

1 AN ACT in relation to municipalities.

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 8-11-1.3 as follows:

6 (65 ILCS 5/8-11-1.3) (from Ch. 24, par. 8-11-1.3)

7 Sec. 8-11-1.3. Non-Home Rule Municipal Retailers'  
8 Occupation Tax Act. The corporate authorities of a non-home  
9 rule municipality may impose a tax upon all persons engaged  
10 in the business of selling tangible personal property, other  
11 than on an item of tangible personal property that which is  
12 titled and registered by an agency of this State's  
13 Government, at retail in the municipality for expenditure on  
14 public infrastructure or for property tax relief or both as  
15 defined in Section 8-11-1.2 if approved by referendum as  
16 provided in Section 8-11-1.1, of the gross receipts from such  
17 sales made in the course of such business. The tax imposed  
18 may not be more than 1/2 of 1% and may be imposed only in  
19 1/4% increments. The tax may not be imposed on the sale of  
20 food for human consumption that is to be consumed off the  
21 premises where it is sold (other than alcoholic beverages,  
22 soft drinks, and food that has been prepared for immediate  
23 consumption) and prescription and nonprescription medicines,  
24 drugs, medical appliances, and insulin, urine testing  
25 materials, syringes, and needles used by diabetics. The tax  
26 imposed by a municipality pursuant to this Section and all  
27 civil penalties that may be assessed as an incident thereof  
28 shall be collected and enforced by the State Department of  
29 Revenue. The certificate of registration which is issued by  
30 the Department to a retailer under the Retailers' Occupation  
31 Tax Act shall permit such retailer to engage in a business

1 which is taxable under any ordinance or resolution enacted  
2 pursuant to this Section without registering separately with  
3 the Department under such ordinance or resolution or under  
4 this Section. The Department shall have full power to  
5 administer and enforce this Section; to collect all taxes and  
6 penalties due hereunder; to dispose of taxes and penalties so  
7 collected in the manner hereinafter provided, and to  
8 determine all rights to credit memoranda, arising on account  
9 of the erroneous payment of tax or penalty hereunder. In the  
10 administration of, and compliance with, this Section, the  
11 Department and persons who are subject to this Section shall  
12 have the same rights, remedies, privileges, immunities,  
13 powers and duties, and be subject to the same conditions,  
14 restrictions, limitations, penalties and definitions of  
15 terms, and employ the same modes of procedure, as are  
16 prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 2  
17 through 2-65 (in respect to all provisions therein other than  
18 the State rate of tax), 2c, 3 (except as to the disposition  
19 of taxes and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e,  
20 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11,  
21 12 and 13 of the Retailers' Occupation Tax Act and Section  
22 3-7 of the Uniform Penalty and Interest Act as fully as if  
23 those provisions were set forth herein.

24 No municipality may impose a tax under this Section  
25 unless the municipality also imposes a tax at the same rate  
26 under Section 8-11-1.4 of this Code.

27 Persons subject to any tax imposed pursuant to the  
28 authority granted in this Section may reimburse themselves  
29 for their seller's tax liability hereunder by separately  
30 stating such tax as an additional charge, which charge may be  
31 stated in combination, in a single amount, with State tax  
32 which sellers are required to collect under the Use Tax Act,  
33 pursuant to such bracket schedules as the Department may  
34 prescribe.

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

9           The Department shall forthwith pay over to the State  
10 Treasurer, ex officio, as trustee, all taxes and penalties  
11 collected hereunder. On or before the 25th day of each  
12 calendar month, the Department shall prepare and certify to  
13 the Comptroller the disbursement of stated sums of money to  
14 named municipalities, the municipalities to be those from  
15 which retailers have paid taxes or penalties hereunder to the  
16 Department during the second preceding calendar month. The  
17 amount to be paid to each municipality shall be the amount  
18 (not including credit memoranda) collected hereunder during  
19 the second preceding calendar month by the Department plus an  
20 amount the Department determines is necessary to offset any  
21 amounts which were erroneously paid to a different taxing  
22 body, and not including an amount equal to the amount of  
23 refunds made during the second preceding calendar month by  
24 the Department on behalf of such municipality, and not  
25 including any amount which the Department determines is  
26 necessary to offset any amounts which were payable to a  
27 different taxing body but were erroneously paid to the  
28 municipality. Within 10 days after receipt, by the  
29 Comptroller, of the disbursement certification to the  
30 municipalities, provided for in this Section to be given to  
31 the Comptroller by the Department, the Comptroller shall  
32 cause the orders to be drawn for the respective amounts in  
33 accordance with the directions contained in such  
34 certification.

1           For the purpose of determining the local governmental  
2 unit whose tax is applicable, a retail sale, by a producer of  
3 coal or other mineral mined in Illinois, is a sale at retail  
4 at the place where the coal or other mineral mined in  
5 Illinois is extracted from the earth. This paragraph does  
6 not apply to coal or other mineral when it is delivered or  
7 shipped by the seller to the purchaser at a point outside  
8 Illinois so that the sale is exempt under the Federal  
9 Constitution as a sale in interstate or foreign commerce.

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

14           When certifying the amount of a monthly disbursement to a  
15 municipality under this Section, the Department shall  
16 increase or decrease such amount by an amount necessary to  
17 offset any misallocation of previous disbursements. The  
18 offset amount shall be the amount erroneously disbursed  
19 within the previous 6 months from the time a misallocation is  
20 discovered.

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

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

27           This Section shall be known and may be cited as the  
28 "Non-Home Rule Municipal Retailers' Occupation Tax Act".

29           (Source: P.A. 91-51, eff. 6-30-99; 91-649, eff. 1-1-00;  
30 92-739, eff. 1-1-03.)