



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2562

Introduced 2/16/2016, by Sen. David Koehler

SYNOPSIS AS INTRODUCED:

35 ILCS 120/11

from Ch. 120, par. 450

Amends the Retailers' Occupation Tax Act. Provides that the Department of Revenue may furnish certain financial information to municipalities and counties (now, only municipalities) if the municipality or county agrees in writing to the Act's confidentiality provisions. Provides that the Department of Revenue is authorized to provide the information to municipalities or counties by electronic means. Provides that the Department may disclose the standard classification number assigned to a business. Provides that only the chief executive officer or chairman of the municipality or county may enter into an information-sharing agreement with the Department. Requires the chief executive officer or chairman to provide the Department with a list of municipal or county employees who may request return information, view return information, or receive related information. Contains provisions concerning the cancellation of the agreement.

LRB099 17003 HLH 41355 b

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 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 with a fine not to exceed \$7,500.

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 officer or agency thereof, for
23 exclusively official purposes, information received by the

1 Department in administering this Act, provided that such other
2 governmental agency agrees to divulge requested tax
3 information to the Department.

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

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

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

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

25 Where an appeal or a protest has been filed on behalf of a
26 taxpayer, the furnishing upon request of the attorney for the

1 taxpayer of returns filed by the taxpayer and information
2 related thereto under this Act is deemed to be an official
3 purpose within the meaning of this Section.

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

25 Information so provided shall be subject to all
26 confidentiality provisions of this Section. The written

1 agreement shall provide for reciprocity, limitations on
2 access, disclosure, and procedures for requesting information.
3 Only the chief executive officer or chairman of the
4 municipality or county, as appropriate, may initiate the
5 written agreement with the Department. The chief executive
6 officer or chairman of the municipality or county, as
7 appropriate, shall provide the Department with a list of names
8 and official titles of municipal or county employees, as
9 appropriate, designated by the him or her as persons
10 exclusively authorized to request return information, view
11 return information, or receive related information on his or
12 her behalf. This list shall be restricted solely to municipal
13 or county employees, as appropriate, who are directly involved
14 in the financial operations of the municipality or county, and
15 the financial information provided by the Department shall not
16 be viewed by or shared with anyone who is not approved by the
17 Department. The written agreement may be canceled by either the
18 Department or the chief executive officer or chairman, as
19 appropriate, of the municipality or county at any time and
20 shall be canceled in the event of any unauthorized use or
21 disclosure of State tax return information obtained pursuant to
22 the written agreement, or in the event of a failure to abide by
23 the procedures set forth in the agreement by the Department for
24 safeguarding the confidentiality of such return information.

25 The Department may make available to the Board of Trustees
26 of any Metro East Mass Transit District information contained

1 on transaction reporting returns required to be filed under
2 Section 3 of this Act that report sales made within the
3 boundary of the taxing authority of that Metro East Mass
4 Transit District, as provided in Section 5.01 of the Local Mass
5 Transit District Act. The disclosure shall be made pursuant to
6 a written agreement between the Department and the Board of
7 Trustees of a Metro East Mass Transit District, which is an
8 official purpose within the meaning of this Section. The
9 written agreement between the Department and the Board of
10 Trustees of a Metro East Mass Transit District shall provide
11 for reciprocity, limitations on access, disclosure, and
12 procedures for requesting information. Information so provided
13 shall be subject to all confidentiality provisions of this
14 Section.

15 The Director may make available to any State agency,
16 including the Illinois Supreme Court, which licenses persons to
17 engage in any occupation, information that a person licensed by
18 such agency has failed to file returns under this Act or pay
19 the tax, penalty and interest shown therein, or has failed to
20 pay any final assessment of tax, penalty or interest due under
21 this Act. The Director may make available to any State agency,
22 including the Illinois Supreme Court, information regarding
23 whether a bidder, contractor, or an affiliate of a bidder or
24 contractor has failed to collect and remit Illinois Use tax on
25 sales into Illinois, or any tax under this Act or pay the tax,
26 penalty, and interest shown therein, or has failed to pay any

1 final assessment of tax, penalty, or interest due under this
2 Act, for the limited purpose of enforcing bidder and contractor
3 certifications. The Director may make available to units of
4 local government and school districts that require bidder and
5 contractor certifications, as set forth in Sections 50-11 and
6 50-12 of the Illinois Procurement Code, information regarding
7 whether a bidder, contractor, or an affiliate of a bidder or
8 contractor has failed to collect and remit Illinois Use tax on
9 sales into Illinois, file returns under this Act, or pay the
10 tax, penalty, and interest shown therein, or has failed to pay
11 any final assessment of tax, penalty, or interest due under
12 this Act, for the limited purpose of enforcing bidder and
13 contractor certifications. For purposes of this Section, the
14 term "affiliate" means any entity that (1) directly,
15 indirectly, or constructively controls another entity, (2) is
16 directly, indirectly, or constructively controlled by another
17 entity, or (3) is subject to the control of a common entity.
18 For purposes of this Section, an entity controls another entity
19 if it owns, directly or individually, more than 10% of the
20 voting securities of that entity. As used in this Section, the
21 term "voting security" means a security that (1) confers upon
22 the holder the right to vote for the election of members of the
23 board of directors or similar governing body of the business or
24 (2) is convertible into, or entitles the holder to receive upon
25 its exercise, a security that confers such a right to vote. A
26 general partnership interest is a voting security.

1 The Director may make available to any State agency,
2 including the Illinois Supreme Court, units of local
3 government, and school districts, information regarding
4 whether a bidder or contractor is an affiliate of a person who
5 is not collecting and remitting Illinois Use taxes for the
6 limited purpose of enforcing bidder and contractor
7 certifications.

8 The Director may also make available to the Secretary of
9 State information that a limited liability company, which has
10 filed articles of organization with the Secretary of State, or
11 corporation which has been issued a certificate of
12 incorporation by the Secretary of State has failed to file
13 returns under this Act or pay the tax, penalty and interest
14 shown therein, or has failed to pay any final assessment of
15 tax, penalty or interest due under this Act. An assessment is
16 final when all proceedings in court for review of such
17 assessment have terminated or the time for the taking thereof
18 has expired without such proceedings being instituted.

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

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

26 (2) At the sole discretion of the Director, trade

1 secrets or other confidential information identified as
2 such by the taxpayer, no later than 30 days after receipt
3 of an administrative decision, by such means as the
4 Department shall provide by rule.

5 The Director shall determine the appropriate extent of the
6 deletions allowed in paragraph (2). In the event the taxpayer
7 does not submit deletions, the Director shall make only the
8 deletions specified in paragraph (1).

9 The Director shall make available for public inspection and
10 publication an administrative decision within 180 days after
11 the issuance of the administrative decision. The term
12 "administrative decision" has the same meaning as defined in
13 Section 3-101 of Article III of the Code of Civil Procedure.
14 Costs collected under this Section shall be paid into the Tax
15 Compliance and Administration Fund.

16 Nothing contained in this Act shall prevent the Director
17 from divulging information to any person pursuant to a request
18 or authorization made by the taxpayer or by an authorized
19 representative of the taxpayer.

20 (Source: P.A. 98-1058, eff. 1-1-15.)