



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB6671

by Rep. Michael P. McAuliffe

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1006	from Ch. 34, par. 5-1006
55 ILCS 5/5-1007	from Ch. 34, par. 5-1007
65 ILCS 5/8-11-1	from Ch. 24, par. 8-11-1
65 ILCS 5/8-11-5	from Ch. 24, par. 8-11-5

Amends the Home Rule County Retailers' Occupation Tax Law of the Counties Code and the Home Rule County Service Occupation Tax Law of the Counties Code. Provides that the maximum tax rate that is permitted under those Laws is 0.75%, unless a higher rate is authorized by referendum. Amends the Home Rule Municipal Retailers' Occupation Tax Act of the Illinois Municipal Code and the Home Rule Municipal Service Occupation Tax Act of the Illinois Municipal Code. Provides that the maximum tax rate that is permitted in the City of Chicago under those Tax Acts is 1.25%, unless a higher rate is authorized by referendum. Preempts home rule powers. Effective immediately.

LRB095 21932 HLH 52199 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

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 Counties Code is amended by changing
5 Sections 5-1006 and 5-1007 as follows:

6 (55 ILCS 5/5-1006) (from Ch. 34, par. 5-1006)

7 Sec. 5-1006. Home Rule County Retailers' Occupation Tax
8 Law. Any county that is a home rule unit may impose a tax upon
9 all persons engaged in the business of selling tangible
10 personal property, other than an item of tangible personal
11 property titled or registered with an agency of this State's
12 government, at retail in the county on the gross receipts from
13 such sales made in the course of their business. If imposed,
14 this tax shall only be imposed in 1/4% increments. On and after
15 September 1, 1991, this additional tax may not be imposed on
16 the sales of food for human consumption which is to be consumed
17 off the premises where it is sold (other than alcoholic
18 beverages, soft drinks and food which has been prepared for
19 immediate consumption) and prescription and nonprescription
20 medicines, drugs, medical appliances and insulin, urine
21 testing materials, syringes and needles used by diabetics. The
22 tax imposed by a home rule county pursuant to this Section and
23 all civil penalties that may be assessed as an incident thereof

1 shall be collected and enforced by the State Department of
2 Revenue. The certificate of registration that is issued by the
3 Department to a retailer under the Retailers' Occupation Tax
4 Act shall permit the retailer to engage in a business that is
5 taxable under any ordinance or resolution enacted pursuant to
6 this Section without registering separately with the
7 Department under such ordinance or resolution or under this
8 Section. The Department shall have full power to administer and
9 enforce this Section; to collect all taxes and penalties due
10 hereunder; to dispose of taxes and penalties so collected in
11 the manner hereinafter provided; and to determine all rights to
12 credit memoranda arising on account of the erroneous payment of
13 tax or penalty hereunder. In the administration of, and
14 compliance with, this Section, the Department and persons who
15 are subject to this Section shall have the same rights,
16 remedies, privileges, immunities, powers and duties, and be
17 subject to the same conditions, restrictions, limitations,
18 penalties and definitions of terms, and employ the same modes
19 of procedure, as are prescribed in Sections 1, 1a, 1a-1, 1d,
20 1e, 1f, 1i, 1j, 1k, 1m, 1n, 2 through 2-65 (in respect to all
21 provisions therein other than the State rate of tax), 4, 5, 5a,
22 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,
23 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and
24 Section 3-7 of the Uniform Penalty and Interest Act, as fully
25 as if those provisions were set forth herein.

26 No tax may be imposed by a home rule county pursuant to

1 this Section unless the county also imposes a tax at the same
2 rate pursuant to Section 5-1007.

3 Persons subject to any tax imposed pursuant to the
4 authority granted in this Section may reimburse themselves for
5 their seller's tax liability hereunder by separately stating
6 such tax as an additional charge, which charge may be stated in
7 combination, in a single amount, with State tax which sellers
8 are required to collect under the Use Tax Act, pursuant to such
9 bracket schedules as the Department may prescribe.

