



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB3948

Introduced 2/26/2009, by Rep. Sidney H. Mathias - Rosemary Mulligan - Suzanne Bassi - Elizabeth Coulson - Angelo Saviano, et al.

#### SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1006	from Ch. 34, par. 5-1006
55 ILCS 5/5-1007	from Ch. 34, par. 5-1007
65 ILCS 5/8-11-1	from Ch. 24, par. 8-11-1
65 ILCS 5/8-11-5	from Ch. 24, par. 8-11-5

Amends the Home Rule County Retailers' Occupation Tax Law of the Counties Code and the Home Rule County Service Occupation Tax Law of the Counties Code. Provides that the maximum tax rate that is permitted under those Laws is 0.75%, unless a higher rate is authorized by referendum. Amends the Home Rule Municipal Retailers' Occupation Tax Act of the Illinois Municipal Code and the Home Rule Municipal Service Occupation Tax Act of the Illinois Municipal Code. Provides that the maximum tax rate that is permitted in the City of Chicago under those Tax Acts is 1.25%, unless a higher rate is authorized by referendum. Preempts home rule powers. Effective immediately.

LRB096 05842 RCE 15922 b

FISCAL NOTE ACT  
MAY APPLY

HOME RULE NOTE  
ACT MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

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 Section 5. The Counties Code is amended by changing  
5 Sections 5-1006 and 5-1007 as follows:

6 (55 ILCS 5/5-1006) (from Ch. 34, par. 5-1006)

7 Sec. 5-1006. Home Rule County Retailers' Occupation Tax  
8 Law. Any county that is a home rule unit may impose a tax upon  
9 all persons engaged in the business of selling tangible  
10 personal property, other than an item of tangible personal  
11 property titled or registered with an agency of this State's  
12 government, at retail in the county on the gross receipts from  
13 such sales made in the course of their business. If imposed,  
14 this tax shall only be imposed in 1/4% increments. On and after  
15 September 1, 1991, this additional tax may not be imposed on  
16 the sales of food for human consumption which is to be consumed  
17 off the premises where it is sold (other than alcoholic  
18 beverages, soft drinks and food which has been prepared for  
19 immediate consumption) and prescription and nonprescription  
20 medicines, drugs, medical appliances and insulin, urine  
21 testing materials, syringes and needles used by diabetics. The  
22 tax imposed by a home rule county pursuant to this Section and  
23 all civil penalties that may be assessed as an incident thereof

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

26 No tax may be imposed by a home rule county pursuant to

1 this Section unless the county also imposes a tax at the same  
2 rate pursuant to Section 5-1007.

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

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

18 The Department shall forthwith pay over to the State  
19 Treasurer, ex officio, as trustee, all taxes and penalties  
20 collected hereunder. On or before the 25th day of each calendar  
21 month, the Department shall prepare and certify to the  
22 Comptroller the disbursement of stated sums of money to named  
23 counties, the counties to be those from which retailers have  
24 paid taxes or penalties hereunder to the Department during the  
25 second preceding calendar month. The amount to be paid to each  
26 county shall be the amount (not including credit memoranda)

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

16 In addition to the disbursement required by the preceding  
17 paragraph, an allocation shall be made in March of each year to  
18 each county that received more than \$500,000 in disbursements  
19 under the preceding paragraph in the preceding calendar year.  
20 The allocation shall be in an amount equal to the average  
21 monthly distribution made to each such county under the  
22 preceding paragraph during the preceding calendar year  
23 (excluding the 2 months of highest receipts). The distribution  
24 made in March of each year subsequent to the year in which an  
25 allocation was made pursuant to this paragraph and the  
26 preceding paragraph shall be reduced by the amount allocated

1 and disbursed under this paragraph in the preceding calendar  
2 year. The Department shall prepare and certify to the  
3 Comptroller for disbursement the allocations made in  
4 accordance with this paragraph.

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

14 Nothing in this Section shall be construed to authorize a  
15 county to impose a tax upon the privilege of engaging in any  
16 business which under the Constitution of the United States may  
17 not be made the subject of taxation by this State.

