



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB2502

Introduced 2/6/2018, by Sen. Jennifer Bertino-Tarrant

SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-45.5 new	
35 ILCS 105/10	from Ch. 120, par. 439.10
35 ILCS 110/3-40.5 new	
35 ILCS 110/10	from Ch. 120, par. 439.40

Amends the Use Tax Act and the Service Use Tax Act. Provides that retailers and servicemen that do not collect the taxes under those Acts shall make the following reports and notifications: (1) a notification with each purchase made to an Illinois purchaser that use tax is due on certain purchases at retail made from the retailer and that the State requires the purchaser to file a use tax return; and (2) an annual notification to each Illinois purchaser detailing the total amount paid by the purchaser for Illinois purchases at retail during the previous calendar year. Provides that, if a purchaser has otherwise failed to file a return with the Department of Revenue and remit the proper amount of tax due, and if the purchaser receives a notification from a retailer under the provisions of the amendatory Act, then that purchaser must file a return and pay the tax by April 15 of the year in which the notification is received. Effective immediately.

LRB100 14948 HLH 32495 b

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 Use Tax Act is amended by changing Section
5 10 and by adding Section 3-45.5 as follows:

6 (35 ILCS 105/3-45.5 new)

7 Sec. 3-45.5. Notice and reporting requirements for
8 non-collecting retailers.

9 (a) Each retailer that does not collect the tax under this
10 Act shall, at the time of purchase, notify Illinois purchasers
11 that use tax is due on certain purchases at retail made from
12 the retailer and that the State requires the purchaser to file
13 a use tax return.

14 (b) Each retailer that does not collect the tax under this
15 Act shall send notification to all Illinois purchasers by
16 January 31 of each year showing such information as the
17 Department shall require by rule and including the total amount
18 paid by the purchaser for Illinois purchases at retail made
19 from the retailer in the previous calendar year. Such
20 notification shall include, if available, the dates of
21 purchases at retail, the amounts of each purchase at retail,
22 and the category of the purchase at retail, including, if known
23 by the retailer, whether the purchase at retail is exempt or

1 not exempt from taxation. The notification shall inform the
2 purchaser that the State requires a use tax return to be filed
3 and use tax paid on certain Illinois purchases at retail made
4 by the purchaser from the retailer, as provided in Section 10
5 of this Act.

6 The Director of Revenue may require any retailer that does
7 not collect the tax under this Act and makes total Illinois
8 sales of more than \$100,000 in a calendar year to file the
9 annual statement described in this subsection (c) by magnetic
10 media or another machine-readable form for that year.

11 (c) Failure to send the notification required in subsection
12 (a) shall subject the retailer to a penalty of \$5 for each such
13 failure unless the retailer shows reasonable cause for the
14 failure. Failure to send the notification required in
15 subsection (b) shall subject the retailer to a penalty of \$10
16 for each such failure unless the retailer shows reasonable
17 cause for the failure.

18 (d) Retailers that do not collect the tax under this Act
19 but made less than \$100,000 in total gross sales in Illinois in
20 the previous calendar year, and who reasonably expect gross
21 sales in the current calendar year to be less than \$100,000,
22 are exempt from the notice.

23 (e) As used in this Section, "Illinois purchaser" means a
24 person who purchases tangible personal property from a retailer
25 and provides either a billing address or a delivery address in
26 the State of Illinois.

1 (35 ILCS 105/10) (from Ch. 120, par. 439.10)

