

HB2717



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2717

by Rep. Emanuel Chris Welch

SYNOPSIS AS INTRODUCED:

35 ILCS 120/11

from Ch. 120, par. 450

Amends the Retailers' Occupation Tax Act. Provides that, subject to certain restrictions, if the Department of Revenue may disclose confidential financial information to a municipality or county, then the Department of Revenue may also disclose that financial information to an independent third party who is authorized in writing by that municipality or county to receive the information. Effective immediately.

LRB100 08541 HLH 18666 b

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 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, including an eligible third
11 party, who divulges any such information in any manner, except
12 in accordance with a proper judicial order or as otherwise
13 provided by law including, but not limited to, this Section,
14 shall be guilty of a Class B misdemeanor with a fine not to
15 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 a municipality or county from
23 aggregating the information provided to the municipality or

1 county by the Department under this Section and presenting that
2 information to the public, as long as 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 thereof,
13 including the furnishing of financial information to an
14 eligible third party as provided in this paragraph, is an
15 official purpose within the meaning of this Section, provided
16 the municipality, ~~or~~ county, and, if applicable, the eligible
17 third party agree ~~agrees~~ in writing to the requirements of this
18 Section. Information provided to municipalities and counties
19 under this paragraph shall be limited to: (1) the business
20 name; (2) the business address; (3) the standard classification
21 number assigned to the business; (4) net revenue distributed to
22 the requesting municipality or county that is directly related
23 to the requesting municipality's or county's local share of the
24 proceeds under the Use Tax Act, the Service Use Tax Act, the
25 Service Occupation Tax Act, and the Retailers' Occupation Tax
26 Act distributed from the Local Government Tax Fund, and, if

1 applicable, any locally imposed retailers' occupation tax or
2 service occupation tax; and (5) a listing of all businesses
3 within the requesting municipality or county by account
4 identification number and address. Notwithstanding the first
5 paragraph of this Section, the incidental or inadvertent
6 disclosure of such information to an employee of a county or
7 municipality, or to a public official representing that county
8 or municipality, in the scope of his or her employment or
9 representation is not a criminal offense under this Section. On
10 and after July 1, 2015, the furnishing of financial information
11 to municipalities and counties under this paragraph may be by
12 electronic means. If the Department may furnish financial
13 information to a municipality or county under this paragraph,
14 then the chief executive officer of the municipality or county
15 may in writing authorize the Department to disclose that
16 information to eligible third parties, including, but not
17 limited to, consultants, attorneys, accountants, auditors, and
18 financial advisors. The furnishing of financial information to
19 an eligible third party is an official purpose within the
20 meaning of this Section, provided the third party agrees in
21 writing to the requirements of this Section and meets the
22 criteria set forth in this paragraph. To be eligible to receive
23 information from the Department, the third party (1) must enter
24 into a confidentiality agreement with the Department prior to
25 receiving the financial information, (2) must have an existing
26 contract with the municipality or county at the time the third

1 party enters into the confidentiality agreement with the
2 Department, and (3) must abide by the same conditions as the
3 municipality or county with respect to the furnishing of
4 financial information. The third party may use the financial
5 information only for the purpose of providing services to the
6 municipality as specified in the contract with the municipality
7 and may not use the information for any other purpose.
8 Electronic data submitted to third parties under this paragraph
9 must be encrypted and must be accessible only to authorized
10 users with secure passwords. Notwithstanding the first
11 paragraph of this Section, disclosure of information under the
12 requirements of this paragraph is not a criminal offense under
13 this Section.

14 Information so provided shall be subject to all
15 confidentiality provisions of this Section. The written
16 agreement shall provide for reciprocity, limitations on
17 access, disclosure, and procedures for requesting information.

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

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

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

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

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

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

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

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

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

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

1 deletions specified in paragraph (1).

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

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

13 (Source: P.A. 98-1058, eff. 1-1-15; 99-517, eff. 6-30-16.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.