

# HB3359



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB3359

by Rep. Arthur Turner

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Video Service Tax Modernization Act. Imposes a tax upon the act or privilege of providing direct-to-home satellite service, direct broadcast satellite service, or digital audio-visual works to a subscriber in the State. Provides that the tax is imposed at the rate of 5% of the provider's gross revenues derived from or attributable to that subscriber. Creates the Entertainment Tax Fairness Act. Imposes a tax upon the subscribers of entertainment in the State at the rate of 1% of the charges paid for the privilege to witness, view, or otherwise enjoy the entertainment. Defines "entertainment" as any paid video programming, direct-to-home satellite service, direct broadcast satellite service, digital audio-visual works service, or video service to a subscriber in the State.

LRB101 11152 HLH 56384 b

FISCAL NOTE ACT  
MAY APPLY

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 ARTICLE 10. VIDEO SERVICE TAX MODERNIZATION

5 Section 10-1. Short title. This Act may be cited as the  
6 Video Service Tax Modernization Act.

7 Section 10-5. Application. This Act applies to the  
8 provision of direct-to-home satellite service, direct  
9 broadcast satellite service, and digital audio-visual works on  
10 or after the effective date of this Act.

11 This Act does not apply to: (1) satellite radio service or  
12 subscription radio service whereby a digital radio signal is  
13 broadcast without any corresponding or related video  
14 programming or services; or (2) a satellite television  
15 transmission of simulcast horse races broadcast from or  
16 received at locations operated by an organization licensee, an  
17 inter-track wagering licensee, or an inter-track wagering  
18 location licensee licensed under the Illinois Horse Racing Act  
19 of 1975.

20 Section 10-10. Definitions. As used in this Act:

21 "Department" means the Department of Revenue.

1 "Digital audio-visual works" means a series of related  
2 images that, when shown in succession, impart an impression of  
3 motion, together with accompanying sounds, if any, sold to an  
4 end user with rights of less than permanent use. "Digital  
5 audio-visual works" does not include cable service provided by  
6 a cable operator, as those terms are defined in 47 U.S.C. 522,  
7 and does not include video service provided by a holder, as  
8 those terms are defined in Article 21 of the Public Utilities  
9 Act.

10 "Direct broadcast satellite service" means video services  
11 transmitted or broadcast by satellite directly to the  
12 subscriber's premises with the use of or accompanied by ground  
13 receiving or distribution equipment, including, but not  
14 limited to, infrastructure to provide Internet access used in  
15 the transmission or broadcast of such video services, at the  
16 subscriber's premises, but not in the uplink process to the  
17 satellite, and includes, but is not limited to, the  
18 retransmission of local broadcast television, the provision of  
19 premium channels, other recurring monthly services, service  
20 and pay-per-view, video-on-demand, and other event-based  
21 services.

22 "Direct-to-home satellite service" has the meaning given  
23 to that term in Public Law No. 104-104, Title VI, Section  
24 602(a), February 8, 1996, 110 Stat. 144 (reprinted at 47 U.S.C.  
25 152).

26 "End user" means any person other than a person who

1 receives by contract a product transferred electronically for  
2 further commercial broadcast, rebroadcast, transmission,  
3 retransmission, licensing, relicensing, distribution,  
4 redistribution, or exhibition of the product, in whole or in  
5 part, to another person or persons.

6 "Gross revenue" means all consideration of any kind or  
7 nature received by a provider, or an affiliate of the provider,  
8 in connection with the provision of direct-to-home satellite  
9 service, direct broadcast satellite service, or digital  
10 audio-visual works to subscribers. "Gross revenue" does not  
11 include:

12 (1) charges for the rental of equipment related to the  
13 provision of direct-to-home satellite service, direct  
14 broadcast satellite service, or digital audiovisual works;

15 (2) activation, installation, repair, or maintenance  
16 charges or similar service charges related to the provision  
17 of direct-to-home satellite service, direct broadcast  
18 satellite service, or digital audio-visual works;

