

1 AN ACT concerning county taxes.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Counties Code is amended by changing
5 Section 5-1006.5 as follows:

6 (55 ILCS 5/5-1006.5)

7 Sec. 5-1006.5. Special County Retailers' Occupation Tax
8 For Public Safety or Transportation.

9 (a) The county board of any county may impose a tax upon
10 all persons engaged in the business of selling tangible
11 personal property, other than personal property titled or
12 registered with an agency of this State's government, at
13 retail in the county on the gross receipts from the sales
14 made in the course of business to provide revenue to be used
15 exclusively for public safety or transportation purposes in
16 that county, if a proposition for the tax has been submitted
17 to the electors of that county and approved by a majority of
18 those voting on the question. If imposed, this tax shall be
19 imposed only in one-quarter percent increments. By
20 resolution, the county board may order the proposition to be
21 submitted at any election. If the tax is imposed for
22 transportation purposes, the county board must publish notice
23 of the existence of its long-range highway transportation
24 plan as required or described in Section 5-301 of the
25 Illinois Highway Code and must make the plan publicly
26 available prior to approval of the ordinance or resolution
27 imposing the tax. The county clerk shall certify the
28 question to the proper election authority, who shall submit
29 the proposition at an election in accordance with the general
30 election law.

31 (1) The proposition for public safety purposes

1 shall be in substantially the following form:

2 "Shall (name of county) be authorized to impose a
3 public safety tax at the rate of upon all persons
4 engaged in the business of selling tangible personal
5 property at retail in the county on gross receipts from
6 the sales made in the course of their business to be used
7 for--crime-prevention, detention, and other public safety
8 purposes?"

9 For the purposes of the paragraph, "public safety
10 purposes" means crime prevention, detention, fire
11 fighting, police, medical, ambulance, or other emergency
12 services.

13 Votes shall be recorded as "Yes" or "No".

14 (2) The proposition for transportation purposes
15 shall be in substantially the following form:

16 "Shall (name of county) be authorized to impose a
17 tax at the rate of (insert rate) upon all persons engaged
18 in the business of selling tangible personal property at
19 retail in the county on gross receipts from the sales
20 made in the course of their business to be used for
21 transportation purposes?

22 For the purposes of this paragraph, transportation
23 purposes means construction, maintenance, operation, and
24 improvements of public highways.

25 The votes shall be recorded as "Yes" or "No".

26 If a majority of the electors voting on the proposition
27 vote in favor of it, the county may impose the tax. A county
28 may not submit more than one proposition authorized by this
29 Section to the electors at any one time.

30 This additional tax may not be imposed on the sales of
31 food for human consumption that is to be consumed off the
32 premises where it is sold (other than alcoholic beverages,
33 soft drinks, and food which has been prepared for immediate
34 consumption) and prescription and non-prescription medicines,

1 drugs, medical appliances and insulin, urine testing
2 materials, syringes, and needles used by diabetics. The tax
3 imposed by a county under this Section and all civil
4 penalties that may be assessed as an incident of the tax
5 shall be collected and enforced by the Illinois Department of
6 Revenue and deposited into a special fund created for that
7 purpose. The certificate of registration that is issued by
8 the Department to a retailer under the Retailers' Occupation
9 Tax Act shall permit the retailer to engage in a business
10 that is taxable without registering separately with the
11 Department under an ordinance or resolution under this
12 Section. The Department has full power to administer and
13 enforce this Section, to collect all taxes and penalties due
14 under this Section, to dispose of taxes and penalties so
15 collected in the manner provided in this Section, and to
16 determine all rights to credit memoranda arising on account
17 of the erroneous payment of a tax or penalty under this
18 Section. In the administration of and compliance with this
19 Section, the Department and persons who are subject to this
20 Section shall (i) have the same rights, remedies, privileges,
21 immunities, powers, and duties, (ii) be subject to the same
22 conditions, restrictions, limitations, penalties, and
23 definitions of terms, and (iii) employ the same modes of
24 procedure as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e,
25 1f, 1i, 1j, 1k, 1m, 1n, 2, 2-5, 2-5.5, 2-10 (in respect to
26 all provisions contained in those Sections other than the
27 State rate of tax), 2-15 through 2-70, 2a, 2b, 2c, 3 (except
28 provisions relating to transaction returns and quarter
29 monthly payments), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i,
30 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13
31 of the Retailers' Occupation Tax Act and Section 3-7 of the
32 Uniform Penalty and Interest Act as if those provisions were
33 set forth in this Section.

