions, restrictions, limitations, penalties, definitions
17 of terms and procedures, as well as any other terms deemed
18 necessary or advisable. All terms so agreed upon shall be
19 incorporated into an ordinance of such unit of local government
20 ~~county or municipality~~, and the Department shall not collect
21 the tax pursuant to this Section until such ordinance takes
22 effect.

23 (c) (1) The Department shall forthwith pay over to the
24 State Treasurer, ex officio, as trustee, all taxes and
25 penalties collected hereunder. On or before the 25th day of
26 each calendar month, the Department shall prepare and certify

1 to the Comptroller the disbursement of stated sums of money to
2 named units of local government ~~cities and counties~~ from which
3 retailers or other taxpayers have paid taxes or penalties
4 hereunder to the Department during the second preceding
5 calendar month.

6 (i) The ~~an~~ amount to be paid to each unit of local
7 government ~~county and municipality, which~~ shall equal the taxes
8 and penalties collected by the Department for the unit of local
9 government ~~such county or municipality~~ pursuant to this Section
10 during the second preceding calendar month (not including
11 credit memoranda), plus an amount the Department determines is
12 necessary to offset any amounts which were erroneously paid to
13 a different taxing body, and not including (i) an amount equal
14 to the amount of refunds made during the second preceding
15 calendar month by the Department of behalf of such county or
16 municipality and (ii) any amount which the Department
17 determines is necessary to offset any amounts which are payable
18 to a different taxing body but were erroneously paid to the
19 municipality or county, less 2% of the balance, or any greater
20 amount of the balance as provided in the agreement between the
21 Department and the unit of local government required under this
22 Section, which sum shall be retained by the State Treasurer.
23 ~~total amount of taxes and penalties collected by the Department~~
24 ~~for such county or municipality pursuant to this Section or the~~
25 ~~actual cost of collection of such taxes and penalties~~
26 ~~determined pursuant to the agreement described in subsection~~

1 ~~(b), whichever is less, which shall be retained by the State;~~
2 ~~and~~

3 (ii) With respect to the total amount to be retained by the
4 State Treasurer pursuant to subparagraph (i), the Department,
5 at the time of each monthly disbursement to the units of local
6 government, shall prepare and certify to the Comptroller the
7 amount so retained by the State Treasurer, which shall be
8 transferred ~~such amount to be deposited~~ into the Tax Compliance
9 and Administration General Revenue Fund ~~of the State treasury~~
10 and used by the Department, subject to appropriation, to cover
11 the costs incurred by the Department in collecting ~~such~~ taxes
12 and penalties.

13 (2) Within 10 ~~7~~ days after receiving the certifications
14 described in paragraph (1), the Comptroller shall issue orders
15 for payment of the amounts specified in subparagraph (i) of
16 paragraph (1).

17 (d) Any ~~home rule~~ unit of local government which imposes a
18 tax collected by the Department pursuant to this Section
19 ~~substantially similar to a State imposed tax, or which imposes~~
20 ~~a tax which is intended to be collected from a retail purchaser~~
21 ~~of goods or services at the same time a similar State tax is~~
22 ~~also collected,~~ must file a certified copy of the ordinance
23 imposing the tax with the Department within 10 days after its
24 passage. Beginning on the effective date of this amendatory Act
25 of the 99th General Assembly, an ordinance or resolution
26 imposing or discontinuing a tax collected by the Department

1 under this Section or effecting a change in the rate thereof
2 shall either (i) be adopted and a certified copy thereof filed
3 with the Department on or before the first day of April,
4 whereupon the Department shall proceed to administer and
5 enforce the tax imposition, discontinuance, or rate change as
6 of the first day of July next following the adoption and
7 filing; or (ii) be adopted and certified copy thereof filed
8 with the Department on or before the first day of October,
9 whereupon the Department shall proceed to administer and
10 enforce the tax imposition, discontinuance, or rate change as
11 of the first day of January next following the adoption and
12 filing. No such ordinance shall become effective until it is so
13 filed. Any home rule unit of local government which has enacted
14 such an ordinance prior to the effective date of this Act shall
15 file a copy of such ordinance with the Department within 90
16 days after the effective date of this Act.

17 (e) It is declared to be the law of this State, pursuant to
18 paragraph (g) of Section 6 of Article VII of the Illinois
19 Constitution, that this amendatory Act of 1988 is a denial of
20 the power of a home rule unit to fail to comply with the
21 requirements of paragraphs (d) and (e) of this Section.

22 (Source: P.A. 85-1215.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 20 ILCS 2505/2505-190 was 20 ILCS 2505/39c-4

4 35 ILCS 120/11 from Ch. 120, par. 450

5 35 ILCS 720/1 from Ch. 120, par. 1901