19 (3) service order charges, service termination  
20 charges, or any other administrative charges related to the  
21 provision of direct-to-home satellite service, direct  
22 broadcast satellite service, or digital audiovisual works;

23 (4) revenue not actually received, regardless of  
24 whether it is billed, including, but not limited to, bad  
25 debts;

26 (5) revenue received by an affiliate or other person in

1 exchange for supplying goods and services used by a  
2 provider;

3 (6) the amount of any refunds, rebates, or discounts  
4 made to subscribers, advertisers, or other persons;

5 (7) revenue from any service that is subject to tax  
6 under the Service Occupation Tax Act, Retailers'  
7 Occupation Tax Act, Service Use Tax Act, or Use Tax Act;

8 (8) the tax imposed by this Act or any other tax of  
9 general applicability imposed on a provider or a purchaser  
10 of direct-to-home satellite service, direct broadcast  
11 satellite service, or digital audio-visual works by a  
12 federal, State, or local governmental entity and required  
13 to be collected by a person and remitted to the taxing  
14 entity;

15 (9) charges, other than those charges specifically  
16 described in this Act, that are aggregated or bundled with  
17 such specifically-described charges on a subscriber's  
18 bill, if the provider can reasonably identify the charges  
19 in its books and records kept in the regular course of  
20 business;

21 (10) revenue from advertising services; or

22 (11) charges that may not be taxed pursuant to the  
23 federal Internet Tax Freedom Act.

24 "Permanent" means perpetual or for an indefinite or  
25 unspecified length of time.

26 "Person" means a natural individual, firm, trust, estate,

1 partnership, association, joint stock company, joint venture,  
2 corporation, or limited liability company, or a receiver,  
3 trustee, guardian, or other representative appointed by order  
4 of any court, and includes the federal and State governments,  
5 including State universities created by statute, and  
6 municipalities, counties, and other political subdivisions of  
7 this State.

8 "Premises" means a residence or place of business of a  
9 subscriber in this State.

10 "Provider" means a person who transmits, broadcasts,  
11 sells, or distributes direct-to-home satellite service, direct  
12 broadcast satellite service, or digital audio-visual works to  
13 subscribers in the State.

14 "Subscriber" means a member of the general public who  
15 receives direct-to-home satellite service, direct broadcast  
16 satellite service, or digital audio-visual works from a  
17 provider and does not further distribute the service in the  
18 ordinary course of business.

19 Section 10-15. Imposition of tax.

20 (a) A tax is imposed upon the act or privilege of providing  
21 direct-to-home satellite service, direct broadcast satellite  
22 service, or digital audio-visual works to a subscriber in this  
23 State by any provider at the rate of 5% of the provider's gross  
24 revenues derived from or attributable to that subscriber.

25 (b) For purposes of the tax imposed by subsection (a), a

1 subscriber is in this State if the subscriber's street address  
2 representative of where the subscriber's use or access of the  
3 direct-to-home satellite service, direct broadcast satellite  
4 service, or digital audio visual work primarily occurs, which  
5 must be the street address of the subscriber based on such  
6 other information kept by the provider in the regular course of  
7 its business.

8 (c) The tax imposed by subsection (a) may be passed through  
9 to, and collected from, the provider's subscribers in Illinois.  
10 To the extent allowed under federal or State law, a provider  
11 may identify as a separate line item on each regular bill  
12 issued to a subscriber the amount of the total bill assessed as  
13 a tax under this Act.

14 (d) To prevent actual multi-state taxation upon the act or  
15 privilege that is subject to taxation under this Act, any  
16 taxpayer, upon proof that that taxpayer has paid a tax in  
17 another state on such event, shall be allowed a credit against  
18 the tax imposed in this Act to the extent of the amount of such  
19 tax properly due and paid in such other state. However, such  
20 tax is not imposed on the act or privilege to the extent such  
21 act or privilege may not, under the Constitution and statutes  
22 of the United States, be made the subject of taxation by the  
23 State.

