



Sen. Jennifer Bertino-Tarrant

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LRB100 14948 HLH 36596 a

1 AMENDMENT TO SENATE BILL 2502

2 AMENDMENT NO. _____. Amend Senate Bill 2502 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Use Tax Act is amended by changing Section
5 10 and by adding Section 3-45.5 as follows:

6 (35 ILCS 105/3-45.5 new)

7 Sec. 3-45.5. Notice and reporting requirements for
8 non-collecting retailers.

9 (a) Each retailer that does not collect the tax under this
10 Act shall, at the time of purchase, notify Illinois purchasers
11 that use tax is due on certain purchases at retail made from
12 the retailer and that the State requires the purchaser to file
13 a use tax return.

14 (b) Each retailer that does not collect the tax under this
15 Act shall send notification to all Illinois purchasers by
16 January 31 of each year showing such information as the

1 Department shall require by rule and including the total amount
2 paid by the purchaser for Illinois purchases at retail made
3 from the retailer in the previous calendar year. Such
4 notification shall include, if available, the dates of
5 purchases at retail, the amounts of each purchase at retail,
6 and the category of the purchase at retail, including, if known
7 by the retailer, whether the purchase at retail is exempt or
8 not exempt from taxation. The notification shall inform the
9 purchaser that the State requires a use tax return to be filed
10 and use tax paid on certain Illinois purchases at retail made
11 by the purchaser from the retailer, as provided in Section 10
12 of this Act.

13 The notification specified in this subsection shall be sent
14 separately to all Illinois purchasers by first-class mail and
15 shall not be included with any other shipments. The
16 notification shall include the words "Important Tax Document"
17 on the exterior of the mailing.

18 (c) Failure to send the notification required in subsection
19 (a) shall subject the retailer to a penalty of \$5 for each such
20 failure unless the retailer shows reasonable cause for the
21 failure. Failure to send the notification required in
22 subsection (b) shall subject the retailer to a penalty of \$10
23 for each such failure unless the retailer shows reasonable
24 cause for the failure.

25 (d) Retailers that do not collect the tax under this Act
26 but made less than \$100,000 in total gross sales in Illinois in

1 the previous calendar year, and who reasonably expect gross
2 sales in the current calendar year to be less than \$100,000,
3 are exempt from the notice.

4 (e) As used in this Section, "Illinois purchaser" means a
5 person who purchases tangible personal property from a retailer
6 and provides either a billing address or a delivery address in
7 the State of Illinois.

8 (35 ILCS 105/10) (from Ch. 120, par. 439.10)

9 Sec. 10. Except as to motor vehicles, aircraft, watercraft,
10 and trailers, and except as to cigarettes as defined in the
11 Cigarette Use Tax Act, when tangible personal property is
12 purchased from a retailer for use in this State by a purchaser
13 who did not pay the tax imposed by this Act to the retailer,
14 and who does not file returns with the Department as a retailer
15 under Section 9 of this Act, such purchaser (by the last day of
16 the month following the calendar month in which such purchaser
17 makes any payment upon the selling price of such property)
18 shall, except as otherwise provided in this Section, file a
19 return with the Department and pay the tax upon that portion of
20 the selling price so paid by the purchaser during the preceding
21 calendar month. Such return shall be filed on a form prescribed
22 by the Department and shall contain such information as the
23 Department may reasonably require. Such return and payment from
24 the purchaser shall be submitted to the Department sooner than
25 the last day of the month after the month in which the purchase

1 is made to the extent that that may be necessary in order to
2 secure the title to a motor vehicle or the certificate of
3 registration for an aircraft. However, except as to motor
4 vehicles and aircraft, and except as to cigarettes as defined
5 in the Cigarette Use Tax Act, if the purchaser's annual use tax
6 liability does not exceed \$600, the purchaser may file the
7 return on an annual basis on or before April 15th of the year
8 following the year use tax liability was incurred. Individual
9 purchasers with an annual use tax liability that does not
10 exceed \$600 may, in lieu of the filing and payment requirements
11 in this Section, file and pay in compliance with Section 502.1
12 of the Illinois Income Tax Act.

13 If a purchaser has otherwise failed to file a return with
14 the Department and remit the proper amount of tax due as
15 required under this Act, and if the purchaser receives a
16 notification from a retailer under Section 3-45.5 of this Act,
17 then that purchaser, on or before April 15 of the year in which
18 the notification is received, must file a return and pay the
19 tax upon those portions of the selling prices so paid by the
20 purchaser, plus late fees, as determined by the Department, for
21 the failure to file a return with the Department and remit the
22 proper amount of tax due by the applicable deadline as
23 determined by this Act. Failure to file a return and pay taxes
24 in the manner described in this paragraph will result in
25 additional late fees as determined by the Department.

26 If cigarettes, as defined in the Cigarette Use Tax Act, are

1 purchased from a retailer for use in this State by a purchaser
2 who did not pay the tax imposed by this Act to the retailer,
3 and who does not file returns with the Department as a retailer
4 under Section 9 of this Act, such purchaser must, within 30
5 days after acquiring the cigarettes, file a return with the
6 Department and pay the tax upon that portion of the selling
7 price so paid by the purchaser for the cigarettes.