10 Whenever the Department determines that a refund should be
11 made under this Section to a claimant instead of issuing a
12 credit memorandum, the Department shall notify the State
13 Comptroller, who shall cause the order to be drawn for the
14 amount specified and to the person named in the notification
15 from the Department. The refund shall be paid by the State
16 Treasurer out of the home rule county retailers' occupation tax
17 fund.

18 The Department shall forthwith pay over to the State
19 Treasurer, ex officio, as trustee, all taxes and penalties
20 collected hereunder. On or before the 25th day of each calendar
21 month, the Department shall prepare and certify to the
22 Comptroller the disbursement of stated sums of money to named
23 counties, the counties to be those from which retailers have
24 paid taxes or penalties hereunder to the Department during the
25 second preceding calendar month. The amount to be paid to each
26 county shall be the amount (not including credit memoranda)

1 collected hereunder during the second preceding calendar month
2 by the Department plus an amount the Department determines is
3 necessary to offset any amounts that were erroneously paid to a
4 different taxing body, and not including an amount equal to the
5 amount of refunds made during the second preceding calendar
6 month by the Department on behalf of such county, and not
7 including any amount which the Department determines is
8 necessary to offset any amounts which were payable to a
9 different taxing body but were erroneously paid to the county.
10 Within 10 days after receipt, by the Comptroller, of the
11 disbursement certification to the counties provided for in this
12 Section to be given to the Comptroller by the Department, the
13 Comptroller shall cause the orders to be drawn for the
14 respective amounts in accordance with the directions contained
15 in the certification.

16 In addition to the disbursement required by the preceding
17 paragraph, an allocation shall be made in March of each year to
18 each county that received more than \$500,000 in disbursements
19 under the preceding paragraph in the preceding calendar year.
20 The allocation shall be in an amount equal to the average
21 monthly distribution made to each such county under the
22 preceding paragraph during the preceding calendar year
23 (excluding the 2 months of highest receipts). The distribution
24 made in March of each year subsequent to the year in which an
25 allocation was made pursuant to this paragraph and the
26 preceding paragraph shall be reduced by the amount allocated

1 and disbursed under this paragraph in the preceding calendar
2 year. The Department shall prepare and certify to the
3 Comptroller for disbursement the allocations made in
4 accordance with this paragraph.

5 For the purpose of determining the local governmental unit
6 whose tax is applicable, a retail sale by a producer of coal or
7 other mineral mined in Illinois is a sale at retail at the
8 place where the coal or other mineral mined in Illinois is
9 extracted from the earth. This paragraph does not apply to coal
10 or other mineral when it is delivered or shipped by the seller
11 to the purchaser at a point outside Illinois so that the sale
12 is exempt under the United States Constitution as a sale in
13 interstate or foreign commerce.

14 Nothing in this Section shall be construed to authorize a
15 county to impose a tax upon the privilege of engaging in any
16 business which under the Constitution of the United States may
17 not be made the subject of taxation by this State.

18 An ordinance or resolution imposing or discontinuing a tax
19 hereunder or effecting a change in the rate thereof shall be
20 adopted and a certified copy thereof filed with the Department
21 on or before the first day of June, whereupon the Department
22 shall proceed to administer and enforce this Section as of the
23 first day of September next following such adoption and filing.
24 Beginning January 1, 1992, an ordinance or resolution imposing
25 or discontinuing the tax hereunder or effecting a change in the
26 rate thereof shall be adopted and a certified copy thereof

1 filed with the Department on or before the first day of July,
2 whereupon the Department shall proceed to administer and
3 enforce this Section as of the first day of October next
4 following such adoption and filing. Beginning January 1, 1993,
5 an ordinance or resolution imposing or discontinuing the tax
6 hereunder or effecting a change in the rate thereof shall be
7 adopted and a certified copy thereof filed with the Department
8 on or before the first day of October, whereupon the Department
9 shall proceed to administer and enforce this Section as of the
10 first day of January next following such adoption and filing.
11 Beginning April 1, 1998, an ordinance or resolution imposing or
12 discontinuing the tax hereunder or effecting a change in the
13 rate thereof shall either (i) be adopted and a certified copy
14 thereof filed with the Department on or before the first day of
15 April, whereupon the Department shall proceed to administer and
16 enforce this Section as of the first day of July next following
17 the adoption and filing; or (ii) be adopted and a certified
18 copy thereof filed with the Department on or before the first
19 day of October, whereupon the Department shall proceed to
20 administer and enforce this Section as of the first day of
21 January next following the adoption and filing.

