



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 02/05/04, by Dan Reitz

SYNOPSIS AS INTRODUCED:

65 ILCS 5/8-11-1.1	from Ch. 24, par. 8-11-1.1
65 ILCS 5/8-11-1.2	from Ch. 24, par. 8-11-1.2
65 ILCS 5/8-11-1.3	from Ch. 24, par. 8-11-1.3
65 ILCS 5/8-11-1.4	from Ch. 24, par. 8-11-1.4
65 ILCS 5/8-11-1.5	from Ch. 24, par. 8-11-1.5

Amends the Illinois Municipal Code. Increases to 1.5% (now, 1/2 of 1%) the rate of a retailer's occupation tax, service occupation tax, or use tax that may be imposed by a non-home rule municipality. Provides that the taxes may be imposed for expenditure on public infrastructure, transportation projects, property tax relief, or any combination of these (now, may be provided for expenditure on public infrastructure or for property tax relief, or both). Defines "transportation project". Effective immediately.

LRB093 16624 MKM 42274 b

1 AN ACT concerning taxes.

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 Sections 8-11-1.1, 8-11-1.2, 8-11-1.3, 8-11-1.4, and
6 8-11-1.5 as follows:

7 (65 ILCS 5/8-11-1.1) (from Ch. 24, par. 8-11-1.1)

8 Sec. 8-11-1.1. Non-home rule municipalities; imposition of
9 taxes.

10 (a) The corporate authorities of a non-home rule
11 municipality may, upon approval of the electors of the
12 municipality pursuant to subsection (b) of this Section, impose
13 by ordinance or resolution the tax authorized in Sections
14 8-11-1.3, 8-11-1.4 and 8-11-1.5 of this Act.

15 (b) The corporate authorities of the municipality may by
16 ordinance or resolution call for the submission to the electors
17 of the municipality the question of whether the municipality
18 shall impose such tax. Such question shall be certified by the
19 municipal clerk to the election authority in accordance with
20 Section 28-5 of the Election Code and shall be in a form in
21 accordance with Section 16-7 of the Election Code.

22 If a majority of the electors in the municipality voting
23 upon the question vote in the affirmative, such tax shall be
24 imposed.

25 An ordinance or resolution imposing the tax of not more
26 than 1.5% ~~1/2 of 1%~~ hereunder or discontinuing the same shall
27 be adopted and a certified copy thereof, together with a
28 certification that the ordinance or resolution received
29 referendum approval in the case of the imposition of such tax,
30 filed with the Department of Revenue, on or before the first
31 day of June, whereupon the Department shall proceed to
32 administer and enforce the additional tax or to discontinue the

1 tax, as the case may be, as of the first day of September next
2 following such adoption and filing. Beginning January 1, 1992,
3 an ordinance or resolution imposing or discontinuing the tax
4 hereunder shall be adopted and a certified copy thereof filed
5 with the Department on or before the first day of July,
6 whereupon the Department shall proceed to administer and
7 enforce this Section as of the first day of October next
8 following such adoption and filing. Beginning January 1, 1993,
9 an ordinance or resolution imposing or discontinuing the tax
10 hereunder shall be adopted and a certified copy thereof filed
11 with the Department on or before the first day of October,
12 whereupon the Department shall proceed to administer and
13 enforce this Section as of the first day of January next
14 following such adoption and filing. Beginning October 1, 2002,
15 an ordinance or resolution imposing or discontinuing the tax
16 under this Section or effecting a change in the rate of tax
17 must either (i) be adopted and a certified copy of the
18 ordinance or resolution filed with the Department on or before
19 the first day of April, whereupon the Department shall proceed
20 to administer and enforce this Section as of the first day of
21 July next following the adoption and filing; or (ii) be adopted
22 and a certified copy of the ordinance or resolution filed with
23 the Department on or before the first day of October, whereupon
24 the Department shall proceed to administer and enforce this
25 Section as of the first day of January next following the
26 adoption and filing. A non-home rule municipality may file a
27 certified copy of an ordinance or resolution, with a
28 certification that the ordinance or resolution received
29 referendum approval in the case of the imposition of the tax,
30 with the Department of Revenue, as required under this Section,
31 only after October 2, 2000.

