



Rep. Al Riley

Filed: 5/12/2015

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LRB099 06575 HLH 35349 a

1 AMENDMENT TO SENATE BILL 780

2 AMENDMENT NO. _____. Amend Senate Bill 780 immediately
3 below the enacting clause, by inserting the following:

4 "Section 3. The Department of Revenue Law of the Civil
5 Administrative Code of Illinois is amended by changing Section
6 2505-190 as follows:

7 (20 ILCS 2505/2505-190) (was 20 ILCS 2505/39c-4)

8 Sec. 2505-190. Tax Compliance and Administration Fund.

9 (a) Amounts deposited into the Tax Compliance and
10 Administration Fund, a special fund in the State treasury that
11 is hereby created, must be appropriated to the Department to
12 reimburse the Department for its costs of collecting,
13 administering, and enforcing the tax laws that provide for
14 deposits into the Fund. Moneys in the Fund shall consist of
15 deposits provided for in tax laws, reimbursements, or other
16 payments received from units of local government for

1 administering a local tax or fee on behalf of the unit of local
2 government in accordance with the Local Tax Collection Act, or
3 other payments designated for deposit into the Fund.

4 (b) As soon as possible after July 1, 2015, and as soon as
5 possible after each July 1 thereafter, the Director of the
6 Department of Revenue shall certify the balance in the Tax
7 Compliance and Administration Fund as of July 1, less any
8 amounts obligated, and the State Comptroller shall order
9 transferred and the State Treasurer shall transfer from the Tax
10 Compliance and Administration Fund to the General Revenue Fund
11 the amount certified that exceeds the Tax Compliance and
12 Administration Fund annual amount \$2,500,000. As used in this
13 Section, "Tax Compliance and Administration Fund annual
14 amount" means:

15 (1) for the July 1, 2015 transfer, \$2,500,000; and

16 (2) for transfers in subsequent years, the previous
17 year's Tax Compliance and Administration Fund annual
18 amount increased by the percentage increase in the Consumer
19 Price Index during the 12-month calendar year preceding
20 July 1 of the current year.

21 For purposes of this Section "Consumer Price Index" means
22 the Consumer Price Index for All Urban Consumers for all items
23 published by the United States Department of Labor.

24 (Source: P.A. 98-1098, eff. 8-26-14.)

25 Section 4. The Retailers' Occupation Tax Act is amended by

1 changing Section 11 as follows:

2 (35 ILCS 120/11) (from Ch. 120, par. 450)

3 Sec. 11. All information received by the Department from
4 returns filed under this Act, or from any investigation
5 conducted under this Act, shall be confidential, except for
6 official purposes, and any person who divulges any such
7 information in any manner, except in accordance with a proper
8 judicial order or as otherwise provided by law, shall be guilty
9 of a Class B misdemeanor with a fine not to exceed \$7,500.

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

16 Nothing in this Act prevents the Director of Revenue from
17 divulging to the United States Government or the government of
18 any other state, or any officer or agency thereof, for
19 exclusively official purposes, information received by the
20 Department in administering this Act, provided that such other
21 governmental agency agrees to divulge requested tax
22 information to the Department.

23 The Department's furnishing of information derived from a
24 taxpayer's return or from an investigation conducted under this
25 Act to the surety on a taxpayer's bond that has been furnished

1 to the Department under this Act, either to provide notice to
2 such surety of its potential liability under the bond or, in
3 order to support the Department's demand for payment from such
4 surety under the bond, is an official purpose within the
5 meaning of this Section.

6 The furnishing upon request of information obtained by the
7 Department from returns filed under this Act or investigations
8 conducted under this Act to the Illinois Liquor Control
9 Commission for official use is deemed to be an official purpose
10 within the meaning of this Section.

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

15 The furnishing upon request of the Auditor General, or his
16 authorized agents, for official use, of returns filed and
17 information related thereto under this Act is deemed to be an
18 official purpose within the meaning of this Section.

