



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB3134

Introduced 2/8/2010, by Sen. Don Harmon

#### SYNOPSIS AS INTRODUCED:

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 concerning the non-home rule use and occupation taxes. Provides that if a tax is approved by referendum on or after the effective date of the amendatory Act, the corporate authorities of a non-home rule municipality may, until December 31, 2015, use the proceeds of the tax for expenditure on municipal operations, in addition to or in lieu of any expenditure on public infrastructure or for property tax relief. Effective immediately.

LRB096 20281 RLJ 35887 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 8-11-1.3, 8-11-1.4, and 8-11-1.5 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 in  
10 the business of selling tangible personal property, other than  
11 on an item of tangible personal property which is titled and  
12 registered by an agency of this State's Government, at retail  
13 in the municipality for expenditure on public infrastructure or  
14 for property tax relief or both as defined in Section 8-11-1.2  
15 if approved by referendum as provided in Section 8-11-1.1, of  
16 the gross receipts from such sales made in the course of such  
17 business. If the tax is approved by referendum on or after the  
18 effective date of this amendatory Act of the 96th General  
19 Assembly, the corporate authorities of a non-home rule  
20 municipality may, until December 31, 2015, use the proceeds of  
21 the tax for expenditure on municipal operations, in addition to  
22 or in lieu of any expenditure on public infrastructure or for  
23 property tax relief. The tax imposed may not be more than 1%

1 and may be imposed only in 1/4% increments. The tax may not be  
2 imposed on the sale of food for human consumption that is to be  
3 consumed off the premises where it is sold (other than  
4 alcoholic beverages, soft drinks, and food that has been  
5 prepared for immediate consumption) and prescription and  
6 nonprescription medicines, drugs, medical appliances, and  
7 insulin, urine testing materials, syringes, and needles used by  
8 diabetics. The tax imposed by a municipality pursuant to this  
9 Section and all civil penalties that may be assessed as an  
10 incident thereof shall be collected and enforced by the State  
11 Department of Revenue. The certificate of registration which is  
12 issued by the Department to a retailer under the Retailers'  
13 Occupation Tax Act shall permit such retailer to engage in a  
14 business which is taxable under any ordinance or resolution  
15 enacted pursuant to this Section without registering  
16 separately with the Department under such ordinance or  
17 resolution or under this Section. The Department shall have  
18 full power to administer and enforce this Section; to collect  
19 all taxes and penalties due hereunder; to dispose of taxes and  
20 penalties so collected in the manner hereinafter provided, and  
21 to determine all rights to credit memoranda, arising on account  
22 of the erroneous payment of tax or penalty hereunder. In the  
23 administration of, and compliance with, this Section, the  
24 Department and persons who are subject to this Section shall  
25 have the same rights, remedies, privileges, immunities, powers  
26 and duties, and be subject to the same conditions,

1 restrictions, limitations, penalties and definitions of terms,  
2 and employ the same modes of procedure, as are prescribed in  
3 Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 2 through 2-65 (in  
4 respect to all provisions therein other than the State rate of  
5 tax), 2c, 3 (except as to the disposition of taxes and  
6 penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i,  
7 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the  
8 Retailers' 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 municipality may impose a tax under this Section unless  
12 the municipality also imposes a tax at the same rate under  
13 Section 8-11-1.4 of this Code.

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

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

1 Treasurer out of the non-home rule municipal retailers'  
2 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 municipalities, the municipalities to be those from which  
9 retailers have paid taxes or penalties hereunder to the  
10 Department during the second preceding calendar month. The  
11 amount to be paid to each municipality shall be the amount (not  
12 including credit memoranda) collected hereunder during the  
13 second preceding calendar month by the Department plus an  
14 amount the Department determines is necessary to offset any  
15 amounts which were erroneously paid to a different taxing body,  
16 and not including an amount equal to the amount of refunds made  
17 during the second preceding calendar month by the Department on  
18 behalf of such municipality, and not including any amount which  
19 the Department determines is necessary to offset any amounts  
20 which were payable to a different taxing body but were  
21 erroneously paid to the municipality. Within 10 days after  
22 receipt, by the Comptroller, of the disbursement certification  
23 to the municipalities, provided for in this Section to be given  
24 to the Comptroller by the Department, the Comptroller shall  
25 cause the orders to be drawn for the respective amounts in  
26 accordance with the directions contained in such

1 certification.

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

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

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

1           This Section shall be known and may be cited as the  
2 "Non-Home Rule Municipal Retailers' Occupation Tax Act".  
3 (Source: P.A. 94-679, eff. 1-1-06.)

4           (65 ILCS 5/8-11-1.4) (from Ch. 24, par. 8-11-1.4)

5           Sec. 8-11-1.4. Non-Home Rule Municipal Service Occupation  
6 Tax Act. The corporate authorities of a non-home rule  
7 municipality may impose a tax upon all persons engaged, in such  
8 municipality, in the business of making sales of service for  
9 expenditure on public infrastructure or for property tax relief  
10 or both as defined in Section 8-11-1.2 if approved by  
11 referendum as provided in Section 8-11-1.1, of the selling  
12 price of all tangible personal property transferred by such  
13 servicemen either in the form of tangible personal property or  
14 in the form of real estate as an incident to a sale of service.  
15 If the tax is approved by referendum on or after the effective  
16 date of this amendatory Act of the 96th General Assembly, the  
17 corporate authorities of a non-home rule municipality may,  
18 until December 31, 2015, use the proceeds of the tax for  
19 expenditure on municipal operations, in addition to or in lieu  
20 of any expenditure on public infrastructure or for property tax  
21 relief. The tax imposed may not be more than 1% and may be  
22 imposed only in 1/4% increments. The tax may not be imposed on  
23 the sale of food for human consumption that is to be consumed  
24 off the premises where it is sold (other than alcoholic  
25 beverages, soft drinks, and food that has been prepared for

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



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

14 No municipality may impose a tax under this Section unless  
15 the municipality also imposes a tax at the same rate under  
16 Section 8-11-1.3 of this Code.

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

25 Whenever the Department determines that a refund should be  
26 made under this Section to a claimant instead of issuing credit

1 memorandum, the Department shall notify the State Comptroller,  
2 who shall cause the order to be drawn for the amount specified,  
3 and to the person named, in such notification from the  
4 Department. Such refund shall be paid by the State Treasurer  
5 out of the municipal retailers' occupation tax fund.

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

26 The Department of Revenue shall implement this amendatory

1 Act of the 91st General Assembly so as to collect the tax on  
2 and after January 1, 2002.

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

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

13 (Source: P.A. 94-679, eff. 1-1-06.)

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. If the tax is approved by referendum on or

1 after the effective date of this amendatory Act of the 96th  
2 General Assembly, the corporate authorities of a non-home rule  
3 municipality may, until December 31, 2015, use the proceeds of  
4 the tax for expenditure on municipal operations, in addition to  
5 or in lieu of any expenditure on public infrastructure or for  
6 property tax relief. The tax imposed may not be more than 1%  
7 and may be imposed only in 1/4% increments. Such tax shall be  
8 collected from persons whose Illinois address for title or  
9 registration purposes is given as being in such municipality.  
10 Such tax shall be collected by the municipality imposing such  
11 tax. A non-home rule municipality may not impose and collect  
12 the tax prior to January 1, 2002.

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

15 (Source: P.A. 94-679, eff. 1-1-06.)

16 Section 99. Effective date. This Act takes effect upon  
17 becoming law.