32 The tax authorized by this Section may not be more than
33 1.5% ~~1/2 of 1%~~ and may be imposed only in 1/4% increments.

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

1 (65 ILCS 5/8-11-1.2) (from Ch. 24, par. 8-11-1.2)

2 Sec. 8-11-1.2. Definition. As used in Sections 8-11-1.3,
3 8-11-1.4 and 8-11-1.5 of this Act:

4 (a) "Public infrastructure" means municipal roads and
5 streets, access roads, bridges, and sidewalks; waste disposal
6 systems; and water and sewer line extensions, water
7 distribution and purification facilities, storm water drainage
8 and retention facilities, and sewage treatment facilities. For
9 purposes of referenda authorizing the imposition of taxes by
10 the City of DuQuoin under Sections 8-11-1.3, 8-11-1.4, and
11 8-11-1.5 of this Act that are approved in November, 2002,
12 "public infrastructure" shall also include public schools.

13 (b) "Property tax relief" means the action of a
14 municipality to reduce the levy for real estate taxes or avoid
15 an increase in the levy for real estate taxes that would
16 otherwise have been required. Property tax relief or the
17 avoidance of property tax must uniformly apply to all classes
18 of property.

19 (c) "Transportation project" means any bridge, street,
20 road, highway, access road, interchange, intersection,
21 signing, signalization, parking lot, bus stop, station,
22 garage, terminal, hangar, shelter, rest area, dock, wharf, lake
23 or river port, airport, railroad, light rail, or other mass
24 transit and any similar or related improvement or
25 infrastructure.

26 (Source: P.A. 91-51, eff. 6-30-99; 92-739, eff. 1-1-03; 92-815,
27 eff. 8-21-02; revised 9-10-02.)

28 (65 ILCS 5/8-11-1.3) (from Ch. 24, par. 8-11-1.3)

29 Sec. 8-11-1.3. Non-Home Rule Municipal Retailers'
30 Occupation Tax Act. The corporate authorities of a non-home
31 rule municipality may impose a tax upon all persons engaged in
32 the business of selling tangible personal property, other than
33 on an item of tangible personal property which is titled and
34 registered by an agency of this State's Government, at retail
35 in the municipality for expenditure on public infrastructure,

1 transportation projects, ~~or for~~ property tax relief, or any
2 combination of these, ~~both~~ as defined in Section 8-11-1.2 if
3 approved by referendum as provided in Section 8-11-1.1, of the
4 gross receipts from such sales made in the course of such
5 business. The tax imposed may not be more than 1.5% ~~1/2 of 1%~~
6 and may be imposed only in 1/4% increments. The tax may not be
7 imposed on the sale of food for human consumption that is to be
8 consumed off the premises where it is sold (other than
9 alcoholic beverages, soft drinks, and food that has been
10 prepared for immediate consumption) and prescription and
11 nonprescription medicines, drugs, medical appliances, and
12 insulin, urine testing materials, syringes, and needles used by
13 diabetics. The tax imposed by a municipality pursuant to this
14 Section and all civil penalties that may be assessed as an
15 incident thereof shall be collected and enforced by the State
16 Department of Revenue. The certificate of registration which is
17 issued by the Department to a retailer under the Retailers'
18 Occupation Tax Act shall permit such retailer to engage in a
19 business which is taxable under any ordinance or resolution
20 enacted pursuant to this Section without registering
21 separately with the Department under such ordinance or
22 resolution or under this Section. The Department shall have
23 full power to administer and enforce this Section; to collect
24 all taxes and penalties due hereunder; to dispose of taxes and
25 penalties so collected in the manner hereinafter provided, and
26 to determine all rights to credit memoranda, arising on account
27 of the erroneous payment of tax or penalty hereunder. In the
28 administration of, and compliance with, this Section, the
29 Department and persons who are subject to this Section shall
30 have the same rights, remedies, privileges, immunities, powers
31 and duties, and be subject to the same conditions,
32 restrictions, limitations, penalties and definitions of terms,
33 and employ the same modes of procedure, as are prescribed in
34 Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 2 through 2-65 (in
35 respect to all provisions therein other than the State rate of
36 tax), 2c, 3 (except as to the disposition of taxes and

1 penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i,
2 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the
3 Retailers' Occupation Tax Act and Section 3-7 of the Uniform
4 Penalty and Interest Act as fully as if those provisions were
5 set forth herein.