19 Where an appeal or a protest has been filed on behalf of a
20 taxpayer, the furnishing upon request of the attorney for the
21 taxpayer of returns filed by the taxpayer and information
22 related thereto under this Act is deemed to be an official
23 purpose within the meaning of this Section.

24 The furnishing of financial information to a municipality
25 or county, upon request of the chief executive officer ~~Chief~~
26 ~~Executive~~ thereof, is an official purpose within the meaning of

1 this Section, provided the municipality or county agrees in
2 writing to the requirements of this Section. Information
3 provided to municipalities and counties under this paragraph
4 shall be limited to: (1) the business name; (2) the business
5 address; (3) the standard classification number assigned to the
6 business; (4) net revenue distributed to the requesting
7 municipality or county that is directly related to the
8 requesting municipality's or county's local share of the
9 proceeds under the Use Tax Act, the Service Use Tax Act, the
10 Service Occupation Tax Act, and the Retailers' Occupation Tax
11 Act distributed from the Local Government Tax Fund, and, if
12 applicable, any locally imposed retailers' occupation tax or
13 service occupation tax; and (5) ~~(4)~~ a listing of all businesses
14 within the requesting municipality or county by account
15 identification number and address. On and after July 1, 2015,
16 the furnishing of financial information to municipalities and
17 counties under this paragraph may be by electronic means.

18 Information so provided shall be subject to all
19 confidentiality provisions of this Section. The written
20 agreement shall provide for reciprocity, limitations on
21 access, disclosure, and procedures for requesting information.
22 Only the chief executive officer of the municipality or county
23 may initiate the written agreement with the Department. The
24 chief executive officer of the municipality or county shall
25 provide the Department with a list of names and official titles
26 of municipal or county personnel, as appropriate, designated by

1 him or her as persons exclusively authorized to request return
2 information, view return information, or receive related
3 information on his or her behalf. This list shall be restricted
4 to municipal or county personnel, as appropriate, who are
5 directly involved in the financial operations of the
6 municipality or county, and the financial information provided
7 by the Department shall not be viewed by or shared with anyone
8 who is not on the list. The written agreement may be canceled
9 by either the Department or the chief executive officer of the
10 municipality or county at any time and will be canceled in the
11 event of any unauthorized use or disclosure of State tax return
12 information obtained pursuant to the written agreement or
13 failure to abide by the procedures set forth in the agreement
14 by the Department for safeguarding the confidentiality of such
15 return information.

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

1 Trustees of a Metro East Mass Transit District shall provide
2 for reciprocity, limitations on access, disclosure, and
3 procedures for requesting information. Information so provided
4 shall be subject to all confidentiality provisions of this
5 Section.

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

1 tax, penalty, and interest shown therein, or has failed to pay
2 any final assessment of tax, penalty, or interest due under
3 this Act, for the limited purpose of enforcing bidder and
4 contractor certifications. For purposes of this Section, the
5 term "affiliate" means any entity that (1) directly,
6 indirectly, or constructively controls another entity, (2) is
7 directly, indirectly, or constructively controlled by another
8 entity, or (3) is subject to the control of a common entity.
9 For purposes of this Section, an entity controls another entity
10 if it owns, directly or individually, more than 10% of the
11 voting securities of that entity. As used in this Section, the
12 term "voting security" means a security that (1) confers upon
13 the holder the right to vote for the election of members of the
14 board of directors or similar governing body of the business or
15 (2) is convertible into, or entitles the holder to receive upon
16 its exercise, a security that confers such a right to vote. A
17 general partnership interest is a voting security.

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

25 The Director may also make available to the Secretary of
26 State information that a limited liability company, which has

1 filed articles of organization with the Secretary of State, or
2 corporation which has been issued a certificate of
3 incorporation by the Secretary of State has failed to file
4 returns under this Act or pay the tax, penalty and interest
5 shown therein, or has failed to pay any final assessment of
6 tax, penalty or interest due under this Act. An assessment is
7 final when all proceedings in court for review of such
8 assessment have terminated or the time for the taking thereof
9 has expired without such proceedings being instituted.