18 An ordinance or resolution imposing or discontinuing a tax  
19 hereunder or effecting a change in the rate thereof shall be  
20 adopted and a certified copy thereof filed with the Department  
21 on or before the first day of June, whereupon the Department  
22 shall proceed to administer and enforce this Section as of the  
23 first day of September next following such adoption and filing.  
24 Beginning January 1, 1992, an ordinance or resolution imposing  
25 or discontinuing the tax hereunder or effecting a change in the  
26 rate thereof shall be adopted and a certified copy thereof

1 filed with the Department on or before the first day of July,  
2 whereupon the Department shall proceed to administer and  
3 enforce this Section as of the first day of October next  
4 following such adoption and filing. Beginning January 1, 1993,  
5 an ordinance or resolution imposing or discontinuing the tax  
6 hereunder or effecting a change in the rate thereof shall be  
7 adopted and a certified copy thereof filed with the Department  
8 on or before the first day of October, whereupon the Department  
9 shall proceed to administer and enforce this Section as of the  
10 first day of January next following such adoption and filing.  
11 Beginning April 1, 1998, an ordinance or resolution imposing or  
12 discontinuing the tax hereunder or effecting a change in the  
13 rate thereof shall either (i) be adopted and a certified copy  
14 thereof filed with the Department on or before the first day of  
15 April, whereupon the Department shall proceed to administer and  
16 enforce this Section as of the first day of July next following  
17 the adoption and filing; or (ii) be adopted and a certified  
18 copy thereof filed with the Department on or before the first  
19 day of October, whereupon the Department shall proceed to  
20 administer and enforce this Section as of the first day of  
21 January next following the adoption and filing.

22 When certifying the amount of a monthly disbursement to a  
23 county under this Section, the Department shall increase or  
24 decrease such amount by an amount necessary to offset any  
25 misallocation of previous disbursements. The offset amount  
26 shall be the amount erroneously disbursed within the previous 6

1 months from the time a misallocation is discovered.

2 Except as otherwise provided in this Section, beginning on  
3 the first day of the first month to occur not less than 30  
4 calendar days after the effective date of this amendatory Act  
5 of the 96th General Assembly, the maximum rate of any tax  
6 imposed under this Section is 0.75%. If the rate of tax exceeds  
7 0.75% on the effective date of this amendatory Act of the 96th  
8 General Assembly, then the rate shall be reduced to 0.75%  
9 beginning on the first day of the first month to occur not less  
10 than 30 calendar days after the effective date of this  
11 amendatory Act of the 96th General Assembly. The county board  
12 of a county that is authorized to impose a tax under this  
13 Section may increase the rate to more than 0.75%, but only  
14 after the question is approved by the voters of the county at  
15 an election held in accordance with the general election law.  
16 The county board proposing the increase shall certify the  
17 proposition to the proper election officials who shall submit  
18 the proposition to the voters at an election in accordance with  
19 the general election law. The proposition shall be in  
20 substantially the following form:

21 "Shall (county) be authorized to increase its  
22 retailers' occupation tax (commonly referred to as its  
23 sales tax) to (percent)?"

24 Votes shall be recorded as "Yes" or "No". If a majority of  
25 the votes cast on the proposition are in favor of the increase,  
26 then the increase is authorized.



1       A home rule unit may not impose retailers' occupation taxes  
2       in a manner that is inconsistent with this Section. This  
3       Section is a limitation of home rule powers and functions under  
4       subsection (g) of Section 6 of Article VII of the Illinois  
5       Constitution.

6       This Section shall be known and may be cited as the Home  
7       Rule County Retailers' Occupation Tax Law.

8       (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

9       (55 ILCS 5/5-1007) (from Ch. 34, par. 5-1007)

10       Sec. 5-1007. Home Rule County Service Occupation Tax Law.  
11       The corporate authorities of a home rule county may impose a  
12       tax upon all persons engaged, in such county, in the business  
13       of making sales of service at the same rate of tax imposed  
14       pursuant to Section 5-1006 of the selling price of all tangible  
15       personal property transferred by such servicemen either in the  
16       form of tangible personal property or in the form of real  
17       estate as an incident to a sale of service. If imposed, such  
18       tax shall only be imposed in 1/4% increments. On and after  
19       September 1, 1991, this additional tax may not be imposed on  
20       the sales of food for human consumption which is to be consumed  
21       off the premises where it is sold (other than alcoholic  
22       beverages, soft drinks and food which has been prepared for  
23       immediate consumption) and prescription and nonprescription  
24       medicines, drugs, medical appliances and insulin, urine  
25       testing materials, syringes and needles used by diabetics. The