24 Section 10-20. Remittances.

25 (a) On or before the twentieth day of each calendar month,

1 every provider of direct-to-home satellite service, direct  
2 broadcast satellite service, or digital audio-visual works  
3 that provides such service or services to a subscriber in this  
4 State during the preceding calendar month shall file a return  
5 with the Department, in a form prescribed by the Department,  
6 stating:

7 (1) the name of the provider;

8 (2) the address of the provider's principal place of  
9 business;

10 (3) the total amount of gross revenues received by the  
11 provider during the preceding calendar month, quarter, or  
12 year, as the case may be, from the provision of  
13 direct-to-home satellite service, direct broadcast  
14 satellite service, or digital audio-visual works during  
15 that preceding calendar month, quarter, or year and upon  
16 the basis of which the tax is imposed;

17 (4) the amount of tax due;

18 (5) the signature of the taxpayer; and

19 (6) such other reasonable information as the  
20 Department may require.

21 (b) If a taxpayer fails to sign a return within 30 days  
22 after the proper notice and demand for signature by the  
23 Department is received by the taxpayer, then the return shall  
24 be considered valid and any amount shown to be due on the  
25 return shall be deemed assessed.

26 (c) If the provider is otherwise required to file a monthly



1 return, and if the provider's average monthly tax liability to  
2 the Department under this Act does not exceed \$200, the  
3 Department may authorize the provider's returns to be filed on  
4 a quarter annual basis, with the return for January, February,  
5 and March of a given year being due by April 20 of that year;  
6 with the return for April, May, and June of a given year being  
7 due by July 20 of that year; with the return for July, August,  
8 and September of a given year being due by October 20 of that  
9 year, and with the return for October, November, and December  
10 of a given year being due by January 20 of the following year.

11 (d) If the provider is otherwise required to file a monthly  
12 or quarterly return, and if the provider's average monthly tax  
13 liability with the Department under this Act does not exceed  
14 \$50, the Department may authorize the provider's returns to be  
15 filed on an annual basis, with the return for a given year  
16 being due by January 20 of the following year.

17 (e) Those quarterly and annual returns shall be subject to  
18 the same requirements as to form and substance as monthly  
19 returns.

20 (f) A taxpayer who has an annual tax liability in the  
21 amount set forth in subsection (b) of Section 2505-210 of the  
22 Department of Revenue Law shall make all payments required by  
23 rules of the Department by electronic funds transfer.

24 Any taxpayer not required to make payments by electronic  
25 funds transfer may make payments by electronic funds transfer  
26 with the permission of the Department.

1 All taxpayers required to make payment by electronic funds  
2 transfer and any taxpayers authorized to voluntarily make  
3 payments by electronic funds transfer shall make those payments  
4 in the manner authorized by the Department.

5 Section 10-25. Records.

6 (a) A provider on whom the tax is imposed by this Act shall  
7 maintain the necessary records, and any other information  
8 required by the Department, to determine the amount of the tax  
9 that the provider is required to remit and any credit that the  
10 provider is entitled to claim under this Act.

11 (b) The records shall be open at all times to inspection by  
12 the Department.

13 Section 10-30. Rules. The Department is authorized to adopt  
14 and enforce any reasonable rules and to prescribe such forms  
15 relating to the administration and enforcement of this Act as  
16 it may deem appropriate.

17 Section 10-35. Incorporation of Retailers' Occupation Tax  
18 Act and Uniform Penalty and Interest Act. All of the provisions  
19 of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i, and 5j of the  
20 Retailers' Occupation Tax Act, which are not inconsistent with  
21 this Act, and the Uniform Penalty and Interest Act, shall  
22 apply, as far as practicable, to the subject matter of this Act  
23 to the same extent as if such provisions were included herein.