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

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

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

22 The Director shall determine the appropriate extent of the
23 deletions allowed in paragraph (2). In the event the taxpayer
24 does not submit deletions, the Director shall make only the
25 deletions specified in paragraph (1).

26 The Director shall make available for public inspection and

1 publication an administrative decision within 180 days after
2 the issuance of the administrative decision. The term
3 "administrative decision" has the same meaning as defined in
4 Section 3-101 of Article III of the Code of Civil Procedure.
5 Costs collected under this Section shall be paid into the Tax
6 Compliance and Administration Fund.

7 Nothing contained in this Act shall prevent the Director
8 from divulging information to any person pursuant to a request
9 or authorization made by the taxpayer or by an authorized
10 representative of the taxpayer.

11 (Source: P.A. 98-1058, eff. 1-1-15.); and

12 by inserting Section 10 in its proper numeric sequence as
13 follows:

14 "Section 10. The Local Tax Collection Act is amended by
15 changing Section 1 as follows:

16 (35 ILCS 720/1) (from Ch. 120, par. 1901)

17 Sec. 1. (a) The Department of Revenue and any unit of local
18 government ~~county or municipality~~ may agree to the Department's
19 collecting, and transmitting back to the unit of local
20 government ~~such county or municipality~~, any tax lawfully
21 imposed by that unit of local government ~~county or~~
22 ~~municipality~~, the subject of which is similar to that of a tax
23 imposed by the State and collected by the Department of

1 Revenue, unless the General Assembly has specifically required
2 a different method of collection for such tax. However, the
3 Department may not enter into a contract with any unit of local
4 government ~~municipality or county~~ pursuant to this Act for the
5 collection of any tax based on the sale or use of tangible
6 personal property generally, not including taxes based only on
7 the sale or use of specifically limited kinds of tangible
8 personal property, unless the ~~municipal or county~~ ordinance
9 adopted by the unit of local government imposes a sales or use
10 tax which is substantively identical to and which contains the
11 same exemptions as the taxes imposed by the unit of local
12 government's ~~municipalities' or counties'~~ ordinances
13 authorized by the Home Rule or Non-Home Rule Municipal or
14 County Retailers' Occupation Tax Act, the Home Rule or Non-Home
15 Rule ~~or~~ the Municipal or County Use Tax, or any other
16 Retailers' Occupation Tax Act or law that is administered by
17 the Department of Revenue, as interpreted by the Department
18 through its regulations as those Acts and as those regulations
19 may from time to time be amended.

20 (b) Regarding the collection of a tax pursuant to this
21 Section, the Department and any person subject to a tax
22 collected by the Department pursuant to this Section shall, as
23 much as practicable, have the same rights, remedies,
24 privileges, immunities, powers and duties, and be subject to
25 the same conditions, restrictions, limitations, penalties,
26 definitions of terms and procedures, as those set forth in the

1 Act imposing the State tax, the subject of which is similar to
2 the tax being collected by the Department pursuant to this
3 Section. The Department and unit of local government ~~county or~~
4 ~~municipality~~ shall specifically agree in writing to such
5 rights, remedies, privileges, immunities, powers, duties,
6 conditions, restrictions, limitations, penalties, definitions
7 of terms and procedures, as well as any other terms deemed
8 necessary or advisable. All terms so agreed upon shall be
9 incorporated into an ordinance of such unit of local government
10 ~~county or municipality~~, and the Department shall not collect
11 the tax pursuant to this Section until such ordinance takes
12 effect.

13 (c) (1) The Department shall forthwith pay over to the
14 State Treasurer, ex officio, as trustee, all taxes and
15 penalties collected hereunder. On or before the 25th day of
16 each calendar month, the Department shall prepare and certify
17 to the Comptroller the disbursement of stated sums of money to
18 named units of local government ~~cities and counties~~ from which
19 retailers or other taxpayers have paid taxes or penalties
20 hereunder to the Department during the second preceding
21 calendar month.