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

9 Persons subject to any tax imposed pursuant to the
10 authority granted in this Section may reimburse themselves for
11 their seller's tax liability hereunder by separately stating
12 such tax as an additional charge, which charge may be stated in
13 combination, in a single amount, with State tax which sellers
14 are required to collect under the Use Tax Act, pursuant to such
15 bracket schedules as the Department may prescribe.

16 Whenever the Department determines that a refund should be
17 made under this Section to a claimant instead of issuing a
18 credit memorandum, the Department shall notify the State
19 Comptroller, who shall cause the order to be drawn for the
20 amount specified, and to the person named, in such notification
21 from the Department. Such refund shall be paid by the State
22 Treasurer out of the non-home rule municipal retailers'
23 occupation tax fund.

24 The Department shall forthwith pay over to the State
25 Treasurer, ex officio, as trustee, all taxes and penalties
26 collected hereunder. On or before the 25th day of each calendar
27 month, the Department shall prepare and certify to the
28 Comptroller the disbursement of stated sums of money to named
29 municipalities, the municipalities to be those from which
30 retailers have paid taxes or penalties hereunder to the
31 Department during the second preceding calendar month. The
32 amount to be paid to each municipality shall be the amount (not
33 including credit memoranda) collected hereunder during the
34 second preceding calendar month by the Department plus an
35 amount the Department determines is necessary to offset any
36 amounts which were erroneously paid to a different taxing body,

1 and not including an amount equal to the amount of refunds made
2 during the second preceding calendar month by the Department on
3 behalf of such municipality, and not including any amount which
4 the Department determines is necessary to offset any amounts
5 which were payable to a different taxing body but were
6 erroneously paid to the municipality. Within 10 days after
7 receipt, by the Comptroller, of the disbursement certification
8 to the municipalities, provided for in this Section to be given
9 to the Comptroller by the Department, the Comptroller shall
10 cause the orders to be drawn for the respective amounts in
11 accordance with the directions contained in such
12 certification.

13 For the purpose of determining the local governmental unit
14 whose tax is applicable, a retail sale, by a producer of coal
15 or other mineral mined in Illinois, is a sale at retail at the
16 place where the coal or other mineral mined in Illinois is
17 extracted from the earth. This paragraph does not apply to coal
18 or other mineral when it is delivered or shipped by the seller
19 to the purchaser at a point outside Illinois so that the sale
20 is exempt under the Federal Constitution as a sale in
21 interstate or foreign commerce.

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

26 When certifying the amount of a monthly disbursement to a
27 municipality under this Section, the Department shall increase
28 or decrease such amount by an amount necessary to offset any
29 misallocation of previous disbursements. The offset amount
30 shall be the amount erroneously disbursed within the previous 6
31 months from the time a misallocation is discovered.

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

35 As used in this Section, "municipal" and "municipality"
36 means a city, village or incorporated town, including an

1 incorporated town which has superseded a civil township.

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

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

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 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, transportation projects,
12 ~~or for~~ property tax relief, or any combination of these, both
13 as defined in Section 8-11-1.2 if approved by referendum as
14 provided in Section 8-11-1.1, of the selling price of all
15 tangible personal property transferred by such servicemen
16 either in the form of tangible personal property or in the form
17 of real estate as an incident to a sale of service. The tax
18 imposed may not be more than 1.5% ~~1/2 of 1%~~ and may be imposed
19 only in 1/4% increments. The tax may not be imposed on the sale
20 of food for human consumption that is to be consumed off the
21 premises where it is sold (other than alcoholic beverages, soft
22 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 the
30 Department to a retailer under the Retailers' Occupation Tax
31 Act or under the Service Occupation Tax Act shall permit such
32 registrant to engage in a business which is taxable under any
33 ordinance or resolution enacted pursuant to this Section
34 without registering separately with the Department under such
35 ordinance or resolution or under this Section. The Department