1 tax imposed by a home rule county pursuant to this Section and  
2 all civil penalties that may be assessed as an incident thereof  
3 shall be collected and enforced by the State Department of  
4 Revenue. The certificate of registration which is issued by the  
5 Department to a retailer under the Retailers' Occupation Tax  
6 Act or under the Service Occupation Tax Act shall permit such  
7 registrant to engage in a business which is taxable under any  
8 ordinance or resolution enacted pursuant to this Section  
9 without registering separately with the Department under such  
10 ordinance or resolution or under this Section. The Department  
11 shall have full power to administer and enforce this Section;  
12 to collect all taxes and penalties due hereunder; to dispose of  
13 taxes and penalties so collected in the manner hereinafter  
14 provided; and to determine all rights to credit memoranda  
15 arising on account of the erroneous payment of tax or penalty  
16 hereunder. In the administration of, and compliance with, this  
17 Section the Department and persons who are subject to this  
18 Section shall have the same rights, remedies, privileges,  
19 immunities, powers and duties, and be subject to the same  
20 conditions, restrictions, limitations, penalties and  
21 definitions of terms, and employ the same modes of procedure,  
22 as are prescribed in Sections 1a-1, 2, 2a, 3 through 3-50 (in  
23 respect to all provisions therein other than the State rate of  
24 tax), 4 (except that the reference to the State shall be to the  
25 taxing county), 5, 7, 8 (except that the jurisdiction to which  
26 the tax shall be a debt to the extent indicated in that Section

1 8 shall be the taxing county), 9 (except as to the disposition  
2 of taxes and penalties collected, and except that the returned  
3 merchandise credit for this county tax may not be taken against  
4 any State tax), 10, 11, 12 (except the reference therein to  
5 Section 2b of the Retailers' Occupation Tax Act), 13 (except  
6 that any reference to the State shall mean the taxing county),  
7 the first paragraph of Section 15, 16, 17, 18, 19 and 20 of the  
8 Service Occupation Tax Act and Section 3-7 of the Uniform  
9 Penalty and Interest Act, as fully as if those provisions were  
10 set forth herein.

11 No tax may be imposed by a home rule county pursuant to  
12 this Section unless such county also imposes a tax at the same  
13 rate pursuant to Section 5-1006.

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

22 Whenever the Department determines that a refund should be  
23 made under this Section to a claimant instead of issuing credit  
24 memorandum, the Department shall notify the State Comptroller,  
25 who shall cause the order to be drawn for the amount specified,  
26 and to the person named, in such notification from the

1 Department. Such refund shall be paid by the State Treasurer  
2 out of the home rule county retailers' occupation tax fund.

3 The Department shall forthwith pay over to the State  
4 Treasurer, ex-officio, as trustee, all taxes and penalties  
5 collected hereunder. On or before the 25th day of each calendar  
6 month, the Department shall prepare and certify to the  
7 Comptroller the disbursement of stated sums of money to named  
8 counties, the counties to be those from which suppliers and  
9 servicemen have paid taxes or penalties hereunder to the  
10 Department during the second preceding calendar month. The  
11 amount to be paid to each county shall be the amount (not  
12 including credit memoranda) collected hereunder during the  
13 second preceding calendar month by the Department, and not  
14 including an amount equal to the amount of refunds made during  
15 the second preceding calendar month by the Department on behalf  
16 of such county. Within 10 days after receipt, by the  
17 Comptroller, of the disbursement certification to the counties  
18 provided for in this Section to be given to the Comptroller by  
19 the Department, the Comptroller shall cause the orders to be  
20 drawn for the respective amounts in accordance with the  
21 directions contained in such certification.

22 In addition to the disbursement required by the preceding  
23 paragraph, an allocation shall be made in each year to each  
24 county which received more than \$500,000 in disbursements under  
25 the preceding paragraph in the preceding calendar year. The  
26 allocation shall be in an amount equal to the average monthly

1 distribution made to each such county under the preceding  
2 paragraph during the preceding calendar year (excluding the 2  
3 months of highest receipts). The distribution made in March of  
4 each year subsequent to the year in which an allocation was  
5 made pursuant to this paragraph and the preceding paragraph  
6 shall be reduced by the amount allocated and disbursed under  
7 this paragraph in the preceding calendar year. The Department  
8 shall prepare and certify to the Comptroller for disbursement  
9 the allocations made in accordance with this paragraph.

