

HB1234



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB1234

by Rep. Michael J. Madigan

SYNOPSIS AS INTRODUCED:

65 ILCS 5/8-11-1.4

from Ch. 24, par. 8-11-1.4

Amends the Illinois Municipal Code. Makes a technical change in a Section concerning a non-home rule municipal service occupation tax.

LRB100 02942 AWJ 12947 b

A BILL FOR

1 AN ACT concerning local government.

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

4 Section 5. The Illinois Municipal Code is amended by
5 changing Section 8-11-1.4 as follows:

6 (65 ILCS 5/8-11-1.4) (from Ch. 24, par. 8-11-1.4)

7 Sec. 8-11-1.4. Non-Home Rule Municipal Service Occupation
8 Tax Act. The ~~The~~ corporate authorities of a non-home rule
9 municipality may impose a tax upon all persons engaged, in such
10 municipality, in the business of making sales of service for
11 expenditure on public infrastructure or for property tax relief
12 or both as defined in Section 8-11-1.2 if approved by
13 referendum as provided in Section 8-11-1.1, of the selling
14 price of all tangible personal property transferred by such
15 servicemen either in the form of tangible personal property or
16 in the form of real estate as an incident to a sale of service.
17 If the tax is approved by referendum on or after July 14, 2010
18 (the effective date of Public Act 96-1057), the corporate
19 authorities of a non-home rule municipality may, until December
20 31, 2020, use the proceeds of the tax for expenditure on
21 municipal operations, in addition to or in lieu of any
22 expenditure on public infrastructure or for property tax
23 relief. The tax imposed may not be more than 1% and may be

1 imposed only in 1/4% increments. The tax may not be imposed on
2 the sale of food for human consumption that is to be consumed
3 off the premises where it is sold (other than alcoholic
4 beverages, soft drinks, and food that has been prepared for
5 immediate consumption) and prescription and nonprescription
6 medicines, drugs, medical appliances, and insulin, urine
7 testing materials, syringes, and needles used by diabetics. The
8 tax imposed by a municipality pursuant to this Section and all
9 civil penalties that may be assessed as an incident thereof
10 shall be collected and enforced by the State Department of
11 Revenue. The certificate of registration which is issued by the
12 Department to a retailer under the Retailers' Occupation Tax
13 Act or under the Service Occupation Tax Act shall permit such
14 registrant to engage in a business which is taxable under any
15 ordinance or resolution enacted pursuant to this Section
16 without registering separately with the Department under such
17 ordinance or resolution or under this Section. The Department
18 shall have full power to administer and enforce this Section;
19 to collect all taxes and penalties due hereunder; to dispose of
20 taxes and penalties so collected in the manner hereinafter
21 provided, and to determine all rights to credit memoranda
22 arising on account of the erroneous payment of tax or penalty
23 hereunder. In the administration of, and compliance with, this
24 Section the Department and persons who are subject to this
25 Section shall have the same rights, remedies, privileges,
26 immunities, powers and duties, and be subject to the same

1 conditions, restrictions, limitations, penalties and
2 definitions of terms, and employ the same modes of procedure,
3 as are prescribed in Sections 1a-1, 2, 2a, 3 through 3-50 (in
4 respect to all provisions therein other than the State rate of
5 tax), 4 (except that the reference to the State shall be to the
6 taxing municipality), 5, 7, 8 (except that the jurisdiction to
7 which the tax shall be a debt to the extent indicated in that
8 Section 8 shall be the taxing municipality), 9 (except as to
9 the disposition of taxes and penalties collected, and except
10 that the returned merchandise credit for this municipal tax may
11 not be taken against any State tax), 10, 11, 12 (except the
12 reference therein to Section 2b of the Retailers' Occupation
13 Tax Act), 13 (except that any reference to the State shall mean
14 the taxing municipality), the first paragraph of Section 15,
15 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and
16 Section 3-7 of the Uniform Penalty and Interest Act, as fully
17 as if those provisions were set forth herein.

18 No municipality may impose a tax under this Section unless
19 the municipality also imposes a tax at the same rate under
20 Section 8-11-1.3 of this Code.

21 Persons subject to any tax imposed pursuant to the
22 authority granted in this Section may reimburse themselves for
23 their serviceman's tax liability hereunder by separately
24 stating such tax as an additional charge, which charge may be
25 stated in combination, in a single amount, with State tax which
26 servicemen are authorized to collect under the Service Use Tax

1 Act, pursuant to such bracket schedules as the Department may
2 prescribe.

3 Whenever the Department determines that a refund should be
4 made under this Section to a claimant instead of issuing credit
5 memorandum, the Department shall notify the State Comptroller,
6 who shall cause the order to be drawn for the amount specified,
7 and to the person named, in such notification from the
8 Department. Such refund shall be paid by the State Treasurer
9 out of the municipal retailers' occupation tax fund.

10 The Department shall forthwith pay over to the State
11 Treasurer, ex officio, as trustee, all taxes and penalties
12 collected hereunder.

13 As soon as possible after the first day of each month,
14 beginning January 1, 2011, upon certification of the Department
15 of Revenue, the Comptroller shall order transferred, and the
16 Treasurer shall transfer, to the STAR Bonds Revenue Fund the
17 local sales tax increment, as defined in the Innovation
18 Development and Economy Act, collected under this Section
19 during the second preceding calendar month for sales within a
20 STAR bond district.

21 After the monthly transfer to the STAR Bonds Revenue Fund,
22 on or before the 25th day of each calendar month, the
23 Department shall prepare and certify to the Comptroller the
24 disbursement of stated sums of money to named municipalities,
25 the municipalities to be those from which suppliers and
26 servicemen have paid taxes or penalties hereunder to the

1 Department during the second preceding calendar month. The
2 amount to be paid to each municipality shall be the amount (not
3 including credit memoranda) collected hereunder during the
4 second preceding calendar month by the Department, and not
5 including an amount equal to the amount of refunds made during
6 the second preceding calendar month by the Department on behalf
7 of such municipality, and not including any amounts that are
8 transferred to the STAR Bonds Revenue Fund. Within 10 days
9 after receipt, by the Comptroller, of the disbursement
10 certification to the municipalities and the General Revenue
11 Fund, provided for in this Section to be given to the
12 Comptroller by the Department, the Comptroller shall cause the
13 orders to be drawn for the respective amounts in accordance
14 with the directions contained in such certification.

15 The Department of Revenue shall implement this amendatory
16 Act of the 91st General Assembly so as to collect the tax on
17 and after January 1, 2002.

18 Nothing in this Section shall be construed to authorize a
19 municipality to impose a tax upon the privilege of engaging in
20 any business which under the constitution of the United States
21 may not be made the subject of taxation by this State.

22 As used in this Section, "municipal" or "municipality"
23 means or refers to a city, village or incorporated town,
24 including an incorporated town which has superseded a civil
25 township.

26 This Section shall be known and may be cited as the

1 "Non-Home Rule Municipal Service Occupation Tax Act".
2 (Source: P.A. 96-939, eff. 6-24-10; 96-1057, eff. 7-14-10;
3 97-333, eff. 8-12-11; 97-837, eff. 7-20-12.)