1 shall have full power to administer and enforce this Section;
2 to collect all taxes and penalties due hereunder; to dispose of
3 taxes and penalties so collected in the manner hereinafter
4 provided, and to determine all rights to credit memoranda
5 arising on account of the erroneous payment of tax or penalty
6 hereunder. In the administration of, and compliance with, this
7 Section the Department and persons who are subject to this
8 Section shall have the same rights, remedies, privileges,
9 immunities, powers and duties, and be subject to the same
10 conditions, restrictions, limitations, penalties and
11 definitions of terms, and employ the same modes of procedure,
12 as are prescribed in Sections 1a-1, 2, 2a, 3 through 3-50 (in
13 respect to all provisions therein other than the State rate of
14 tax), 4 (except that the reference to the State shall be to the
15 taxing municipality), 5, 7, 8 (except that the jurisdiction to
16 which the tax shall be a debt to the extent indicated in that
17 Section 8 shall be the taxing municipality), 9 (except as to
18 the disposition of taxes and penalties collected, and except
19 that the returned merchandise credit for this municipal tax may
20 not be taken against any State tax), 10, 11, 12 (except the
21 reference therein to Section 2b of the Retailers' Occupation
22 Tax Act), 13 (except that any reference to the State shall mean
23 the taxing municipality), the first paragraph of Section 15,
24 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and
25 Section 3-7 of the Uniform Penalty and Interest Act, as fully
26 as if those provisions were set forth herein.

27 No municipality may impose a tax under this Section unless
28 the municipality also imposes a tax at the same rate under
29 Section 8-11-1.3 of this Code.

30 Persons subject to any tax imposed pursuant to the
31 authority granted in this Section may reimburse themselves for
32 their serviceman's tax liability hereunder by separately
33 stating such tax as an additional charge, which charge may be
34 stated in combination, in a single amount, with State tax which
35 servicemen are authorized to collect under the Service Use Tax
36 Act, pursuant to such bracket schedules as the Department may

1 prescribe.

2 Whenever the Department determines that a refund should be
3 made under this Section to a claimant instead of issuing credit
4 memorandum, the Department shall notify the State Comptroller,
5 who shall cause the order to be drawn for the amount specified,
6 and to the person named, in such notification from the
7 Department. Such refund shall be paid by the State Treasurer
8 out of the municipal 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 calendar
12 month, the Department shall prepare and certify to the
13 Comptroller the disbursement of stated sums of money to named
14 municipalities, the municipalities to be those from which
15 suppliers and servicemen have paid taxes or penalties hereunder
16 to the Department during the second preceding calendar month.
17 The 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, and not
20 including an amount equal to the amount of refunds made during
21 the second preceding calendar month by the Department on behalf
22 of such municipality. Within 10 days after receipt, by the
23 Comptroller, of the disbursement certification to the
24 municipalities and the General Revenue Fund, provided for in
25 this Section to be given to the Comptroller by the Department,
26 the Comptroller shall cause the orders to be drawn for the
27 respective amounts in accordance with the directions contained
28 in such certification.

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

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

36 As used in this Section, "municipal" or "municipality"

1 means or refers to a city, village or incorporated town,
2 including an incorporated town which has superseded a civil
3 township.

4 This Section shall be known and may be cited as the
5 "Non-Home Rule Municipal Service Occupation Tax Act".

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

8 (65 ILCS 5/8-11-1.5) (from Ch. 24, par. 8-11-1.5)

9 Sec. 8-11-1.5. Non-Home Rule Municipal Use Tax Act. The
10 corporate authorities of a non-home rule municipality may
11 impose a tax upon the privilege of using, in such municipality,
12 any item of tangible personal property which is purchased at
13 retail from a retailer, and which is titled or registered with
14 an agency of this State's government, based on the selling
15 price of such tangible personal property, as "selling price" is
16 defined in the Use Tax Act, for expenditure on public
17 infrastructure, transportation projects, or for property tax
18 relief, or any combination of these, ~~both~~ as defined in Section
19 8-11-1.2, if approved by referendum as provided in Section
20 8-11-1.1. The tax imposed may not be more than 1.5% ~~1/2 of 1%~~
21 and may be imposed only in 1/4% increments. Such tax shall be
22 collected from persons whose Illinois address for title or
23 registration purposes is given as being in such municipality.
24 Such tax shall be collected by the municipality imposing such
25 tax. A non-home rule municipality may not impose and collect
26 the tax prior to January 1, 2002.

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

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

30 Section 99. Effective date. This Act takes effect upon
31 becoming law.