



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3338

Introduced 2/24/2011, by Rep. Daniel V. Beiser

SYNOPSIS AS INTRODUCED:

35 ILCS 120/11

from Ch. 120, par. 450

Amends the Retailers' Occupation Tax Act. Provides that the furnishing of financial information by the Department of Revenue to a home rule unit or non-home rule unit (rather than a home rule unit or non-home rule unit that receives more than 60% of its general corporate revenue from Illinois sales taxes and meets other certain criteria) is an official purpose. Provides that, for a village (rather than a village that receives more than 60% of its general corporate revenue from Illinois sales taxes and does not levy any real property taxes for village operations), the village manager and the chief financial officer are eligible to receive financial information from the Department of Revenue.

LRB097 06158 HLH 46232 b

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 Retailers' Occupation Tax Act is amended by
5 changing Section 11 as follows:

6 (35 ILCS 120/11) (from Ch. 120, par. 450)

7 Sec. 11. All information received by the Department from
8 returns filed under this Act, or from any investigation
9 conducted under this Act, shall be confidential, except for
10 official purposes, and any person who divulges any such
11 information in any manner, except in accordance with a proper
12 judicial order or as otherwise provided by law, shall be guilty
13 of a Class B misdemeanor.

14 Nothing in this Act prevents the Director of Revenue from
15 publishing or making available to the public the names and
16 addresses of persons filing returns under this Act, or
17 reasonable statistics concerning the operation of the tax by
18 grouping the contents of returns so the information in any
19 individual return is not disclosed.

20 Nothing in this Act prevents the Director of Revenue from
21 divulging to the United States Government or the government of
22 any other state, or any village that does not levy any real
23 property taxes for village operations and that receives more

1 than 60% of its general corporate revenue from taxes under the
2 Use Tax Act, the Service Use Tax Act, the Service Occupation
3 Tax Act, and the Retailers' Occupation Tax Act, or any officer
4 or agency thereof, for exclusively official purposes,
5 information received by the Department in administering this
6 Act, provided that such other governmental agency agrees to
7 divulge requested tax information to the Department.

8 The Department's furnishing of information derived from a
9 taxpayer's return or from an investigation conducted under this
10 Act to the surety on a taxpayer's bond that has been furnished
11 to the Department under this Act, either to provide notice to
12 such surety of its potential liability under the bond or, in
13 order to support the Department's demand for payment from such
14 surety under the bond, is an official purpose within the
15 meaning of this Section.

16 The furnishing upon request of information obtained by the
17 Department from returns filed under this Act or investigations
18 conducted under this Act to the Illinois Liquor Control
19 Commission for official use is deemed to be an official purpose
20 within the meaning of this Section.

21 Notice to a surety of potential liability shall not be
22 given unless the taxpayer has first been notified, not less
23 than 10 days prior thereto, of the Department's intent to so
24 notify the surety.

25 The furnishing upon request of the Auditor General, or his
26 authorized agents, for official use, of returns filed and

1 information related thereto under this Act is deemed to be an
2 official purpose within the meaning of this Section.

3 Where an appeal or a protest has been filed on behalf of a
4 taxpayer, the furnishing upon request of the attorney for the
5 taxpayer of returns filed by the taxpayer and information
6 related thereto under this Act is deemed to be an official
7 purpose within the meaning of this Section.

8 The furnishing of financial information to a home rule unit
9 or non-home rule unit ~~that has imposed a tax similar to that~~
10 ~~imposed by this Act pursuant to its home rule powers or the~~
11 ~~successful passage of a public referendum by a majority of the~~
12 ~~registered voters of the community, or to any village that does~~
13 ~~not levy any real property taxes for village operations and~~
14 ~~that receives more than 60% of its general corporate revenue~~
15 ~~from taxes under the Use Tax Act, the Service Use Tax Act, the~~
16 ~~Service Occupation Tax Act, and the Retailers' Occupation Tax~~
17 ~~Act,~~ upon request of the Chief Executive thereof, is an
18 official purpose within the meaning of this Section, ~~provided~~
19 ~~the home rule unit, non home rule unit with referendum~~
20 ~~approval, or village that does not levy any real property taxes~~
21 ~~for village operations and that receives more than 60% of its~~
22 ~~general corporate revenue from taxes under the Use Tax Act, the~~
23 ~~Service Use Tax Act, the Service Occupation Tax Act, and the~~
24 ~~Retailers' Occupation Tax Act agrees in writing to the~~
25 ~~requirements of this Section.~~

26 For a village ~~that does not levy any real property taxes~~

1 ~~for village operations and that receives more than 60% of its~~
2 ~~general corporate revenue from taxes under the Use Tax Act,~~
3 ~~Service Use Tax Act, Service Occupation Tax Act, and Retailers'~~
4 ~~Occupation Tax Act,~~ the officers eligible to receive
5 information from the Department of Revenue under this Section
6 are the village manager and the chief financial officer of the
7 village.

8 Information so provided shall be subject to all
9 confidentiality provisions of this Section. The written
10 agreement shall provide for reciprocity, limitations on
11 access, disclosure, and procedures for requesting information.

