



Sen. Pamela J. Althoff

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LRB099 16693 HLH 46119 a

1 AMENDMENT TO SENATE BILL 3322

2 AMENDMENT NO. _____. Amend Senate Bill 3322 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 officer ~~Chief~~
13 ~~Executive~~ thereof, is an official purpose within the meaning of
14 this Section, provided the municipality or county agrees in
15 writing to the requirements of this Section. Information
16 provided to municipalities and counties under this paragraph
17 shall be limited to: (1) the business name; (2) the business
18 address; (3) the standard classification number assigned to the
19 business; (4) net revenue distributed to the requesting
20 municipality or county that is directly related to the
21 requesting municipality's or county's local share of the
22 proceeds under the Use Tax Act, the Service Use Tax Act, the
23 Service Occupation Tax Act, and the Retailers' Occupation Tax
24 Act distributed from the Local Government Tax Fund, and, if
25 applicable, any locally imposed retailers' occupation tax or
26 service occupation tax; and (5) ~~(4)~~ a listing of all businesses

1 within the requesting municipality or county by account
2 identification number and address. On and after July 1, 2015,
3 the furnishing of financial information to municipalities and
4 counties under this paragraph may be by electronic means.

5 Information so provided shall be subject to all
6 confidentiality provisions of this Section. The written
7 agreement shall provide for reciprocity, limitations on
8 access, disclosure, and procedures for requesting information.
9 Only the chief executive officer of the municipality or county
10 may initiate the written agreement with the Department.
11 Information provided to the municipality or county under this
12 Section may be shared with or viewed only by persons who are
13 directly involved in the financial operations of the
14 municipality or county, including attorneys or accountants
15 retained by the municipality or county. The information
16 provided shall not, however, be shared with or viewed by any
17 person who is compensated by the municipality or county for
18 services rendered on a contingent basis or any other similar
19 method that may impair that person's independence or the
20 perception of that person's independence. The chief executive
21 officer shall provide the Department with a list of names and
22 official titles of persons designated by him or her as persons
23 exclusively authorized to request, view, or receive, on his or
24 her behalf, the financial information so provided. The
25 information provided by the Department shall not be viewed by
26 or shared with anyone who is not on the list. No person shall

1 be eligible to receive or view the information provided under
2 this Section unless that person enters into a written agreement
3 to be bound by the confidentiality provisions of this Section
4 and a copy of such written agreement is provided by the
5 municipality or county to the Department. In addition, a
6 municipality or county must also provide the Department with a
7 copy of any compensation agreement it has with persons who are
8 not employees of the municipality or county as a condition of
9 the municipality or county sharing with that person information
10 provided by the Department under this Section. The written
11 agreement may be canceled by either the Department or the chief
12 executive officer at any time and shall be canceled in the
13 event of any unauthorized use or disclosure of the information
14 obtained pursuant to the written agreement or failure to abide
15 by the procedures set forth in the agreement by the Department
16 for safeguarding the confidentiality of such information.

17 The Department may make available to the Board of Trustees
18 of any Metro East Mass Transit District information contained
19 on transaction reporting returns required to be filed under
20 Section 3 of this Act that report sales made within the
21 boundary of the taxing authority of that Metro East Mass
22 Transit District, as provided in Section 5.01 of the Local Mass
23 Transit District Act. The disclosure shall be made pursuant to
24 a written agreement between the Department and the Board of
25 Trustees of a Metro East Mass Transit District, which is an
26 official purpose within the meaning of this Section. The

1 written agreement between the Department and the Board of
2 Trustees of a Metro East Mass Transit District shall provide
3 for reciprocity, limitations on access, disclosure, and
4 procedures for requesting information. Information so provided
5 shall be subject to all confidentiality provisions of this
6 Section.

7 The Director may make available to any State agency,
8 including the Illinois Supreme Court, which licenses persons to
9 engage in any occupation, information that a person licensed by
10 such agency has failed to file returns under this Act or pay
11 the tax, penalty and interest shown therein, or has failed to
12 pay any final assessment of tax, penalty or interest due under
13 this Act. The Director may make available to any State agency,
14 including the Illinois Supreme Court, 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, or any tax under this Act or pay the tax,
18 penalty, and interest shown therein, or has failed to pay any
19 final assessment of tax, penalty, or interest due under this
20 Act, for the limited purpose of enforcing bidder and contractor
21 certifications. The Director may make available to units of
22 local government and school districts that require bidder and
23 contractor certifications, as set forth in Sections 50-11 and
24 50-12 of the Illinois Procurement Code, information regarding
25 whether a bidder, contractor, or an affiliate of a bidder or
26 contractor has failed to collect and remit Illinois Use tax on

1 sales into Illinois, file returns under this Act, or pay the
2 tax, penalty, and interest shown therein, or has failed to pay
3 any final assessment of tax, penalty, or interest due under
4 this Act, for the limited purpose of enforcing bidder and
5 contractor certifications. For purposes of this Section, the
6 term "affiliate" means any entity that (1) directly,
7 indirectly, or constructively controls another entity, (2) is
8 directly, indirectly, or constructively controlled by another
9 entity, or (3) is subject to the control of a common entity.
10 For purposes of this Section, an entity controls another entity
11 if it owns, directly or individually, more than 10% of the
12 voting securities of that entity. As used in this Section, the
13 term "voting security" means a security that (1) confers upon
14 the holder the right to vote for the election of members of the
15 board of directors or similar governing body of the business or
16 (2) is convertible into, or entitles the holder to receive upon
17 its exercise, a security that confers such a right to vote. A
18 general partnership interest is a voting security.

19 The Director may make available to any State agency,
20 including the Illinois Supreme Court, units of local
21 government, and school districts, information regarding
22 whether a bidder or contractor is an affiliate of a person who
23 is not collecting and remitting Illinois Use taxes for the
24 limited purpose of enforcing bidder and contractor
25 certifications.

26 The Director may also make available to the Secretary of

1 State information that a limited liability company, which has
2 filed articles of organization with the Secretary of State, or
3 corporation which has been issued a certificate of
4 incorporation by the Secretary of State has failed to file
5 returns under this Act or pay the tax, penalty and interest
6 shown therein, or has failed to pay any final assessment of
7 tax, penalty or interest due under this Act. An assessment is
8 final when all proceedings in court for review of such
9 assessment have terminated or the time for the taking thereof
10 has expired without such proceedings being instituted.

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

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

18 (2) At the sole discretion of the Director, trade
19 secrets or other confidential information identified as
20 such by the taxpayer, no later than 30 days after receipt
21 of an administrative decision, by such means as the
22 Department shall provide by rule.

23 The Director shall determine the appropriate extent of the
24 deletions allowed in paragraph (2). In the event the taxpayer
25 does not submit deletions, the Director shall make only the
26 deletions specified in paragraph (1).

1 The Director shall make available for public inspection and
2 publication an administrative decision within 180 days after
3 the issuance of the administrative decision. The term
4 "administrative decision" has the same meaning as defined in
5 Section 3-101 of Article III of the Code of Civil Procedure.
6 Costs collected under this Section shall be paid into the Tax
7 Compliance and Administration Fund.

8 Nothing contained in this Act shall prevent the Director
9 from divulging information to any person pursuant to a request
10 or authorization made by the taxpayer or by an authorized
11 representative of the taxpayer.

12 For the purposes of this Section "chief executive officer"
13 means the mayor of a city, the village board president of a
14 village, the mayor or president of an incorporated town, the
15 county executive of a county that has adopted the county
16 executive form of government, the president of the board of
17 commissioners of Cook County, or the chairperson of the county
18 board or board of county commissioners of any other county.

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