1 References in those incorporated Sections to taxpayers and to  
2 persons engaged in the business of selling tangible personal  
3 property at retail mean providers of direct-to-home satellite  
4 service, direct broadcast satellite service, or digital  
5 audio-visual works when used in this Act.

6 ARTICLE 15. ENTERTAINMENT TAX FAIRNESS ACT

7 Section 15-1. Short title. This Act may be cited as the  
8 Entertainment Tax Fairness Act.

9 Section 15-5. Application. This Act applies to all  
10 subscribers of entertainment in this State for the privilege to  
11 witness, view, or otherwise enjoy the entertainment.

12 This Act does not apply to: (1) satellite radio service or  
13 subscription radio service whereby a digital radio signal is  
14 broadcast without any corresponding or related video  
15 programming or services; or (2) a satellite television  
16 transmission of simulcast horse races broadcast from or  
17 received at locations operated by an organization licensee, an  
18 inter-track wagering licensee, or an inter-track wagering  
19 location licensee licensed under the Illinois Horse Racing Act  
20 of 1975.

21 Section 15-10. Definitions. As used in this Act:

22 "Cable service" has the meaning given to that term in item

1 (6) of 47 U.S.C. 522.

2 "Department" means the Department of Revenue.

3 "Digital audio-visual works service" means the  
4 transmission of a series of related images that, when shown in  
5 succession, impart an impression of motion, together with  
6 accompanying sounds, if any, sold to an end user with rights of  
7 less than permanent use. "Digital audio-visual works service"  
8 does not include cable service or video service.

9 "Direct broadcast satellite service" means video services  
10 transmitted or broadcast by satellite directly to the  
11 subscriber's premises with the use of or accompanied by ground  
12 receiving or distribution equipment, including, but not  
13 limited to, infrastructure to provide Internet access used in  
14 the transmission or broadcast of such video services, at the  
15 subscriber's premises, but not in the uplink process to the  
16 satellite, and includes, but is not limited to, the  
17 retransmission of local broadcast television, the provision of  
18 premium channels, other recurring monthly services, service  
19 and pay-per-view, video-on-demand, and other event-based  
20 services.

21 "Direct-to-home satellite service" has the meaning given  
22 to that term in Public Law No. 104-104, Title VI, Section  
23 602(a), February 8, 1996, 110 Stat. 144 (reprinted at 47 U.S.C.  
24 152).

25 "End user" means any person other than a person who  
26 receives by contract a product transferred electronically for

1 further commercial broadcast, rebroadcast, transmission,  
2 retransmission, licensing, relicensing, distribution,  
3 redistribution, or exhibition of the product, in whole or in  
4 part, to another person or persons.

5 "Entertainment" means any paid video programming whether  
6 transmitted by cable service, direct-to-home satellite  
7 service, direct broadcast satellite service, digital  
8 audio-visual works service, or video service to a subscriber in  
9 this State.

10 "Permanent" means perpetual or for an indefinite or  
11 unspecified length of time.

12 "Provider" means a person who transmits, broadcasts,  
13 sells, or distributes cable service, direct-to-home satellite  
14 service, direct broadcast satellite service, digital  
15 audio-visual works service, or video service to subscribers in  
16 the State.

17 "Subscriber" means a member of the general public who  
18 receives cable service, direct-to-home satellite service,  
19 direct broadcast satellite service, or digital audio-visual  
20 works service, or video service from a provider and does not  
21 further distribute the service in the ordinary course of  
22 business.

23 "Video service" has the meaning given to that term in the  
24 Cable and Video Competition Law of 2007 of the Public Utilities  
25 Act.

1 Section 15-15. Imposition of tax.

2 (a) A tax is imposed upon the subscribers of entertainment  
3 in this State at the rate of 1% of the charges paid for the  
4 privilege to witness, view, or otherwise enjoy the  
5 entertainment.

6 (b) For purposes of the tax imposed by subsection (a), a  
7 subscriber is in this State if the subscriber's street address  
8 is representative of where the subscriber's use or access of  
9 the entertainment primarily occurs, which must be the street  
10 address of the subscriber based on such other information kept  
11 by the provider in the regular course of its business.

