

AN ACT concerning revenue.

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

Section 20. The Retailers' Occupation Tax Act is amended by changing Section 13 as follows:

(35 ILCS 120/13) (from Ch. 120, par. 452)

Sec. 13. Criminal penalties.

(a) When the amount due is under \$300, any person engaged in the business of selling tangible personal property at retail in this State who fails to file a return, or who files a fraudulent return, or any officer, employee or agent of a corporation, member, employee or agent of a partnership, or manager, member, agent, or employee of a limited liability company engaged in the business of selling tangible personal property at retail in this State who, as such officer, employee, agent, manager, or member is under a duty to file a return, or any officer, agent or employee of a corporation, member, agent, or employee of a partnership, or manager, member, agent, or employee of a limited liability company engaged in the business of selling tangible personal property at retail in this State who files or causes to be filed or signs or causes to be signed a fraudulent return filed on behalf of such corporation or limited liability company, or any

accountant or other agent who knowingly enters false information on the return of any taxpayer under this Act, is guilty of a Class 4 felony.

Any person who or any officer or director of any corporation, partner or member of any partnership, or manager or member of a limited liability company that: (a) violates Section 2a of this Act or (b) fails to keep books and records, or fails to produce books and records as required by Section 7 or (c) willfully violates a rule or regulation of the Department for the administration and enforcement of this Act is guilty of a Class A misdemeanor. Any person, manager or member of a limited liability company, or officer or director of any corporation who engages in the business of selling tangible personal property at retail after the certificate of registration of that person, corporation, limited liability company, or partnership has been revoked is guilty of a Class A misdemeanor. Each day such person, corporation, or partnership is engaged in business without a certificate of registration or after the certificate of registration of that person, corporation, or partnership has been revoked constitutes a separate offense.

Any purchaser who obtains a registration number or resale number from the Department through misrepresentation, or who represents to a seller that such purchaser has a registration number or a resale number from the Department when he knows that he does not, or who uses his registration number or resale

number to make a seller believe that he is buying tangible personal property for resale when such purchaser in fact knows that this is not the case is guilty of a Class 4 felony.

Any distributor, supplier or other reseller of motor fuel registered pursuant to Section 2a or 2c of this Act who fails to collect the prepaid tax on invoiced gallons of motor fuel sold or who fails to deliver a statement of tax paid to the purchaser or to the Department as required by Sections 2d and 2e of this Act, respectively, shall be guilty of a Class A misdemeanor if the amount due is under \$300, and a Class 4 felony if the amount due is \$300 or more.

When the amount due is under \$300, any person who accepts money that is due to the Department under this Act from a taxpayer for the purpose of acting as the taxpayer's agent to make the payment to the Department, but who fails to remit such payment to the Department when due is guilty of a Class 4 felony.

Any seller who collects or attempts to collect an amount (however designated) which purports to reimburse such seller for retailers' occupation tax liability measured by receipts which such seller knows are not subject to retailers' occupation tax, or any seller who knowingly over-collects or attempts to over-collect an amount purporting to reimburse such seller for retailers' occupation tax liability in a transaction which is subject to the tax that is imposed by this Act, shall be guilty of a Class 4 felony for each such offense. This

paragraph does not apply to an amount collected by the seller as reimbursement for the seller's retailers' occupation tax liability on receipts which are subject to tax under this Act as long as such collection is made in compliance with the tax collection brackets prescribed by the Department in its Rules and Regulations.

When the amount due is \$300 or more, any person engaged in the business of selling tangible personal property at retail in this State who fails to file a return, or who files a fraudulent return, or any officer, employee or agent of a corporation, member, employee or agent of a partnership, or manager, member, agent, or employee of a limited liability company engaged in the business of selling tangible personal property at retail in this State who, as such officer, employee, agent, manager, or member is under a duty to file a return and who fails to file such return or any officer, agent, or employee of a corporation, member, agent or employee of a partnership, or manager, member, agent, or employee of a limited liability company engaged in the business of selling tangible personal property at retail in this State who files or causes to be filed or signs or causes to be signed a fraudulent return filed on behalf of such corporation or limited liability company, or any accountant or other agent who knowingly enters false information on the return of any taxpayer under this Act is guilty of a Class 3 felony.

When the amount due is \$300 or more, any person engaged in

the business of selling tangible personal property at retail in this State who accepts money that is due to the Department under this Act from a taxpayer for the purpose of acting as the taxpayer's agent to make payment to the Department but fails to remit such payment to the Department when due, is guilty of a Class 3 felony.

Any person whose principal place of business is in this State and who is charged with a violation under this Section shall be tried in the county where his principal place of business is located unless he asserts a right to be tried in another venue.

Any taxpayer or agent of a taxpayer who with the intent to defraud purports to make a payment due to the Department by issuing or delivering a check or other order upon a real or fictitious depository for the payment of money, knowing that it will not be paid by the depository, shall be guilty of a deceptive practice in violation of Section 17-1 of the Criminal Code of 1961, as amended.

(b) A person commits the offense of sales tax evasion under this Act when he knowingly attempts in any manner to evade or defeat the tax imposed on him or on any other person, or the payment thereof, and he commits an affirmative act in furtherance of the evasion. For purposes of this Section, an "affirmative act in furtherance of the evasion" means an act designed in whole or in part to (i) conceal, misrepresent, falsify, or manipulate any material fact or (ii) tamper with or

destroy documents or materials related to a person's tax liability under this Act. Two or more acts of sales tax evasion may be charged as a single count in any indictment, information, or complaint and the amount of tax deficiency may be aggregated for purposes of determining the amount of tax which is attempted to be or is evaded and the period between the first and last acts may be alleged as the date of the offense.

(1) When the amount of tax, the assessment or payment of which is attempted to be or is evaded is less than \$500 a person is guilty of a Class 4 felony.

(2) When the amount of tax, the assessment or payment of which is attempted to be or is evaded is \$500 or more but less than \$10,000, a person is guilty of a Class 3 felony.

(3) When the amount of tax, the assessment or payment of which is attempted to be or is evaded is \$10,000 or more but less than \$100,000, a person is guilty of a Class 2 felony.

(4) When the amount of tax, the assessment or payment of which is attempted to be or is evaded is \$100,000 or more, a person is guilty of a Class 1 felony.

(c) A prosecution for any act in violation of this Section may be commenced at any time within 5 ~~3~~ years of the commission of that act.

(Source: P.A. 87-879; 88-480.)