8 In addition with respect to motor vehicles, aircraft,
9 watercraft, and trailers, a purchaser of such tangible personal
10 property for use in this State, who purchases such tangible
11 personal property from an out-of-state retailer, shall file
12 with the Department, upon a form to be prescribed and supplied
13 by the Department, a return for each such item of tangible
14 personal property purchased, except that if, in the same
15 transaction, (i) a purchaser of motor vehicles, aircraft,
16 watercraft, or trailers who is a retailer of motor vehicles,
17 aircraft, watercraft, or trailers purchases more than one motor
18 vehicle, aircraft, watercraft, or trailer for the purpose of
19 resale or (ii) a purchaser of motor vehicles, aircraft,
20 watercraft, or trailers purchases more than one motor vehicle,
21 aircraft, watercraft, or trailer for use as qualifying rolling
22 stock as provided in Section 3-55 of this Act, then the
23 purchaser may report the purchase of all motor vehicles,
24 aircraft, watercraft, or trailers involved in that transaction
25 to the Department on a single return prescribed by the
26 Department. Such return in the case of motor vehicles and

1 aircraft must show the name and address of the seller, the
2 name, address of purchaser, the amount of the selling price
3 including the amount allowed by the retailer for traded in
4 property, if any; the amount allowed by the retailer for the
5 traded-in tangible personal property, if any, to the extent to
6 which Section 2 of this Act allows an exemption for the value
7 of traded-in property; the balance payable after deducting such
8 trade-in allowance from the total selling price; the amount of
9 tax due from the purchaser with respect to such transaction;
10 the amount of tax collected from the purchaser by the retailer
11 on such transaction (or satisfactory evidence that such tax is
12 not due in that particular instance if that is claimed to be
13 the fact); the place and date of the sale, a sufficient
14 identification of the property sold, and such other information
15 as the Department may reasonably require.

16 Such return shall be filed not later than 30 days after
17 such motor vehicle or aircraft is brought into this State for
18 use.

19 For purposes of this Section, "watercraft" means a Class 2,
20 Class 3, or Class 4 watercraft as defined in Section 3-2 of the
21 Boat Registration and Safety Act, a personal watercraft, or any
22 boat equipped with an inboard motor.

23 The return and tax remittance or proof of exemption from
24 the tax that is imposed by this Act may be transmitted to the
25 Department by way of the State agency with which, or State
26 officer with whom, the tangible personal property must be

1 titled or registered (if titling or registration is required)
2 if the Department and such agency or State officer determine
3 that this procedure will expedite the processing of
4 applications for title or registration.

5 With each such return, the purchaser shall remit the proper
6 amount of tax due (or shall submit satisfactory evidence that
7 the sale is not taxable if that is the case), to the Department
8 or its agents, whereupon the Department shall issue, in the
9 purchaser's name, a tax receipt (or a certificate of exemption
10 if the Department is satisfied that the particular sale is tax
11 exempt) which such purchaser may submit to the agency with
12 which, or State officer with whom, he must title or register
13 the tangible personal property that is involved (if titling or
14 registration is required) in support of such purchaser's
15 application for an Illinois certificate or other evidence of
16 title or registration to such tangible personal property.

17 When a purchaser pays a tax imposed by this Act directly to
18 the Department, the Department (upon request therefor from such
19 purchaser) shall issue an appropriate receipt to such purchaser
20 showing that he has paid such tax to the Department. Such
21 receipt shall be sufficient to relieve the purchaser from
22 further liability for the tax to which such receipt may refer.

23 A user who is liable to pay use tax directly to the
24 Department only occasionally and not on a frequently recurring
25 basis, and who is not required to file returns with the
26 Department as a retailer under Section 9 of this Act, or under

1 the "Retailers' Occupation Tax Act", or as a registrant with
2 the Department under the "Service Occupation Tax Act" or the
3 "Service Use Tax Act", need not register with the Department.
4 However, if such a user has a frequently recurring direct use
5 tax liability to pay to the Department, such user shall be
6 required to register with the Department on forms prescribed by
7 the Department and to obtain and display a certificate of
8 registration from the Department. In that event, all of the
9 provisions of Section 9 of this Act concerning the filing of
10 regular monthly, quarterly or annual tax returns and all of the
11 provisions of Section 2a of the "Retailers' Occupation Tax Act"
12 concerning the requirements for registrants to post bond or
13 other security with the Department, as the provisions of such
14 sections now exist or may hereafter be amended, shall apply to
15 such users to the same extent as if such provisions were
16 included herein.

17 (Source: P.A. 100-321, eff. 8-24-17.)