12 (c) The provider of the entertainment shall collect and  
13 secure from each subscriber the tax imposed by this Act and  
14 remit the tax to the Department as set forth in Section 15-20  
15 of this Act.

16 Section 15-20. Remittances.

17 (a) On or before the twentieth day of each calendar month,  
18 every provider shall file a return with the Department, in a  
19 form prescribed by the Department, stating:

20 (1) the name of the provider;

21 (2) the address of the provider's principal place of  
22 business;

23 (3) the total amount of tax revenues collected by the  
24 provider under this Act during the preceding calendar  
25 month, quarter, or year, as the case may be, during that

1 preceding calendar month, quarter, or year and upon the  
2 basis of which the tax is imposed;

3 (4) the amount of tax due;

4 (5) the signature of the provider; and

5 (6) such other reasonable information as the  
6 Department may require.

7 (b) If a provider fails to sign a return within 30 days  
8 after the proper notice and demand for signature by the  
9 Department is received by the provider, then the return shall  
10 be considered valid and any amount shown to be due on the  
11 return shall be deemed assessed.

12 (c) If the provider is otherwise required to file a monthly  
13 return, and if the amount collected by the provider under this  
14 Act does not exceed \$200, the Department may authorize the  
15 provider's returns to be filed on a quarter annual basis, with  
16 the return for January, February, and March of a given year  
17 being due by April 20 of that year; with the return for April,  
18 May, and June of a given year being due by July 20 of that year;  
19 with the return for July, August, and September of a given year  
20 being due by October 20 of that year, and with the return for  
21 October, November, and December of a given year being due by  
22 January 20 of the following year.

23 (d) If the provider is otherwise required to file a monthly  
24 or quarterly return, and if the amount collected by the  
25 provider under this Act does not exceed \$50, the Department may  
26 authorize the provider's returns to be filed on an annual

1 basis, with the return for a given year being due by January 20  
2 of the following year.

3 (e) Those quarterly and annual returns shall be subject to  
4 the same requirements as to form and substance as monthly  
5 returns.

6 (f) A provider responsible for collecting and remitting the  
7 amount set forth in subsection (b) of Section 2505-210 of the  
8 Department of Revenue Law shall make all payments required by  
9 rules of the Department by electronic funds transfer.

10 Any provider not required to make payments by electronic  
11 funds transfer may make payments by electronic funds transfer  
12 with the permission of the Department.

13 All providers required to make payment by electronic funds  
14 transfer and any taxpayers authorized to voluntarily make  
15 payments by electronic funds transfer shall make those payments  
16 in the manner authorized by the Department.

17 Section 15-25. Records.

18 (a) A provider subject to this Act shall maintain the  
19 necessary records, and any other information required by the  
20 Department, to determine the amount of the tax that the  
21 provider is required to collect and remit and any credit that  
22 the provider is entitled to claim under this Act.

23 (b) The records shall be open at all times to inspection by  
24 the Department.



1           Section 15-30. Rules. The Department is authorized to adopt  
2 and enforce any reasonable rules and to prescribe such forms  
3 relating to the administration and enforcement of this Act as  
4 it may deem appropriate.

5           Section 15-35. Incorporation of Retailers' Occupation Tax  
6 Act and Uniform Penalty and Interest Act. All of the provisions  
7 of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i, and 5j of the  
8 Retailers' Occupation Tax Act, which are not inconsistent with  
9 this Act, and the Uniform Penalty and Interest Act, shall  
10 apply, as far as practicable, to the subject matter of this Act  
11 to the same extent as if such provisions were included herein.  
12 References in those incorporated Sections to taxpayers and to  
13 persons engaged in the business of selling tangible personal  
14 property at retail mean providers of direct-to-home satellite  
15 service, direct broadcast satellite service, or digital  
16 audio-visual works service when used in this Act.