22 (i) The ~~an~~ amount to be paid to each unit of local
23 government ~~county and municipality, which~~ shall equal the taxes
24 and penalties collected by the Department for the unit of local
25 government ~~such county or municipality~~ pursuant to this Section
26 during the second preceding calendar month (not including

1 credit memoranda), plus an amount the Department determines is
2 necessary to offset any amounts which were erroneously paid to
3 a different taxing body, and not including (i) an amount equal
4 to the amount of refunds made during the second preceding
5 calendar month by the Department of behalf of such county or
6 municipality and (ii) any amount which the Department
7 determines is necessary to offset any amounts which are payable
8 to a different taxing body but were erroneously paid to the
9 municipality or county, less 2% of the balance, or any greater
10 amount of the balance as provided in the agreement between the
11 Department and the unit of local government required under this
12 Section, which sum shall be retained by the State Treasurer.
13 ~~total amount of taxes and penalties collected by the Department~~
14 ~~for such county or municipality pursuant to this Section or the~~
15 ~~actual cost of collection of such taxes and penalties~~
16 ~~determined pursuant to the agreement described in subsection~~
17 ~~(b), whichever is less, which shall be retained by the State,~~
18 ~~and~~

19 (ii) With respect to the total amount to be retained by the
20 State Treasurer pursuant to subparagraph (i), the Department,
21 at the time of each monthly disbursement to the units of local
22 government, shall prepare and certify to the Comptroller the
23 amount so retained by the State Treasurer, which shall be
24 transferred ~~such amount to be deposited~~ into the Tax Compliance
25 and Administration General Revenue Fund ~~of the State treasury~~
26 and used by the Department, subject to appropriation, to cover

1 the costs incurred by the Department in collecting ~~such~~ taxes
2 and penalties.

3 (2) Within 10 ~~7~~ days after receiving the certifications
4 described in paragraph (1), the Comptroller shall issue orders
5 for payment of the amounts specified in subparagraph (i) of
6 paragraph (1).

7 (d) Any ~~home rule~~ unit of local government which imposes a
8 tax collected by the Department pursuant to this Section
9 ~~substantially similar to a State imposed tax, or which imposes~~
10 ~~a tax which is intended to be collected from a retail purchaser~~
11 ~~of goods or services at the same time a similar State tax is~~
12 ~~also collected,~~ must file a certified copy of the ordinance
13 imposing the tax with the Department within 10 days after its
14 passage. Beginning on the effective date of this amendatory Act
15 of the 99th General Assembly, an ordinance or resolution
16 imposing or discontinuing a tax collected by the Department
17 under this Section or effecting a change in the rate thereof
18 shall either (i) be adopted and a certified copy thereof filed
19 with the Department on or before the first day of April,
20 whereupon the Department shall proceed to administer and
21 enforce the tax imposition, discontinuance, or rate change as
22 of the first day of July next following the adoption and
23 filing; or (ii) be adopted and certified copy thereof filed
24 with the Department on or before the first day of October,
25 whereupon the Department shall proceed to administer and
26 enforce the tax imposition, discontinuance, or rate change as

1 of the first day of January next following the adoption and
2 filing. ~~No such ordinance shall become effective until it is so~~
3 ~~filed. Any home rule unit of local government which has enacted~~
4 ~~such an ordinance prior to the effective date of this Act shall~~
5 ~~file a copy of such ordinance with the Department within 90~~
6 ~~days after the effective date of this Act.~~

7 (e) It is declared to be the law of this State, pursuant to
8 paragraph (g) of Section 6 of Article VII of the Illinois
9 Constitution, that this amendatory Act of 1988 is a denial of
10 the power of a home rule unit to fail to comply with the
11 requirements of paragraphs (d) and (e) of this Section.

12 (Source: P.A. 85-1215.)".