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

14 An ordinance or resolution imposing or discontinuing a tax  
15 hereunder or effecting a change in the rate thereof shall be  
16 adopted and a certified copy thereof filed with the Department  
17 on or before the first day of June, whereupon the Department  
18 shall proceed to administer and enforce this Section as of the  
19 first day of September next following such adoption and filing.  
20 Beginning January 1, 1992, an ordinance or resolution imposing  
21 or discontinuing the tax hereunder or effecting a change in the  
22 rate thereof shall be adopted and a certified copy thereof  
23 filed with the Department on or before the first day of July,  
24 whereupon the Department shall proceed to administer and  
25 enforce this Section as of the first day of October next  
26 following such adoption and filing. Beginning January 1, 1993,

1 an ordinance or resolution imposing or discontinuing the tax  
2 hereunder or effecting a change in the rate thereof shall be  
3 adopted and a certified copy thereof filed with the Department  
4 on or before the first day of October, whereupon the Department  
5 shall proceed to administer and enforce this Section as of the  
6 first day of January next following such adoption and filing.  
7 Beginning April 1, 1998, an ordinance or resolution imposing or  
8 discontinuing the tax hereunder or effecting a change in the  
9 rate thereof shall either (i) be adopted and a certified copy  
10 thereof filed with the Department on or before the first day of  
11 April, whereupon the Department shall proceed to administer and  
12 enforce this Section as of the first day of July next following  
13 the adoption and filing; or (ii) be adopted and a certified  
14 copy thereof filed with the Department on or before the first  
15 day of October, whereupon the Department shall proceed to  
16 administer and enforce this Section as of the first day of  
17 January next following the adoption and filing.

18 Except as otherwise provided in this Section, beginning on  
19 the first day of the first month to occur not less than 30  
20 calendar days after the effective date of this amendatory Act  
21 of the 96th General Assembly, the maximum rate of any tax  
22 imposed under this Section is 0.75%. If the rate of tax exceeds  
23 0.75% on the effective date of this amendatory Act of the 96th  
24 General Assembly, then the rate shall be reduced to 0.75%  
25 beginning on the first day of the first month to occur not less  
26 than 30 calendar days after the effective date of this

1 amendatory Act of the 96th General Assembly. The county board  
2 of a county that is authorized to impose a tax under this  
3 Section may increase the rate to more than 0.75%, but only  
4 after the question is approved by the voters of the county at  
5 an election held in accordance with the general election law.  
6 The county board proposing the increase shall certify the  
7 proposition to the proper election officials who shall submit  
8 the proposition to the voters at an election in accordance with  
9 the general election law. The proposition shall be in  
10 substantially the following form:

11 "Shall (county) be authorized to increase its service  
12 occupation tax (commonly referred to as its sales tax) to  
13 (percent)?"

14 Votes shall be recorded as "Yes" or "No". If a majority of  
15 the votes cast on the proposition are in favor of the increase,  
16 then the increase is authorized.

17 A home rule unit may not impose service occupation taxes in  
18 a manner that is inconsistent with this Section. This Section  
19 is a limitation of home rule powers and functions under  
20 subsection (g) of Section 6 of Article VII of the Illinois  
21 Constitution.

22 This Section shall be known and may be cited as the Home  
23 Rule County Service Occupation Tax Law.

24 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

25 Section 10. The Illinois Municipal Code is amended by

1 changing Sections 8-11-1 and 8-11-5 as follows:

2 (65 ILCS 5/8-11-1) (from Ch. 24, par. 8-11-1)

3 Sec. 8-11-1. Home Rule Municipal Retailers' Occupation Tax  
4 Act. The corporate authorities of a home rule municipality may  
5 impose a tax upon all persons engaged in the business of  
6 selling tangible personal property, other than an item of  
7 tangible personal property titled or registered with an agency  
8 of this State's government, at retail in the municipality on  
9 the gross receipts from these sales made in the course of such  
10 business. If imposed, the tax shall only be imposed in 1/4%  
11 increments. On and after September 1, 1991, this additional tax  
12 may not be imposed on the sales of food for human consumption  
13 that is to be consumed off the premises where it is sold (other  
14 than alcoholic beverages, soft drinks and food that has been  
15 prepared for immediate consumption) and prescription and  
16 nonprescription medicines, drugs, medical appliances and  
17 insulin, urine testing materials, syringes and needles used by  
18 diabetics. The tax imposed by a home rule municipality under  
19 this Section and all civil penalties that may be assessed as an  
20 incident of the tax shall be collected and enforced by the  
21 State Department of Revenue. The certificate of registration  
22 that is issued by the Department to a retailer under the  
23 Retailers' Occupation Tax Act shall permit the retailer to  
24 engage in a business that is taxable under any ordinance or  
25 resolution enacted pursuant to this Section without