2 Sec. 10. Except as to motor vehicles, aircraft, watercraft,
3 and trailers, and except as to cigarettes as defined in the
4 Cigarette Use Tax Act, when tangible personal property is
5 purchased from a retailer for use in this State by a purchaser
6 who did not pay the tax imposed by this Act to the retailer,
7 and who does not file returns with the Department as a retailer
8 under Section 9 of this Act, such purchaser (by the last day of
9 the month following the calendar month in which such purchaser
10 makes any payment upon the selling price of such property)
11 shall, except as otherwise provided in this Section, file a
12 return with the Department and pay the tax upon that portion of
13 the selling price so paid by the purchaser during the preceding
14 calendar month. Such return shall be filed on a form prescribed
15 by the Department and shall contain such information as the
16 Department may reasonably require. Such return and payment from
17 the purchaser shall be submitted to the Department sooner than
18 the last day of the month after the month in which the purchase
19 is made to the extent that that may be necessary in order to
20 secure the title to a motor vehicle or the certificate of
21 registration for an aircraft. However, except as to motor
22 vehicles and aircraft, and except as to cigarettes as defined
23 in the Cigarette Use Tax Act, if the purchaser's annual use tax
24 liability does not exceed \$600, the purchaser may file the
25 return on an annual basis on or before April 15th of the year

1 following the year use tax liability was incurred. Individual
2 purchasers with an annual use tax liability that does not
3 exceed \$600 may, in lieu of the filing and payment requirements
4 in this Section, file and pay in compliance with Section 502.1
5 of the Illinois Income Tax Act.

6 If a purchaser has otherwise failed to file a return with
7 the Department and remit the proper amount of tax due as
8 required under this Act, and if the purchaser receives a
9 notification from a retailer under Section 3-45.5 of this Act,
10 then that purchaser, on or before April 15 of the year in which
11 the notification is received, must file a return and pay the
12 tax upon those portions of the selling prices so paid by the
13 purchaser, plus late fees, as determined by the Department, for
14 the failure to file a return with the Department and remit the
15 proper amount of tax due by the applicable deadline as
16 determined by this Act. Failure to file a return and pay taxes
17 in the manner described in this paragraph will result in
18 additional late fees as determined by the Department.

19 If cigarettes, as defined in the Cigarette Use Tax Act, are
20 purchased from a retailer for use in this State by a purchaser
21 who did not pay the tax imposed by this Act to the retailer,
22 and who does not file returns with the Department as a retailer
23 under Section 9 of this Act, such purchaser must, within 30
24 days after acquiring the cigarettes, file a return with the
25 Department and pay the tax upon that portion of the selling
26 price so paid by the purchaser for the cigarettes.

1 In addition with respect to motor vehicles, aircraft,
2 watercraft, and trailers, a purchaser of such tangible personal
3 property for use in this State, who purchases such tangible
4 personal property from an out-of-state retailer, shall file
5 with the Department, upon a form to be prescribed and supplied
6 by the Department, a return for each such item of tangible
7 personal property purchased, except that if, in the same
8 transaction, (i) a purchaser of motor vehicles, aircraft,
9 watercraft, or trailers who is a retailer of motor vehicles,
10 aircraft, watercraft, or trailers purchases more than one motor
11 vehicle, aircraft, watercraft, or trailer for the purpose of
12 resale or (ii) a purchaser of motor vehicles, aircraft,
13 watercraft, or trailers purchases more than one motor vehicle,
14 aircraft, watercraft, or trailer for use as qualifying rolling
15 stock as provided in Section 3-55 of this Act, then the
16 purchaser may report the purchase of all motor vehicles,
17 aircraft, watercraft, or trailers involved in that transaction
18 to the Department on a single return prescribed by the
19 Department. Such return in the case of motor vehicles and
20 aircraft must show the name and address of the seller, the
21 name, address of purchaser, the amount of the selling price
22 including the amount allowed by the retailer for traded in
23 property, if any; the amount allowed by the retailer for the
24 traded-in tangible personal property, if any, to the extent to
25 which Section 2 of this Act allows an exemption for the value
26 of traded-in property; the balance payable after deducting such

1 trade-in allowance from the total selling price; the amount of
2 tax due from the purchaser with respect to such transaction;
3 the amount of tax collected from the purchaser by the retailer
4 on such transaction (or satisfactory evidence that such tax is
5 not due in that particular instance if that is claimed to be
6 the fact); the place and date of the sale, a sufficient
7 identification of the property sold, and such other information
8 as the Department may reasonably require.