22 When certifying the amount of a monthly disbursement to a
23 county under this Section, the Department shall increase or
24 decrease such amount by an amount necessary to offset any
25 misallocation of previous disbursements. The offset amount
26 shall be the amount erroneously disbursed within the previous 6

1 months from the time a misallocation is discovered.

2 Except as otherwise provided in this Section, beginning on
3 the first day of the first month to occur not less than 30
4 calendar days after the effective date of this amendatory Act
5 of the 95th General Assembly, the maximum rate of any tax
6 imposed under this Section is 0.75%. If the rate of tax exceeds
7 0.75% on the effective date of this amendatory Act of the 95th
8 General Assembly, then the rate shall be reduced to 0.75%
9 beginning on the first day of the first month to occur not less
10 than 30 calendar days after the effective date of this
11 amendatory Act of the 95th General Assembly. The county board
12 of a county that is authorized to impose a tax under this
13 Section may increase the rate to more than 0.75%, but only
14 after the question is approved by the voters of the county at
15 an election held in accordance with the general election law.
16 The county board proposing the increase shall certify the
17 proposition to the proper election officials who shall submit
18 the proposition to the voters at an election in accordance with
19 the general election law. The proposition shall be in
20 substantially the following form:

21 "Shall (county) be authorized to increase its
22 retailers' occupation tax (commonly referred to as its
23 sales tax) to (percent)?"

24 Votes shall be recorded as "Yes" or "No". If a majority of
25 the votes cast on the proposition are in favor of the increase,
26 then the increase is authorized.

1 A home rule unit may not impose retailers' occupation taxes
2 in a manner that is inconsistent with this Section. This
3 Section is a limitation of home rule powers and functions under
4 subsection (g) of Section 6 of Article VII of the Illinois
5 Constitution.

6 This Section shall be known and may be cited as the Home
7 Rule County Retailers' Occupation Tax Law.

8 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

9 (55 ILCS 5/5-1007) (from Ch. 34, par. 5-1007)

10 Sec. 5-1007. Home Rule County Service Occupation Tax Law.
11 The corporate authorities of a home rule county may impose a
12 tax upon all persons engaged, in such county, in the business
13 of making sales of service at the same rate of tax imposed
14 pursuant to Section 5-1006 of the selling price of all tangible
15 personal property transferred by such servicemen either in the
16 form of tangible personal property or in the form of real
17 estate as an incident to a sale of service. If imposed, such
18 tax shall only be imposed in 1/4% increments. On and after
19 September 1, 1991, this additional tax may not be imposed on
20 the sales of food for human consumption which is to be consumed
21 off the premises where it is sold (other than alcoholic
22 beverages, soft drinks and food which has been prepared for
23 immediate consumption) and prescription and nonprescription
24 medicines, drugs, medical appliances and insulin, urine
25 testing materials, syringes and needles used by diabetics. The

1 tax imposed by a home rule county pursuant to this Section and
2 all civil penalties that may be assessed as an incident thereof
3 shall be collected and enforced by the State Department of
4 Revenue. The certificate of registration which is issued by the
5 Department to a retailer under the Retailers' Occupation Tax
6 Act or under the Service Occupation Tax Act shall permit such
7 registrant to engage in a business which is taxable under any
8 ordinance or resolution enacted pursuant to this Section
9 without registering separately with the Department under such
10 ordinance or resolution or under this Section. The Department
11 shall have full power to administer and enforce this Section;
12 to collect all taxes and penalties due hereunder; to dispose of
13 taxes and penalties so collected in the manner hereinafter
14 provided; and to determine all rights to credit memoranda
15 arising on account of the erroneous payment of tax or penalty
16 hereunder. In the administration of, and compliance with, this
17 Section the Department and persons who are subject to this
18 Section shall have the same rights, remedies, privileges,
19 immunities, powers and duties, and be subject to the same
20 conditions, restrictions, limitations, penalties and
21 definitions of terms, and employ the same modes of procedure,
22 as are prescribed in Sections 1a-1, 2, 2a, 3 through 3-50 (in
23 respect to all provisions therein other than the State rate of
24 tax), 4 (except that the reference to the State shall be to the
25 taxing county), 5, 7, 8 (except that the jurisdiction to which
26 the tax shall be a debt to the extent indicated in that Section