1 registering separately with the Department under such  
2 ordinance or resolution or under this Section. The Department  
3 shall have full power to administer and enforce this Section;  
4 to collect all taxes and penalties due hereunder; to dispose of  
5 taxes and penalties so collected in the manner hereinafter  
6 provided; and to determine all rights to credit memoranda  
7 arising on account of the erroneous payment of tax or penalty  
8 hereunder. In the administration of, and compliance with, this  
9 Section the Department and persons who are subject to this  
10 Section shall have the same rights, remedies, privileges,  
11 immunities, powers and duties, and be subject to the same  
12 conditions, restrictions, limitations, penalties and  
13 definitions of terms, and employ the same modes of procedure,  
14 as are prescribed in Sections 1, 1a, 1d, 1e, 1f, 1i, 1j, 1k,  
15 1m, 1n, 2 through 2-65 (in respect to all provisions therein  
16 other than the State rate of tax), 2c, 3 (except as to the  
17 disposition of taxes and penalties collected), 4, 5, 5a, 5b,  
18 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9,  
19 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and  
20 Section 3-7 of the Uniform Penalty and Interest Act, as fully  
21 as if those provisions were set forth herein.

22 No tax may be imposed by a home rule municipality under  
23 this Section unless the municipality also imposes a tax at the  
24 same rate under Section 8-11-5 of this Act.

25 Except as otherwise provided in this Section, beginning on  
26 the first day of the first month to occur not less than 30

1 calendar days after the effective date of this amendatory Act  
2 of the 96th General Assembly, the maximum rate of any tax  
3 imposed under this Section by the City of Chicago is 1.25%. If  
4 the rate of tax imposed by the City of Chicago exceeds 1.25% on  
5 the effective date of this amendatory Act of the 96th General  
6 Assembly, then the rate shall be reduced to 1.25% beginning on  
7 the first day of the first month to occur not less than 30  
8 calendar days after the effective date of this amendatory Act  
9 of the 96th General Assembly. The corporate authorities of the  
10 City of Chicago may increase the rate to more than 1.25%, but  
11 only after the question is approved by the voters residing  
12 within the City of Chicago at an election held in accordance  
13 with the general election law. The corporate authorities shall  
14 certify the proposition to the proper election officials who  
15 shall submit the proposition to the voters at an election in  
16 accordance with the general election law. The proposition shall  
17 be in substantially the following form:

18 "Shall the City of Chicago be authorized to increase  
19 its retailers' occupation tax (commonly referred to as its  
20 sales tax) to (percent)?"

21 Votes shall be recorded as "Yes" or "No". If a majority of  
22 the votes cast on the proposition are in favor of the increase,  
23 then the increase is authorized.

24 Persons subject to any tax imposed under the authority  
25 granted in this Section may reimburse themselves for their  
26 seller's tax liability hereunder by separately stating that tax

1 as an additional charge, which charge may be stated in  
2 combination, in a single amount, with State tax which sellers  
3 are required to collect under the Use Tax Act, pursuant to such  
4 bracket schedules as the Department may prescribe.

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

13 The Department shall immediately pay over to the State  
14 Treasurer, ex officio, as trustee, all taxes and penalties  
15 collected hereunder. On or before the 25th day of each calendar  
16 month, the Department shall prepare and certify to the  
17 Comptroller the disbursement of stated sums of money to named  
18 municipalities, the municipalities to be those from which  
19 retailers have paid taxes or penalties hereunder to the  
20 Department during the second preceding calendar month. The  
21 amount to be paid to each municipality shall be the amount (not  
22 including credit memoranda) collected hereunder during the  
23 second preceding calendar month by the Department plus an  
24 amount the Department determines is necessary to offset any  
25 amounts that were erroneously paid to a different taxing body,  
26 and not including an amount equal to the amount of refunds made

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

11 In addition to the disbursement required by the preceding  
12 paragraph and in order to mitigate delays caused by  
13 distribution procedures, an allocation shall, if requested, be  
14 made within 10 days after January 14, 1991, and in November of  
15 1991 and each year thereafter, to each municipality that  
16 received more than \$500,000 during the preceding fiscal year,  
17 (July 1 through June 30) whether collected by the municipality  
18 or disbursed by the Department as required by this Section.  
19 Within 10 days after January 14, 1991, participating  
20 municipalities shall notify the Department in writing of their  
21 intent to participate. In addition, for the initial  
22 distribution, participating municipalities shall certify to  
23 the Department the amounts collected by the municipality for  
24 each month under its home rule occupation and service  
25 occupation tax during the period July 1, 1989 through June 30,  
26 1990. The allocation within 10 days after January 14, 1991,

1 shall be in an amount equal to the monthly average of these  
2 amounts, excluding the 2 months of highest receipts. The  
3 monthly average for the period of July 1, 1990 through June 30,  
4 1991 will be determined as follows: the amounts collected by  
5 the municipality under its home rule occupation and service  
6 occupation tax during the period of July 1, 1990 through  
7 September 30, 1990, plus amounts collected by the Department  
8 and paid to such municipality through June 30, 1991, excluding  
9 the 2 months of highest receipts. The monthly average for each  
10 subsequent period of July 1 through June 30 shall be an amount  
11 equal to the monthly distribution made to each such  
12 municipality under the preceding paragraph during this period,  
13 excluding the 2 months of highest receipts. The distribution  
14 made in November 1991 and each year thereafter under this  
15 paragraph and the preceding paragraph shall be reduced by the  
16 amount allocated and disbursed under this paragraph in the  
17 preceding period of July 1 through June 30. The Department  
18 shall prepare and certify to the Comptroller for disbursement  
19 the allocations made in accordance with this paragraph.