12 The Department may make available to the Board of Trustees
13 of any Metro East Mass Transit District information contained
14 on transaction reporting returns required to be filed under
15 Section 3 of this Act that report sales made within the
16 boundary of the taxing authority of that Metro East Mass
17 Transit District, as provided in Section 5.01 of the Local Mass
18 Transit District Act. The disclosure shall be made pursuant to
19 a written agreement between the Department and the Board of
20 Trustees of a Metro East Mass Transit District, which is an
21 official purpose within the meaning of this Section. The
22 written agreement between the Department and the Board of
23 Trustees of a Metro East Mass Transit District shall provide
24 for reciprocity, limitations on access, disclosure, and
25 procedures for requesting information. Information so provided
26 shall be subject to all confidentiality provisions of this

1 Section.

2 The Director may make available to any State agency,
3 including the Illinois Supreme Court, which licenses persons to
4 engage in any occupation, information that a person licensed by
5 such agency has failed to file returns under this Act or pay
6 the tax, penalty and interest shown therein, or has failed to
7 pay any final assessment of tax, penalty or interest due under
8 this Act. The Director may make available to any State agency,
9 including the Illinois Supreme Court, information regarding
10 whether a bidder, contractor, or an affiliate of a bidder or
11 contractor has failed to collect and remit Illinois Use tax on
12 sales into Illinois, or any tax under this Act or pay the tax,
13 penalty, and interest shown therein, or has failed to pay any
14 final assessment of tax, penalty, or interest due under this
15 Act, for the limited purpose of enforcing bidder and contractor
16 certifications. The Director may make available to units of
17 local government and school districts that require bidder and
18 contractor certifications, as set forth in Sections 50-11 and
19 50-12 of the Illinois Procurement Code, information regarding
20 whether a bidder, contractor, or an affiliate of a bidder or
21 contractor has failed to collect and remit Illinois Use tax on
22 sales into Illinois, file returns under this Act, or pay the
23 tax, penalty, and interest shown therein, or has failed to pay
24 any final assessment of tax, penalty, or interest due under
25 this Act, for the limited purpose of enforcing bidder and
26 contractor certifications. For purposes of this Section, the

1 term "affiliate" means any entity that (1) directly,
2 indirectly, or constructively controls another entity, (2) is
3 directly, indirectly, or constructively controlled by another
4 entity, or (3) is subject to the control of a common entity.
5 For purposes of this Section, an entity controls another entity
6 if it owns, directly or individually, more than 10% of the
7 voting securities of that entity. As used in this Section, the
8 term "voting security" means a security that (1) confers upon
9 the holder the right to vote for the election of members of the
10 board of directors or similar governing body of the business or
11 (2) is convertible into, or entitles the holder to receive upon
12 its exercise, a security that confers such a right to vote. A
13 general partnership interest is a voting security.

14 The Director may make available to any State agency,
15 including the Illinois Supreme Court, units of local
16 government, and school districts, information regarding
17 whether a bidder or contractor is an affiliate of a person who
18 is not collecting and remitting Illinois Use taxes for the
19 limited purpose of enforcing bidder and contractor
20 certifications.

21 The Director may also make available to the Secretary of
22 State information that a limited liability company, which has
23 filed articles of organization with the Secretary of State, or
24 corporation which has been issued a certificate of
25 incorporation by the Secretary of State has failed to file
26 returns under this Act or pay the tax, penalty and interest

1 shown therein, or has failed to pay any final assessment of
2 tax, penalty or interest due under this Act. An assessment is
3 final when all proceedings in court for review of such
4 assessment have terminated or the time for the taking thereof
5 has expired without such proceedings being instituted.

6 The Director shall make available for public inspection in
7 the Department's principal office and for publication, at cost,
8 administrative decisions issued on or after January 1, 1995.
9 These decisions are to be made available in a manner so that
10 the following taxpayer information is not disclosed:

11 (1) The names, addresses, and identification numbers
12 of the taxpayer, related entities, and employees.

13 (2) At the sole discretion of the Director, trade
14 secrets or other confidential information identified as
15 such by the taxpayer, no later than 30 days after receipt
16 of an administrative decision, by such means as the
17 Department shall provide by rule.

18 The Director shall determine the appropriate extent of the
19 deletions allowed in paragraph (2). In the event the taxpayer
20 does not submit deletions, the Director shall make only the
21 deletions specified in paragraph (1).

22 The Director shall make available for public inspection and
23 publication an administrative decision within 180 days after
24 the issuance of the administrative decision. The term
25 "administrative decision" has the same meaning as defined in
26 Section 3-101 of Article III of the Code of Civil Procedure.

1 Costs collected under this Section shall be paid into the Tax
2 Compliance and Administration Fund.

3 Nothing contained in this Act shall prevent the Director
4 from divulging information to any person pursuant to a request
5 or authorization made by the taxpayer or by an authorized
6 representative of the taxpayer.

7 (Source: P.A. 93-25, eff. 6-20-03; 93-939, eff. 8-13-04;
8 94-1074, eff. 12-26-06.)