1 8 shall be the taxing county), 9 (except as to the disposition
2 of taxes and penalties collected, and except that the returned
3 merchandise credit for this county tax may not be taken against
4 any State tax), 10, 11, 12 (except the reference therein to
5 Section 2b of the Retailers' Occupation Tax Act), 13 (except
6 that any reference to the State shall mean the taxing county),
7 the first paragraph of Section 15, 16, 17, 18, 19 and 20 of the
8 Service Occupation Tax Act and Section 3-7 of the Uniform
9 Penalty and Interest Act, as fully as if those provisions were
10 set forth herein.

11 No tax may be imposed by a home rule county pursuant to
12 this Section unless such county also imposes a tax at the same
13 rate pursuant to Section 5-1006.

14 Persons subject to any tax imposed pursuant to the
15 authority granted in this Section may reimburse themselves for
16 their serviceman's tax liability hereunder by separately
17 stating such tax as an additional charge, which charge may be
18 stated in combination, in a single amount, with State tax which
19 servicemen are authorized to collect under the Service Use Tax
20 Act, pursuant to such bracket schedules as the Department may
21 prescribe.

22 Whenever the Department determines that a refund should be
23 made under this Section to a claimant instead of issuing credit
24 memorandum, the Department shall notify the State Comptroller,
25 who shall cause the order to be drawn for the amount specified,
26 and to the person named, in such notification from the

1 Department. Such refund shall be paid by the State Treasurer
2 out of the home rule county retailers' occupation tax fund.

3 The Department shall forthwith pay over to the State
4 Treasurer, ex-officio, as trustee, all taxes and penalties
5 collected hereunder. On or before the 25th day of each calendar
6 month, the Department shall prepare and certify to the
7 Comptroller the disbursement of stated sums of money to named
8 counties, the counties to be those from which suppliers and
9 servicemen have paid taxes or penalties hereunder to the
10 Department during the second preceding calendar month. The
11 amount to be paid to each county shall be the amount (not
12 including credit memoranda) collected hereunder during the
13 second preceding calendar month by the Department, and not
14 including an amount equal to the amount of refunds made during
15 the second preceding calendar month by the Department on behalf
16 of such county. Within 10 days after receipt, by the
17 Comptroller, of the disbursement certification to the counties
18 provided for in this Section to be given to the Comptroller by
19 the Department, the Comptroller shall cause the orders to be
20 drawn for the respective amounts in accordance with the
21 directions contained in such certification.

22 In addition to the disbursement required by the preceding
23 paragraph, an allocation shall be made in each year to each
24 county which received more than \$500,000 in disbursements under
25 the preceding paragraph in the preceding calendar year. The
26 allocation shall be in an amount equal to the average monthly

1 distribution made to each such county under the preceding
2 paragraph during the preceding calendar year (excluding the 2
3 months of highest receipts). The distribution made in March of
4 each year subsequent to the year in which an allocation was
5 made pursuant to this paragraph and the preceding paragraph
6 shall be reduced by the amount allocated and disbursed under
7 this paragraph in the preceding calendar year. The Department
8 shall prepare and certify to the Comptroller for disbursement
9 the allocations made in accordance with this paragraph.

10 Nothing in this Section shall be construed to authorize a
11 county to impose a tax upon the privilege of engaging in any
12 business which under the Constitution of the United States may
13 not be made the subject of taxation by this State.