20 For the purpose of determining the local governmental unit  
21 whose tax is applicable, a retail sale by a producer of coal or  
22 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

1 is exempt under the United States Constitution as a sale in  
2 interstate or foreign commerce.

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

7 An ordinance or resolution imposing or discontinuing a tax  
8 hereunder or effecting a change in the rate thereof shall be  
9 adopted and a certified copy thereof filed with the Department  
10 on or before the first day of June, whereupon the Department  
11 shall proceed to administer and enforce this Section as of the  
12 first day of September next following the adoption and filing.  
13 Beginning January 1, 1992, an ordinance or resolution imposing  
14 or discontinuing the tax hereunder or effecting a change in the  
15 rate thereof shall be adopted and a certified copy thereof  
16 filed with the Department on or before the first day of July,  
17 whereupon the Department shall proceed to administer and  
18 enforce this Section as of the first day of October next  
19 following such adoption and filing. Beginning January 1, 1993,  
20 an ordinance or resolution imposing or discontinuing the tax  
21 hereunder or effecting a change in the rate thereof shall be  
22 adopted and a certified copy thereof filed with the Department  
23 on or before the first day of October, whereupon the Department  
24 shall proceed to administer and enforce this Section as of the  
25 first day of January next following the adoption and filing.  
26 However, a municipality located in a county with a population

1 in excess of 3,000,000 that elected to become a home rule unit  
2 at the general primary election in 1994 may adopt an ordinance  
3 or resolution imposing the tax under this Section and file a  
4 certified copy of the ordinance or resolution with the  
5 Department on or before July 1, 1994. The Department shall then  
6 proceed to administer and enforce this Section as of October 1,  
7 1994. Beginning April 1, 1998, an ordinance or resolution  
8 imposing or discontinuing the tax hereunder or effecting a  
9 change in the rate thereof shall either (i) be adopted and a  
10 certified copy thereof filed with the Department on or before  
11 the first day of April, whereupon the Department shall proceed  
12 to administer and enforce this Section as of the first day of  
13 July next following the adoption and filing; or (ii) be adopted  
14 and a certified copy thereof filed with the Department on or  
15 before the first day of October, whereupon the Department shall  
16 proceed to administer and enforce this Section as of the first  
17 day of January next following the adoption and filing.

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

24 Any unobligated balance remaining in the Municipal  
25 Retailers' Occupation Tax Fund on December 31, 1989, which fund  
26 was abolished by Public Act 85-1135, and all receipts of

1 municipal tax as a result of audits of liability periods prior  
2 to January 1, 1990, shall be paid into the Local Government Tax  
3 Fund for distribution as provided by this Section prior to the  
4 enactment of Public Act 85-1135. All receipts of municipal tax  
5 as a result of an assessment not arising from an audit, for  
6 liability periods prior to January 1, 1990, shall be paid into  
7 the Local Government Tax Fund for distribution before July 1,  
8 1990, as provided by this Section prior to the enactment of  
9 Public Act 85-1135; and on and after July 1, 1990, all such  
10 receipts shall be distributed as provided in Section 6z-18 of  
11 the State Finance Act.

12 As used in this Section, "municipal" and "municipality"  
13 means a city, village or incorporated town, including an  
14 incorporated town that has superseded a civil township.

15 The City of Chicago may not impose retailers' occupation  
16 taxes in a manner that is inconsistent with this Section. This  
17 Section is a limitation of home rule powers and functions under  
18 subsection (g) of Section 6 of Article VII of the Illinois  
19 Constitution.

