

SB2924



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2924

Introduced 2/18/2016, by Sen. Toi W. Hutchinson

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 home rule units (currently, municipalities only). Effective immediately.

LRB099 18790 HLH 43174 b

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

23 Information so provided shall be subject to all
24 confidentiality provisions of this Section. The written
25 agreement shall provide for reciprocity, limitations on
26 access, disclosure, and procedures for requesting information.

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

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

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

1 its exercise, a security that confers such a right to vote. A
2 general partnership interest is a voting security.

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

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

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

26 (1) The names, addresses, and identification numbers

1 of the taxpayer, related entities, and employees.

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

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

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

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

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

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.