18 Section 10. The Service Use Tax Act is amended by changing
19 Section 10 and by adding Section 3-40.5 as follows:

20 (35 ILCS 110/3-40.5 new)

21 Sec. 3-40.5. Notice and reporting requirements for
22 non-collecting servicemen.

23 (a) Each serviceman that does not collect the tax under
24 this Act shall, at the time of purchase, notify Illinois

1 purchasers that use tax is due on certain purchases at retail
2 made from the retailer and that the State requires the
3 purchaser to file a use tax return.

4 (b) Each serviceman that does not collect the tax under
5 this Act shall send notification to all Illinois purchasers by
6 January 31 of each year showing such information as the
7 Department shall require by rule and including the total amount
8 paid by the purchaser for Illinois purchases at retail made
9 from the serviceman in the previous calendar year. Such
10 notification shall include, if available, the dates of
11 purchases at retail, the amounts of each purchase at retail,
12 and the category of the purchase at retail, including, if known
13 by the serviceman, whether the purchase at retail is exempt or
14 not exempt from taxation. The notification shall inform the
15 purchaser that the State requires a use tax return to be filed
16 and use tax paid on certain Illinois purchases at retail made
17 by the purchaser from the serviceman, as provided in Section 10
18 of this Act.

19 The notification specified in this subsection (b) shall be
20 sent separately to all Illinois purchasers by first-class mail
21 and shall not be included with any other shipments. The
22 notification shall include the words "Important Tax Document
23 Enclosed" on the exterior of the mailing. The notification
24 shall include the name of the serviceman.

25 (c) Failure to send the notification required in subsection
26 (a) shall subject the serviceman to a penalty of \$5 for each

1 such failure unless the serviceman shows reasonable cause for
2 the failure. Failure to send the notification required in
3 subsection (b) shall subject the serviceman to a penalty of \$10
4 for each such failure unless the serviceman shows reasonable
5 cause for the failure.

6 (d) Servicemen that do not collect the tax under this Act
7 but made less than \$100,000 in total gross sales in Illinois in
8 the previous calendar year, and who reasonably expect gross
9 sales in the current calendar year to be less than \$100,000,
10 are exempt from the notice.

11 (e) As used in this Section, "Illinois purchaser" means a
12 person who purchases tangible personal property from a
13 serviceman and provides either a billing address or a delivery
14 address in the State of Illinois.

15 (35 ILCS 110/10) (from Ch. 120, par. 439.40)

16 Sec. 10. Where property is acquired as an incident to the
17 purchase of a service from a serviceman for use in this State
18 by a purchaser who did not pay the tax herein imposed to the
19 serviceman, and who does not file returns with the Department
20 as a serviceman under Section 9 of this Act, such purchaser (by
21 the last day of the month following the calendar month in which
22 such purchaser makes any payment upon the selling price of such
23 property) shall, except as hereinafter provided in this
24 Section, file a return with the Department and pay the tax upon
25 that portion of the selling price so paid by the purchaser

1 during the preceding calendar month. Such return shall be filed
2 on a form prescribed by the Department and shall contain such
3 information as the Department may reasonably require.

4 When a purchaser pays a tax herein imposed directly to the
5 Department, the Department (upon request therefor from such
6 purchaser) shall issue an appropriate receipt to such purchaser
7 showing that he has paid such tax to the Department. Such
8 receipt shall be sufficient to relieve the purchaser from
9 further liability from the tax to which such receipt may refer.

10 A user who is liable to pay Service Use Tax directly to the
11 Department only occasionally and not on a frequently recurring
12 basis, and who is not required to file returns within the
13 Department as a serviceman under Section 9 of this Act, or as a
14 serviceman under the "Service Occupation Tax Act", or as a
15 retailer or user under the "Use Tax Act", or as a retailer
16 under the "Retailers' Occupation Tax Act", need not register
17 with the Department. However, if such a user has a frequently
18 recurring direct Service Use Tax liability to pay to the
19 Department, such user shall be required to register with the
20 Department on forms prescribed by the Department and to obtain
21 and display a certificate of registration from the Department.
22 In that event, all of the provisions of Section 9 of this Act
23 concerning the filing of regular monthly, quarterly or annual
24 tax returns and all of the provisions of Section 2a of the
25 "Retailers' Occupation Tax Act" concerning the requirements
26 for registrants to post bond or other security with the

1 Department, as the provisions of such sections now exist or may
2 hereafter be amended, shall apply to such users to the same
3 extent as if such provisions were included herein.

4 If a purchaser has otherwise failed to file a return with
5 the Department and remit the proper amount of tax due as
6 required under this Act, and if the purchaser receives a
7 notification from a serviceman under Section 3-40.5 of this
8 Act, then that purchaser, on or before April 15 of the year in
9 which the notification is received, must file a return and pay
10 the tax upon those portions of the selling prices so paid by
11 the purchaser, plus late fees, as determined by the Department,
12 for the failure to file a return with the Department and remit
13 the proper amount of tax due by the applicable deadline as
14 determined by this Act. Failure to file a return and pay taxes
15 in the manner described in this paragraph will result in
16 additional late fees as determined by the Department.

17 (Source: P.A. 91-51, eff. 6-30-99.)

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