9 Such return shall be filed not later than 30 days after
10 such motor vehicle or aircraft is brought into this State for
11 use.

12 For purposes of this Section, "watercraft" means a Class 2,
13 Class 3, or Class 4 watercraft as defined in Section 3-2 of the
14 Boat Registration and Safety Act, a personal watercraft, or any
15 boat equipped with an inboard motor.

16 The return and tax remittance or proof of exemption from
17 the tax that is imposed by this Act may be transmitted to the
18 Department by way of the State agency with which, or State
19 officer with whom, the tangible personal property must be
20 titled or registered (if titling or registration is required)
21 if the Department and such agency or State officer determine
22 that this procedure will expedite the processing of
23 applications for title or registration.

24 With each such return, the purchaser shall remit the proper
25 amount of tax due (or shall submit satisfactory evidence that
26 the sale is not taxable if that is the case), to the Department

1 or its agents, whereupon the Department shall issue, in the
2 purchaser's name, a tax receipt (or a certificate of exemption
3 if the Department is satisfied that the particular sale is tax
4 exempt) which such purchaser may submit to the agency with
5 which, or State officer with whom, he must title or register
6 the tangible personal property that is involved (if titling or
7 registration is required) in support of such purchaser's
8 application for an Illinois certificate or other evidence of
9 title or registration to such tangible personal property.

10 When a purchaser pays a tax imposed by this Act directly to
11 the Department, the Department (upon request therefor from such
12 purchaser) shall issue an appropriate receipt to such purchaser
13 showing that he has paid such tax to the Department. Such
14 receipt shall be sufficient to relieve the purchaser from
15 further liability for the tax to which such receipt may refer.

16 A user who is liable to pay use tax directly to the
17 Department only occasionally and not on a frequently recurring
18 basis, and who is not required to file returns with the
19 Department as a retailer under Section 9 of this Act, or under
20 the "Retailers' Occupation Tax Act", or as a registrant with
21 the Department under the "Service Occupation Tax Act" or the
22 "Service Use Tax Act", need not register with the Department.
23 However, if such a user has a frequently recurring direct use
24 tax liability to pay to the Department, such user shall be
25 required to register with the Department on forms prescribed by
26 the Department and to obtain and display a certificate of

1 registration from the Department. In that event, all of the
2 provisions of Section 9 of this Act concerning the filing of
3 regular monthly, quarterly or annual tax returns and all of the
4 provisions of Section 2a of the "Retailers' Occupation Tax Act"
5 concerning the requirements for registrants to post bond or
6 other security with the Department, as the provisions of such
7 sections now exist or may hereafter be amended, shall apply to
8 such users to the same extent as if such provisions were
9 included herein.

10 (Source: P.A. 100-321, eff. 8-24-17.)

11 Section 10. The Service Use Tax Act is amended by changing
12 Section 10 and by adding Section 3-40.5 as follows:

13 (35 ILCS 110/3-40.5 new)

14 Sec. 3-40.5. Notice and reporting requirements for
15 non-collecting servicemen.

16 (a) Each serviceman that does not collect the tax under
17 this Act shall, at the time of purchase, notify Illinois
18 purchasers that use tax is due on certain purchases at retail
19 made from the retailer and that the State requires the
20 purchaser to file a use tax return.

21 (b) Each serviceman that does not collect the tax under
22 this Act shall send notification to all Illinois purchasers by
23 January 31 of each year showing such information as the
24 Department shall require by rule and including the total amount

1 paid by the purchaser for Illinois purchases at retail made
2 from the serviceman in the previous calendar year. Such
3 notification shall include, if available, the dates of
4 purchases at retail, the amounts of each purchase at retail,
5 and the category of the purchase at retail, including, if known
6 by the serviceman, whether the purchase at retail is exempt or
7 not exempt from taxation. The notification shall inform the
8 purchaser that the State requires a use tax return to be filed
9 and use tax paid on certain Illinois purchases at retail made
10 by the purchaser from the serviceman, as provided in Section 10
11 of this Act.

