



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB1284

Introduced 2/9/2005, by Rep. Robert S. Molaro

SYNOPSIS AS INTRODUCED:

65 ILCS 5/8-11-1.1	from Ch. 24, par. 8-11-1.1
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. Provides that the rates of the Non-Home Rule Municipal Retailers' Occupation Tax Act, the Non-Home Rule Municipal Service Occupation Tax Act, and the Non-Home Rule Municipal Use Tax Act may not exceed 1% (now, the rates may not exceed 1/2 of 1%).

LRB094 05885 BDD 35939 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning local government.

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, 8-11-1.3, 8-11-1.4, and 8-11-1.5
6 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 ~~1/2~~ of 1% hereunder or discontinuing the same shall be
27 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 ~~1/2~~
33 ~~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 5/8-11-1.3) (from Ch. 24, par. 8-11-1.3)

2 Sec. 8-11-1.3. Non-Home Rule Municipal Retailers'
3 Occupation Tax Act. The corporate authorities of a non-home
4 rule municipality may impose a tax upon all persons engaged in
5 the business of selling tangible personal property, other than
6 on an item of tangible personal property which is titled and
7 registered by an agency of this State's Government, at retail
8 in the municipality for expenditure on public infrastructure or
9 for property tax relief or both as defined in Section 8-11-1.2
10 if approved by referendum as provided in Section 8-11-1.1, of
11 the gross receipts from such sales made in the course of such
12 business. The tax imposed may not be more than ~~1/2 of~~ 1% and
13 may be imposed only in 1/4% increments. The tax may not be
14 imposed on the sale of food for human consumption that is to be
15 consumed off the premises where it is sold (other than
16 alcoholic beverages, soft drinks, and food that has been
17 prepared for immediate consumption) and prescription and
18 nonprescription medicines, drugs, medical appliances, and
19 insulin, urine testing materials, syringes, and needles used by
20 diabetics. The tax imposed by a municipality pursuant to this
21 Section and all civil penalties that may be assessed as an
22 incident thereof shall be collected and enforced by the State
23 Department of Revenue. The certificate of registration which is
24 issued by the Department to a retailer under the Retailers'
25 Occupation Tax Act shall permit such retailer to engage in a
26 business which is taxable under any ordinance or resolution
27 enacted pursuant to this Section without registering
28 separately with the Department under such ordinance or
29 resolution or under this Section. The Department shall have
30 full power to administer and enforce this Section; to collect
31 all taxes and penalties due hereunder; to dispose of taxes and
32 penalties so collected in the manner hereinafter provided, and
33 to determine all rights to credit memoranda, arising on account
34 of the erroneous payment of tax or penalty hereunder. In the
35 administration of, and compliance with, this Section, the
36 Department and persons who are subject to this Section shall

1 have the same rights, remedies, privileges, immunities, powers
2 and duties, and be subject to the same conditions,
3 restrictions, limitations, penalties and definitions of terms,
4 and employ the same modes of procedure, as are prescribed in
5 Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 2 through 2-65 (in
6 respect to all provisions therein other than the State rate of
7 tax), 2c, 3 (except as to the disposition of taxes and
8 penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i,
9 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the
10 Retailers' Occupation Tax Act and Section 3-7 of the Uniform
11 Penalty and Interest Act as fully as if those provisions were
12 set forth herein.

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

16 Persons subject to any tax imposed pursuant to the
17 authority granted in this Section may reimburse themselves for
18 their seller's tax liability hereunder by separately stating
19 such tax as an additional charge, which charge may be stated in
20 combination, in a single amount, with State tax which sellers
21 are required to collect under the Use Tax Act, pursuant to such
22 bracket schedules as the Department may prescribe.

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

31 The Department shall forthwith pay over to the State
32 Treasurer, ex officio, as trustee, all taxes and penalties
33 collected hereunder. On or before the 25th day of each calendar
34 month, the Department shall prepare and certify to the
35 Comptroller the disbursement of stated sums of money to named
36 municipalities, the municipalities to be those from which

1 retailers have paid taxes or penalties hereunder to the
2 Department during the second preceding calendar month. The
3 amount to be paid to each municipality shall be the amount (not
4 including credit memoranda) collected hereunder during the
5 second preceding calendar month by the Department plus an
6 amount the Department determines is necessary to offset any
7 amounts which were erroneously paid to a different taxing body,
8 and not including an amount equal to the amount of refunds made
9 during the second preceding calendar month by the Department on
10 behalf of such municipality, and not including any amount which
11 the Department determines is necessary to offset any amounts
12 which were payable to a different taxing body but were
13 erroneously paid to the municipality. Within 10 days after
14 receipt, by the Comptroller, of the disbursement certification
15 to the municipalities, provided for in this Section to be given
16 to the Comptroller by the Department, the Comptroller shall
17 cause the orders to be drawn for the respective amounts in
18 accordance with the directions contained in such
19 certification.