34 Persons subject to any tax imposed under the authority

1 granted in this Section may reimburse themselves for their
2 sellers' tax liability by separately stating the tax as an
3 additional charge, which charge may be stated in combination,
4 in a single amount, with State tax which sellers are required
5 to collect under the Use Tax Act, pursuant to such bracketed
6 schedules as the Department may prescribe.

7 Whenever the Department determines that a refund should
8 be made under this Section to a claimant instead of issuing a
9 credit memorandum, the Department shall notify the State
10 Comptroller, who shall cause the order to be drawn for the
11 amount specified and to the person named in the notification
12 from the Department. The refund shall be paid by the State
13 Treasurer out of the County Public Safety or Transportation
14 Retailers' Occupation Tax Fund.

15 (b) If a tax has been imposed under subsection (a), a
16 service occupation tax shall also be imposed at the same rate
17 upon all persons engaged, in the county, in the business of
18 making sales of service, who, as an incident to making those
19 sales of service, transfer tangible personal property within
20 the county as an incident to a sale of service. This tax may
21 not be imposed on sales of food for human consumption that is
22 to be consumed off the premises where it is sold (other than
23 alcoholic beverages, soft drinks, and food prepared for
24 immediate consumption) and prescription and non-prescription
25 medicines, drugs, medical appliances and insulin, urine
26 testing materials, syringes, and needles used by diabetics.
27 The tax imposed under this subsection and all civil penalties
28 that may be assessed as an incident thereof shall be
29 collected and enforced by the Department of Revenue. The
30 Department has full power to administer and enforce this
31 subsection; to collect all taxes and penalties due hereunder;
32 to dispose of taxes and penalties so collected in the manner
33 hereinafter provided; and to determine all rights to credit
34 memoranda arising on account of the erroneous payment of tax

1 or penalty hereunder. In the administration of, and
2 compliance with this subsection, the Department and persons
3 who are subject to this paragraph shall (i) have the same
4 rights, remedies, privileges, immunities, powers, and duties,
5 (ii) be subject to the same conditions, restrictions,
6 limitations, penalties, exclusions, exemptions, and
7 definitions of terms, and (iii) employ the same modes of
8 procedure as are prescribed in Sections 2 (except that the
9 reference to State in the definition of supplier maintaining
10 a place of business in this State shall mean the county), 2a,
11 2b, 2c, 3 through 3-50 (in respect to all provisions therein
12 other than the State rate of tax), 4 (except that the
13 reference to the State shall be to the county), 5, 7, 8
14 (except that the jurisdiction to which the tax shall be a
15 debt to the extent indicated in that Section 8 shall be the
16 county), 9 (except as to the disposition of taxes and
17 penalties collected), 10, 11, 12 (except the reference
18 therein to Section 2b of the Retailers' Occupation Tax Act),
19 13 (except that any reference to the State shall mean the
20 county), Section 15, 16, 17, 18, 19 and 20 of the Service
21 Occupation Tax Act and Section 3-7 of the Uniform Penalty and
22 Interest Act, as fully as if those provisions were set forth
23 herein.

24 Persons subject to any tax imposed under the authority
25 granted in this subsection may reimburse themselves for their
26 serviceman's tax liability by separately stating the tax as
27 an additional charge, which charge may be stated in
28 combination, in a single amount, with State tax that
29 servicemen are authorized to collect under the Service Use
30 Tax Act, in accordance with such bracket schedules as the
31 Department may prescribe.

32 Whenever the Department determines that a refund should
33 be made under this subsection to a claimant instead of
34 issuing a credit memorandum, the Department shall notify the

1 State Comptroller, who shall cause the warrant to be drawn
2 for the amount specified, and to the person named, in the
3 notification from the Department. The refund shall be paid
4 by the State Treasurer out of the County Public Safety or
5 Transportation Retailers' Occupation Fund.

6 Nothing in this subsection shall be construed to
7 authorize the county to impose a tax upon the privilege of
8 engaging in any business which under the Constitution of the
9 United States may not be made the subject of taxation by the
10 State.