12 The notification specified in this subsection (b) shall be
13 sent separately to all Illinois purchasers by first-class mail
14 and shall not be included with any other shipments. The
15 notification shall include the words "Important Tax Document
16 Enclosed" on the exterior of the mailing. The notification
17 shall include the name of the serviceman.

18 (c) Failure to send the notification required in subsection
19 (a) shall subject the serviceman to a penalty of \$5 for each
20 such failure unless the serviceman shows reasonable cause for
21 the failure. Failure to send the notification required in
22 subsection (b) shall subject the serviceman to a penalty of \$10
23 for each such failure unless the serviceman shows reasonable
24 cause for the failure.

25 (d) Servicemen that do not collect the tax under this Act
26 but made less than \$100,000 in total gross sales in Illinois in

1 the previous calendar year, and who reasonably expect gross
2 sales in the current calendar year to be less than \$100,000,
3 are exempt from the notice.

4 (e) As used in this Section, "Illinois purchaser" means a
5 person who purchases tangible personal property from a
6 serviceman and provides either a billing address or a delivery
7 address in the State of Illinois.

8 (35 ILCS 110/10) (from Ch. 120, par. 439.40)

9 Sec. 10. Where property is acquired as an incident to the
10 purchase of a service from a serviceman for use in this State
11 by a purchaser who did not pay the tax herein imposed to the
12 serviceman, and who does not file returns with the Department
13 as a serviceman under Section 9 of this Act, such purchaser (by
14 the last day of the month following the calendar month in which
15 such purchaser makes any payment upon the selling price of such
16 property) shall, except as hereinafter provided in this
17 Section, file a return with the Department and pay the tax upon
18 that portion of the selling price so paid by the purchaser
19 during the preceding calendar month. Such return shall be filed
20 on a form prescribed by the Department and shall contain such
21 information as the Department may reasonably require.

22 When a purchaser pays a tax herein imposed directly to the
23 Department, the Department (upon request therefor from such
24 purchaser) shall issue an appropriate receipt to such purchaser
25 showing that he has paid such tax to the Department. Such

1 receipt shall be sufficient to relieve the purchaser from
2 further liability from the tax to which such receipt may refer.

3 A user who is liable to pay Service Use Tax directly to the
4 Department only occasionally and not on a frequently recurring
5 basis, and who is not required to file returns within the
6 Department as a serviceman under Section 9 of this Act, or as a
7 serviceman under the "Service Occupation Tax Act", or as a
8 retailer or user under the "Use Tax Act", or as a retailer
9 under the "Retailers' Occupation Tax Act", need not register
10 with the Department. However, if such a user has a frequently
11 recurring direct Service Use Tax liability to pay to the
12 Department, such user shall be required to register with the
13 Department on forms prescribed by the Department and to obtain
14 and display a certificate of registration from the Department.
15 In that event, all of the provisions of Section 9 of this Act
16 concerning the filing of regular monthly, quarterly or annual
17 tax returns and all of the provisions of Section 2a of the
18 "Retailers' Occupation Tax Act" concerning the requirements
19 for registrants to post bond or other security with the
20 Department, as the provisions of such sections now exist or may
21 hereafter be amended, shall apply to such users to the same
22 extent as if such provisions were included herein.

23 If a purchaser has otherwise failed to file a return with
24 the Department and remit the proper amount of tax due as
25 required under this Act, and if the purchaser receives a
26 notification from a serviceman under Section 3-40.5 of this

1 Act, then that purchaser, on or before April 15 of the year in
2 which the notification is received, must file a return and pay
3 the tax upon those portions of the selling prices so paid by
4 the purchaser, plus late fees, as determined by the Department,
5 for the failure to file a return with the Department and remit
6 the proper amount of tax due by the applicable deadline as
7 determined by this Act. Failure to file a return and pay taxes
8 in the manner described in this paragraph will result in
9 additional late fees as determined by the Department.

10 (Source: P.A. 91-51, eff. 6-30-99.)

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.