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

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

33 When certifying the amount of a monthly disbursement to a
34 municipality under this Section, the Department shall increase
35 or decrease such amount by an amount necessary to offset any
36 misallocation of previous disbursements. The offset amount

1 shall be the amount erroneously disbursed within the previous 6
2 months from the time a misallocation is discovered.

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

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

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

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

13 (65 ILCS 5/8-11-1.4) (from Ch. 24, par. 8-11-1.4)

14 Sec. 8-11-1.4. Non-Home Rule Municipal Service Occupation
15 Tax Act. The corporate authorities of a non-home rule
16 municipality may impose a tax upon all persons engaged, in such
17 municipality, in the business of making sales of service for
18 expenditure on public infrastructure or for property tax relief
19 or both as defined in Section 8-11-1.2 if approved by
20 referendum as provided in Section 8-11-1.1, of the selling
21 price of all tangible personal property transferred by such
22 servicemen either in the form of tangible personal property or
23 in the form of real estate as an incident to a sale of service.
24 The tax imposed may not be more than ~~1/2~~ of 1% and may be
25 imposed only in 1/4% increments. The tax may not be imposed on
26 the sale of food for human consumption that is to be consumed
27 off the premises where it is sold (other than alcoholic
28 beverages, soft drinks, and food that has been prepared for
29 immediate consumption) and prescription and nonprescription
30 medicines, drugs, medical appliances, and insulin, urine
31 testing materials, syringes, and needles used by diabetics. The
32 tax imposed by a municipality pursuant to this Section and all
33 civil penalties that may be assessed as an incident thereof
34 shall be collected and enforced by the State Department of
35 Revenue. The certificate of registration which is issued by the

1 Department to a retailer under the Retailers' Occupation Tax
2 Act or under the Service Occupation Tax Act shall permit such
3 registrant to engage in a business which is taxable under any
4 ordinance or resolution enacted pursuant to this Section
5 without registering separately with the Department under such
6 ordinance or resolution or under this Section. The Department
7 shall have full power to administer and enforce this Section;
8 to collect all taxes and penalties due hereunder; to dispose of
9 taxes and penalties so collected in the manner hereinafter
10 provided, and to determine all rights to credit memoranda
11 arising on account of the erroneous payment of tax or penalty
12 hereunder. In the administration of, and compliance with, this
13 Section the Department and persons who are subject to this
14 Section shall have the same rights, remedies, privileges,
15 immunities, powers and duties, and be subject to the same
16 conditions, restrictions, limitations, penalties and
17 definitions of terms, and employ the same modes of procedure,
18 as are prescribed in Sections 1a-1, 2, 2a, 3 through 3-50 (in
19 respect to all provisions therein other than the State rate of
20 tax), 4 (except that the reference to the State shall be to the
21 taxing municipality), 5, 7, 8 (except that the jurisdiction to
22 which the tax shall be a debt to the extent indicated in that
23 Section 8 shall be the taxing municipality), 9 (except as to
24 the disposition of taxes and penalties collected, and except
25 that the returned merchandise credit for this municipal tax may
26 not be taken against any State tax), 10, 11, 12 (except the
27 reference therein to Section 2b of the Retailers' Occupation
28 Tax Act), 13 (except that any reference to the State shall mean
29 the taxing municipality), the first paragraph of Section 15,
30 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and
31 Section 3-7 of the Uniform Penalty and Interest Act, as fully
32 as if those provisions were set forth herein.

33 No municipality may impose a tax under this Section unless
34 the municipality also imposes a tax at the same rate under
35 Section 8-11-1.3 of this Code.

36 Persons subject to any tax imposed pursuant to the

1 authority granted in this Section may reimburse themselves for
2 their serviceman's tax liability hereunder by separately
3 stating such tax as an additional charge, which charge may be
4 stated in combination, in a single amount, with State tax which
5 servicemen are authorized to collect under the Service Use Tax
6 Act, pursuant to such bracket schedules as the Department may
7 prescribe.

8 Whenever the Department determines that a refund should be
9 made under this Section to a claimant instead of issuing credit
10 memorandum, the Department shall notify the State Comptroller,
11 who shall cause the order to be drawn for the amount specified,
12 and to the person named, in such notification from the
13 Department. Such refund shall be paid by the State Treasurer
14 out of the municipal retailers' occupation tax fund.

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

35 The Department of Revenue shall implement this amendatory
36 Act of the 91st General Assembly so as to collect the tax on

1 and after January 1, 2002.

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

6 As used in this Section, "municipal" or "municipality"
7 means or refers to a city, village or incorporated town,
8 including an incorporated town which has superseded a civil
9 township.

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

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

14 (65 ILCS 5/8-11-1.5) (from Ch. 24, par. 8-11-1.5)

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

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

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