



Sen. Toi W. Hutchinson

Filed: 3/31/2015

09900SB0602sam001

LRB099 03448 HLH 33561 a

1 AMENDMENT TO SENATE BILL 602

2 AMENDMENT NO. _____. Amend Senate Bill 602 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 home rule unit, upon request of the Chief Executive thereof,
13 is an official purpose within the meaning of this Section,
14 provided the municipality or home rule unit agrees in writing
15 to the requirements of this Section. Information provided to
16 municipalities and home rule units under this paragraph shall
17 be limited to: (1) the business name; (2) the business address;
18 (3) net revenue distributed to the requesting municipality or
19 home rule unit that is directly related to the requesting
20 municipality's local share of the proceeds under the Use Tax
21 Act, the Service Use Tax Act, the Service Occupation Tax Act,
22 and the Retailers' Occupation Tax Act, and, if applicable, any
23 locally imposed retailers' occupation tax or service
24 occupation tax; and (4) a listing of all businesses within the
25 requesting municipality by account identification number and
26 address. On and after July 1, 2015, the furnishing of financial

1 information to municipalities and home rule units under this
2 paragraph 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 10. The Local Tax Collection Act is amended by
4 changing Section 1 as follows:

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

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

1 regulations may from time to time be amended.

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

20 (c) (1) The Department shall forthwith pay over to the
21 State Treasurer, ex officio, as trustee, all taxes and
22 penalties collected hereunder. On or before the 25th day of
23 each calendar month, the Department shall prepare and certify
24 to the Comptroller the disbursement of stated sums of money to
25 named cities and counties from which retailers or other
26 taxpayers have paid taxes or penalties hereunder to the

1 Department during the second preceding calendar month.

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

24 (ii) With respect to the ~~total~~ amount to be retained by the
25 State Treasurer pursuant to subparagraph (i), the Department,
26 at the time of each monthly disbursement to the counties and

1 municipalities, shall prepare and certify to the Comptroller
2 the amount so retained by the State Treasurer, which shall be
3 transferred ~~such amount to be deposited~~ into the Tax Compliance
4 and Administration ~~General Revenue Fund of the State treasury~~
5 and used by the Department, subject to appropriation, to cover
6 the costs incurred by the Department in collecting such taxes
7 and penalties.

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

12 (d) Any ~~home rule~~ unit of local government which imposes a
13 tax collected by the Department pursuant to this Section
14 ~~substantially similar to a State imposed tax, or which imposes~~
15 ~~a tax which is intended to be collected from a retail purchaser~~
16 ~~of goods or services at the same time a similar State tax is~~
17 ~~also collected,~~ must file a certified copy of the ordinance
18 imposing the tax with the Department within 10 days after its
19 passage. Beginning on the effective date of this amendatory Act
20 of the 99th General Assembly, an ordinance or resolution
21 imposing or discontinuing a tax collected by the Department
22 under this Section or effecting a change in the rate thereof
23 shall either (i) be adopted and a certified copy thereof filed
24 with the Department on or before the first day of April,
25 whereupon the Department shall proceed to administer and
26 enforce the tax imposition, discontinuance, or rate change as

1 of the first day of July next following the adoption and
2 filing; or (ii) be adopted and certified copy thereof filed
3 with the Department on or before the first day of October,
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 January next following the adoption and
7 filing. ~~No such ordinance shall become effective until it is so~~
8 ~~filed. Any home rule unit of local government which has enacted~~
9 ~~such an ordinance prior to the effective date of this Act shall~~
10 ~~file a copy of such ordinance with the Department within 90~~
11 ~~days after the effective date of this Act.~~

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

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

18 Section 99. Effective date. This Act takes effect upon
19 becoming law."