11 (c) The Department shall immediately pay over to the
12 State Treasurer, ex officio, as trustee, all taxes and
13 penalties collected under this Section to be deposited into
14 the County Public Safety or Transportation Retailers'
15 Occupation Tax Fund, which shall be an unappropriated trust
16 fund held outside of the State treasury. On or before the
17 25th day of each calendar month, the Department shall prepare
18 and certify to the Comptroller the disbursement of stated
19 sums of money to the counties from which retailers have paid
20 taxes or penalties to the Department during the second
21 preceding calendar month. The amount to be paid to each
22 county, and deposited by the county into its special fund
23 created for the purposes of this Section, shall be the amount
24 (not including credit memoranda) collected under this Section
25 during the second preceding calendar month by the Department
26 plus an amount the Department determines is necessary to
27 offset any amounts that were erroneously paid to a different
28 taxing body, and not including (i) an amount equal to the
29 amount of refunds made during the second preceding calendar
30 month by the Department on behalf of the county and (ii) any
31 amount that the Department determines is necessary to offset
32 any amounts that were payable to a different taxing body but
33 were erroneously paid to the county. Within 10 days after
34 receipt by the Comptroller of the disbursement certification

1 to the counties provided for in this Section to be given to
2 the Comptroller by the Department, the Comptroller shall
3 cause the orders to be drawn for the respective amounts in
4 accordance with directions contained in the certification.

5 In addition to the disbursement required by the preceding
6 paragraph, an allocation shall be made in March of each year
7 to each county that received more than \$500,000 in
8 disbursements under the preceding paragraph in the preceding
9 calendar year. The allocation shall be in an amount equal to
10 the average monthly distribution made to each such county
11 under the preceding paragraph during the preceding calendar
12 year (excluding the 2 months of highest receipts). The
13 distribution made in March of each year subsequent to the
14 year in which an allocation was made pursuant to this
15 paragraph and the preceding paragraph shall be reduced by the
16 amount allocated and disbursed under this paragraph in the
17 preceding calendar year. The Department shall prepare and
18 certify to the Comptroller for disbursement the allocations
19 made in accordance with this paragraph.

20 (d) For the purpose of determining the local
21 governmental unit whose tax is applicable, a retail sale by a
22 producer of coal or another mineral mined in Illinois is a
23 sale at retail at the place where the coal or other mineral
24 mined in Illinois is extracted from the earth. This
25 paragraph does not apply to coal or another mineral when it
26 is delivered or shipped by the seller to the purchaser at a
27 point outside Illinois so that the sale is exempt under the
28 United States Constitution as a sale in interstate or foreign
29 commerce.

30 (e) Nothing in this Section shall be construed to
31 authorize a county to impose a tax upon the privilege of
32 engaging in any business that under the Constitution of the
33 United States may not be made the subject of taxation by this
34 State.

1 (e-5) If a county imposes a tax under this Section, the
2 county board may, by ordinance, discontinue or lower the rate
3 of the tax. If the county board lowers the tax rate or
4 discontinues the tax, a referendum must be held in accordance
5 with subsection (a) of this Section in order to increase the
6 rate of the tax or to reimpose the discontinued tax.

7 (f) Beginning April 1, 1998, the results of any election
8 authorizing a proposition to impose a tax under this Section
9 or effecting a change in the rate of tax, or any ordinance
10 lowering the rate or discontinuing the tax, shall be
11 certified by the county clerk and filed with the Illinois
12 Department of Revenue either (i) on or before the first day
13 of April, whereupon the Department shall proceed to
14 administer and enforce the tax as of the first day of July
15 next following the filing; or (ii) on or before the first day
16 of October, whereupon the Department shall proceed to
17 administer and enforce the tax as of the first day of January
18 next following the filing.

19 (g) When certifying the amount of a monthly disbursement
20 to a county under this Section, the Department shall increase
21 or decrease the amounts by an amount necessary to offset any
22 miscalculation of previous disbursements. The offset amount
23 shall be the amount erroneously disbursed within the previous
24 6 months from the time a miscalculation is discovered.

25 (h) This Section may be cited as the "Special County
26 Occupation Tax For Public Safety or Transportation Law".

27 (i) For purposes of this Section, "public safety"
28 includes, but is not limited to, crime prevention, detention,
29 fire fighting, police, medical, ambulance, or other emergency
30 services. For the purposes of this Section, "transportation"
31 includes, but is not limited to, the construction,
32 maintenance, operation, and improvement of public highways
33 and any other purpose for which a county may expend funds
34 under the Illinois Highway Code.

1 (Source: P.A. 89-107, eff. 1-1-96; 89-718, eff. 3-7-97;
2 90-190, eff. 7-24-97; 90-267, eff. 7-30-97; 90-552, eff.
3 12-12-97; 90-562, eff. 12-16-97; 90-655, eff. 7-30-98;
4 90-689, eff. 7-31-98.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.