20 This Section shall be known and may be cited as the Home  
21 Rule Municipal Retailers' Occupation Tax Act.

22 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

23 (65 ILCS 5/8-11-5) (from Ch. 24, par. 8-11-5)

24 Sec. 8-11-5. Home Rule Municipal Service Occupation Tax  
25 Act. The corporate authorities of a home rule municipality may



1 impose a tax upon all persons engaged, in such municipality, in  
2 the business of making sales of service at the same rate of tax  
3 imposed pursuant to Section 8-11-1, of the selling price of all  
4 tangible personal property transferred by such servicemen  
5 either in the form of tangible personal property or in the form  
6 of real estate as an incident to a sale of service. If imposed,  
7 such tax shall only be imposed in 1/4% increments. On and after  
8 September 1, 1991, this additional tax may not be imposed on  
9 the sales of food for human consumption which is to be consumed  
10 off the premises where it is sold (other than alcoholic  
11 beverages, soft drinks and food which has been prepared for  
12 immediate consumption) and prescription and nonprescription  
13 medicines, drugs, medical appliances and insulin, urine  
14 testing materials, syringes and needles used by diabetics. The  
15 tax imposed by a home rule municipality pursuant to this  
16 Section and all civil penalties that may be assessed as an  
17 incident thereof shall be collected and enforced by the State  
18 Department of Revenue. The certificate of registration which is  
19 issued by the Department to a retailer under the Retailers'  
20 Occupation Tax Act or under the Service Occupation Tax Act  
21 shall permit such registrant to engage in a business which is  
22 taxable under any ordinance or resolution enacted pursuant to  
23 this Section without registering separately with the  
24 Department under such ordinance or resolution or under this  
25 Section. The Department shall have full power to administer and  
26 enforce this Section; to collect all taxes and penalties due

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

1       Except as otherwise provided in this Section, beginning on  
2 the first day of the first month to occur not less than 30  
3 calendar days after the effective date of this amendatory Act  
4 of the 96th General Assembly, the maximum rate of any tax  
5 imposed under this Section by the City of Chicago is 1.25%. If  
6 the rate of tax imposed by the City of Chicago exceeds 1.25% on  
7 the effective date of this amendatory Act of the 96th General  
8 Assembly, then the rate shall be reduced to 1.25% beginning on  
9 the first day of the first month to occur not less than 30  
10 calendar days after the effective date of this amendatory Act  
11 of the 96th General Assembly. The corporate authorities of the  
12 City of Chicago may increase the rate to more than 1.25%, but  
13 only after the question is approved by the voters residing  
14 within the City of Chicago at an election held in accordance  
15 with the general election law. The corporate authorities shall  
16 certify the proposition to the proper election officials who  
17 shall submit the proposition to the voters at an election in  
18 accordance with the general election law. The proposition shall  
19 be in substantially the following form:

20               "Shall the City of Chicago be authorized to increase  
21 its service occupation tax (commonly referred to as its  
22 sales tax) to (percent)?"

23               Votes shall be recorded as "Yes" or "No". If a majority of  
24 the votes cast on the proposition are in favor of the increase,  
25 then the increase is authorized.

26               No tax may be imposed by a home rule municipality pursuant

1 to this Section unless such municipality also imposes a tax at  
2 the same rate pursuant to Section 8-11-1 of this Act.

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

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

18 The Department shall forthwith pay over to the State  
19 Treasurer, ex-officio, as trustee, all taxes and penalties  
20 collected hereunder. On or before the 25th day of each calendar  
21 month, the Department shall prepare and certify to the  
22 Comptroller the disbursement of stated sums of money to named  
23 municipalities, the municipalities to be those from which  
24 suppliers and servicemen have paid taxes or penalties hereunder  
25 to the Department during the second preceding calendar month.  
26 The amount to be paid to each municipality shall be the amount

1 (not including credit memoranda) collected hereunder during  
2 the second preceding calendar month by the Department, and not  
3 including an amount equal to the amount of refunds made during  
4 the second preceding calendar month by the Department on behalf  
5 of such municipality. Within 10 days after receipt, by the  
6 Comptroller, of the disbursement certification to the  
7 municipalities, provided for in this Section to be given to the  
8 Comptroller by the Department, the Comptroller shall cause the  
9 orders to be drawn for the respective amounts in accordance  
10 with the directions contained in such certification.

