

1 AN ACT in relation to 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 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 which is titled
12 and registered by an agency of this State's Government, at
13 retail in the municipality for expenditure on public
14 infrastructure or for property tax relief or both as defined
15 in Section 8-11-1.2 if approved by referendum as provided in
16 Section 8-11-1.1, of the gross receipts from such sales made
17 in the course of such business. The tax imposed may not be
18 more than one-half 1/2 of 1% and may be imposed only in 1/4%
19 increments. The tax may not be imposed on the sale of food
20 for human consumption that is to be consumed off the premises
21 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
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.)