



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4997

by Rep. Michael J. Zalewski

SYNOPSIS AS INTRODUCED:

35 ILCS 1010/1-45

Amends the Illinois Independent Tax Tribunal Act of 2012. Adds the taxes imposed under the following Acts to the list of taxes over which Tribunal has jurisdiction: the Illinois Hydraulic Fracturing Tax Act; the Cannabis and Controlled Substances Tax Act; the Live Adult Entertainment Facility Surcharge Act; the County Motor Fuel Tax Law; certain provisions of the Illinois Vehicle Code; certain provisions of the Metropolitan Pier and Exposition Authority Act; certain provisions of the Environmental Protection Act; certain provisions of the Illinois Municipal Code; and the Drycleaner Environmental Response Trust Fund Act. Effective immediately.

LRB099 18278 HLH 44886 b

FISCAL NOTE ACT
MAY APPLY

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 Illinois Independent Tax Tribunal Act of
5 2012 is amended by changing Section 1-45 as follows:

6 (35 ILCS 1010/1-45)

7 Sec. 1-45. Jurisdiction of the Tax Tribunal.

8 (a) Except as provided by the Constitution of the United
9 States, the Constitution of the State of Illinois, or any
10 statutes of this State, including, but not limited to, the
11 State Officers and Employees Money Disposition Act, the Tax
12 Tribunal shall have original jurisdiction over all
13 determinations of the Department reflected on a Notice of
14 Deficiency, Notice of Tax Liability, Notice of Claim Denial, or
15 Notice of Penalty Liability issued under the Illinois Income
16 Tax Act, the Use Tax Act, the Service Use Tax Act, the Service
17 Occupation Tax Act, the Retailers' Occupation Tax Act, the
18 Cigarette Tax Act, the Cigarette Use Tax Act, the Tobacco
19 Products Tax Act of 1995, the Hotel Operators' Occupation Tax
20 Act, the Motor Fuel Tax Law, the Automobile Renting Occupation
21 and Use Tax Act, the Coin-Operated Amusement Device and
22 Redemption Machine Tax Act, the Gas Revenue Tax Act, the Water
23 Company Invested Capital Tax Act, the Telecommunications

1 Excise Tax Act, the Telecommunications Infrastructure
2 Maintenance Fee Act, the Public Utilities Revenue Act, the
3 Electricity Excise Tax Law, the Aircraft Use Tax Law, the
4 Watercraft Use Tax Law, the Gas Use Tax Law, the Illinois
5 Hydraulic Fracturing Tax Act, the Cannabis and Controlled
6 Substances Tax Act, the Live Adult Entertainment Facility
7 Surcharge Act, the County Motor Fuel Tax Law, Section 3-1001 of
8 the Illinois Vehicle Code, Section 13 of the Metropolitan Pier
9 and Exposition Authority Act, Section 55.7 of the Environmental
10 Protection Act, Section 8-11-6b of the Illinois Municipal Code,
11 the Drycleaner Environmental Response Trust Fund Act, or the
12 Uniform Penalty and Interest Act. Jurisdiction of the Tax
13 Tribunal is limited to Notices of Tax Liability, Notices of
14 Deficiency, Notices of Claim Denial, and Notices of Penalty
15 Liability where the amount at issue in a notice, or the
16 aggregate amount at issue in multiple notices issued for the
17 same tax year or audit period, exceeds \$15,000, exclusive of
18 penalties and interest. In notices solely asserting either an
19 interest or penalty assessment, or both, the Tax Tribunal shall
20 have jurisdiction over cases where the combined total of all
21 penalties or interest assessed exceeds \$15,000.

22 (b) Except as otherwise permitted by this Act and by the
23 Constitution of the State of Illinois or otherwise by State
24 law, including, but not limited to, the State Officers and
25 Employees Money Disposition Act, no person shall contest any
26 matter within the jurisdiction of the Tax Tribunal in any

1 action, suit, or proceeding in the circuit court or any other
2 court of the State. If a person attempts to do so, then such
3 action, suit, or proceeding shall be dismissed without
4 prejudice. The improper commencement of any action, suit, or
5 proceeding does not extend the time period for commencing a
6 proceeding in the Tax Tribunal.

7 (c) The Tax Tribunal may require the taxpayer to post a
8 bond equal to 25% of the liability at issue (1) upon motion of
9 the Department and a showing that (A) the taxpayer's action is
10 frivolous or legally insufficient or (B) the taxpayer is acting
11 primarily for the purpose of delaying the collection of tax or
12 prejudicing the ability ultimately to collect the tax, or (2)
13 if, at any time during the proceedings, it is determined by the
14 Tax Tribunal that the taxpayer is not pursuing the resolution
15 of the case with due diligence. If the Tax Tribunal finds in a
16 particular case that the taxpayer cannot procure and furnish a
17 satisfactory surety or sureties for the kind of bond required
18 herein, the Tax Tribunal may relieve the taxpayer of the
19 obligation of filing such bond, if, upon the timely application
20 for a lien in lieu thereof and accompanying proof therein
21 submitted, the Tax Tribunal is satisfied that any such lien
22 imposed would operate to secure the assessment in the manner
23 and to the degree as would a bond. The Tax Tribunal shall adopt
24 rules for the procedures to be used in securing a bond or lien
25 under this Section.

26 (d) If, with or after the filing of a timely petition, the

1 taxpayer pays all or part of the tax or other amount in issue
2 before the Tax Tribunal has rendered a decision, the Tax
3 Tribunal shall treat the taxpayer's petition as a protest of a
4 denial of claim for refund of the amount so paid upon a written
5 motion filed by the taxpayer.

6 (e) The Tax Tribunal shall not have jurisdiction to review:

7 (1) any assessment made under the Property Tax Code;

8 (2) any decisions relating to the issuance or denial of
9 an exemption ruling for any entity claiming exemption from
10 any tax imposed under the Property Tax Code or any State
11 tax administered by the Department;

12 (3) a notice of proposed tax liability, notice of
13 proposed deficiency, or any other notice of proposed
14 assessment or notice of intent to take some action;

15 (4) any action or determination of the Department
16 regarding tax liabilities that have become finalized by
17 law, including but not limited to the issuance of liens,
18 levies, and revocations, suspensions, or denials of
19 licenses or certificates of registration or any other
20 collection activities;

21 (5) any proceedings of the Department's informal
22 administrative appeals function; and

23 (6) any challenge to an administrative subpoena issued
24 by the Department.

25 (f) The Tax Tribunal shall decide questions regarding the
26 constitutionality of statutes and rules adopted by the

1 Department as applied to the taxpayer, but shall not have the
2 power to declare a statute or rule unconstitutional or
3 otherwise invalid on its face. A taxpayer challenging the
4 constitutionality of a statute or rule on its face may present
5 such challenge to the Tax Tribunal for the sole purpose of
6 making a record for review by the Illinois Appellate Court.
7 Failure to raise a constitutional issue regarding the
8 application of a statute or regulations to the taxpayer shall
9 not preclude the taxpayer or the Department from raising those
10 issues at the appellate court level.

11 (Source: P.A. 97-1129, eff. 8-28-12; 98-463, eff. 8-16-13.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.