11 In addition to the disbursement required by the preceding  
12 paragraph and in order to mitigate delays caused by  
13 distribution procedures, an allocation shall, if requested, be  
14 made within 10 days after January 14, 1991, and in November of  
15 1991 and each year thereafter, to each municipality that  
16 received more than \$500,000 during the preceding fiscal year,  
17 (July 1 through June 30) whether collected by the municipality  
18 or disbursed by the Department as required by this Section.  
19 Within 10 days after January 14, 1991, participating  
20 municipalities shall notify the Department in writing of their  
21 intent to participate. In addition, for the initial  
22 distribution, participating municipalities shall certify to  
23 the Department the amounts collected by the municipality for  
24 each month under its home rule occupation and service  
25 occupation tax during the period July 1, 1989 through June 30,  
26 1990. The allocation within 10 days after January 14, 1991,

1 shall be in an amount equal to the monthly average of these  
2 amounts, excluding the 2 months of highest receipts. Monthly  
3 average for the period of July 1, 1990 through June 30, 1991  
4 will be determined as follows: the amounts collected by the  
5 municipality under its home rule occupation and service  
6 occupation tax during the period of July 1, 1990 through  
7 September 30, 1990, plus amounts collected by the Department  
8 and paid to such municipality through June 30, 1991, excluding  
9 the 2 months of highest receipts. The monthly average for each  
10 subsequent period of July 1 through June 30 shall be an amount  
11 equal to the monthly distribution made to each such  
12 municipality under the preceding paragraph during this period,  
13 excluding the 2 months of highest receipts. The distribution  
14 made in November 1991 and each year thereafter under this  
15 paragraph and the preceding paragraph shall be reduced by the  
16 amount allocated and disbursed under this paragraph in the  
17 preceding period of July 1 through June 30. The Department  
18 shall prepare and certify to the Comptroller for disbursement  
19 the allocations made in accordance with this paragraph.

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

24 An ordinance or resolution imposing or discontinuing a tax  
25 hereunder or effecting a change in the rate thereof shall be  
26 adopted and a certified copy thereof filed with the Department

1 on or before the first day of June, whereupon the Department  
2 shall proceed to administer and enforce this Section as of the  
3 first day of September next following such adoption and filing.  
4 Beginning January 1, 1992, an ordinance or resolution imposing  
5 or discontinuing the tax hereunder or effecting a change in the  
6 rate thereof shall be adopted and a certified copy thereof  
7 filed with the Department on or before the first day of July,  
8 whereupon the Department shall proceed to administer and  
9 enforce this Section as of the first day of October next  
10 following such adoption and filing. Beginning January 1, 1993,  
11 an ordinance or resolution imposing or discontinuing the tax  
12 hereunder or effecting a change in the rate thereof shall be  
13 adopted and a certified copy thereof filed with the Department  
14 on or before the first day of October, whereupon the Department  
15 shall proceed to administer and enforce this Section as of the  
16 first day of January next following such adoption and filing.  
17 However, a municipality located in a county with a population  
18 in excess of 3,000,000 that elected to become a home rule unit  
19 at the general primary election in 1994 may adopt an ordinance  
20 or resolution imposing the tax under this Section and file a  
21 certified copy of the ordinance or resolution with the  
22 Department on or before July 1, 1994. The Department shall then  
23 proceed to administer and enforce this Section as of October 1,  
24 1994. Beginning April 1, 1998, an ordinance or resolution  
25 imposing or discontinuing the tax hereunder or effecting a  
26 change in the rate thereof shall either (i) be adopted and a

1 certified copy thereof filed with the Department on or before  
2 the first day of April, whereupon the Department shall proceed  
3 to administer and enforce this Section as of the first day of  
4 July next following the adoption and filing; or (ii) be adopted  
5 and a certified copy thereof filed with the Department on or  
6 before the first day of October, whereupon the Department shall  
7 proceed to administer and enforce this Section as of the first  
8 day of January next following the adoption and filing.

9 Any unobligated balance remaining in the Municipal  
10 Retailers' Occupation Tax Fund on December 31, 1989, which fund  
11 was abolished by Public Act 85-1135, and all receipts of  
12 municipal tax as a result of audits of liability periods prior  
13 to January 1, 1990, shall be paid into the Local Government Tax  
14 Fund, for distribution as provided by this Section prior to the  
15 enactment of Public Act 85-1135. All receipts of municipal tax  
16 as a result of an assessment not arising from an audit, for  
17 liability periods prior to January 1, 1990, shall be paid into  
18 the Local Government Tax Fund for distribution before July 1,  
19 1990, as provided by this Section prior to the enactment of  
20 Public Act 85-1135, and on and after July 1, 1990, all such  
21 receipts shall be distributed as provided in Section 6z-18 of  
22 the State Finance Act.

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

26 The City of Chicago may not impose service occupation taxes



1 in a manner that is inconsistent with this Section. This  
2 Section is a limitation of home rule powers and functions under  
3 subsection (g) of Section 6 of Article VII of the Illinois  
4 Constitution.

5 This Section shall be known and may be cited as the Home  
6 Rule Municipal Service Occupation Tax Act.

7 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

8 Section 99. Effective date. This Act takes effect upon  
9 becoming law.