14 An ordinance or resolution imposing or discontinuing a tax
15 hereunder or effecting a change in the rate thereof shall be
16 adopted and a certified copy thereof filed with the Department
17 on or before the first day of June, whereupon the Department
18 shall proceed to administer and enforce this Section as of the
19 first day of September next following such adoption and filing.
20 Beginning January 1, 1992, an ordinance or resolution imposing
21 or discontinuing the tax hereunder or effecting a change in the
22 rate thereof shall be adopted and a certified copy thereof
23 filed with the Department on or before the first day of July,
24 whereupon the Department shall proceed to administer and
25 enforce this Section as of the first day of October next
26 following such adoption and filing. Beginning January 1, 1993,

1 an ordinance or resolution imposing or discontinuing the tax
2 hereunder or effecting a change in the rate thereof shall be
3 adopted and a certified copy thereof filed with the Department
4 on or before the first day of October, whereupon the Department
5 shall proceed to administer and enforce this Section as of the
6 first day of January next following such adoption and filing.
7 Beginning April 1, 1998, an ordinance or resolution imposing or
8 discontinuing the tax hereunder or effecting a change in the
9 rate thereof shall either (i) be adopted and a certified copy
10 thereof filed with the Department on or before the first day of
11 April, whereupon the Department shall proceed to administer and
12 enforce this Section as of the first day of July next following
13 the adoption and filing; or (ii) be adopted and a certified
14 copy thereof filed with the Department on or before the first
15 day of October, whereupon the Department shall proceed to
16 administer and enforce this Section as of the first day of
17 January next following the adoption and filing.

18 Except as otherwise provided in this Section, beginning on
19 the first day of the first month to occur not less than 30
20 calendar days after the effective date of this amendatory Act
21 of the 95th General Assembly, the maximum rate of any tax
22 imposed under this Section is 0.75%. If the rate of tax exceeds
23 0.75% on the effective date of this amendatory Act of the 95th
24 General Assembly, then the rate shall be reduced to 0.75%
25 beginning on the first day of the first month to occur not less
26 than 30 calendar days after the effective date of this

1 amendatory Act of the 95th General Assembly. The county board
2 of a county that is authorized to impose a tax under this
3 Section may increase the rate to more than 0.75%, but only
4 after the question is approved by the voters of the county at
5 an election held in accordance with the general election law.
6 The county board proposing the increase shall certify the
7 proposition to the proper election officials who shall submit
8 the proposition to the voters at an election in accordance with
9 the general election law. The proposition shall be in
10 substantially the following form:

11 "Shall (county) be authorized to increase its service
12 occupation tax (commonly referred to as its sales tax) to
13 (percent)?"

14 Votes shall be recorded as "Yes" or "No". If a majority of
15 the votes cast on the proposition are in favor of the increase,
16 then the increase is authorized.

17 A home rule unit may not impose service occupation taxes in
18 a manner that is inconsistent with this Section. This Section
19 is a limitation of home rule powers and functions under
20 subsection (g) of Section 6 of Article VII of the Illinois
21 Constitution.

22 This Section shall be known and may be cited as the Home
23 Rule County Service Occupation Tax Law.

24 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

25 Section 10. The Illinois Municipal Code is amended by

1 changing Sections 8-11-1 and 8-11-5 as follows:

2 (65 ILCS 5/8-11-1) (from Ch. 24, par. 8-11-1)

3 Sec. 8-11-1. Home Rule Municipal Retailers' Occupation Tax
4 Act. The corporate authorities of a home rule municipality may
5 impose a tax upon all persons engaged in the business of
6 selling tangible personal property, other than an item of
7 tangible personal property titled or registered with an agency
8 of this State's government, at retail in the municipality on
9 the gross receipts from these sales made in the course of such
10 business. If imposed, the tax shall only be imposed in 1/4%
11 increments. On and after September 1, 1991, this additional tax
12 may not be imposed on the sales of food for human consumption
13 that is to be consumed off the premises where it is sold (other
14 than alcoholic beverages, soft drinks and food that has been
15 prepared for immediate consumption) and prescription and
16 nonprescription medicines, drugs, medical appliances and
17 insulin, urine testing materials, syringes and needles used by
18 diabetics. The tax imposed by a home rule municipality under
19 this Section and all civil penalties that may be assessed as an
20 incident of the tax shall be collected and enforced by the
21 State Department of Revenue. The certificate of registration
22 that is issued by the Department to a retailer under the
23 Retailers' Occupation Tax Act shall permit the retailer to
24 engage in a business that is taxable under any ordinance or
25 resolution enacted pursuant to this Section without

1 registering separately with the Department under such
2 ordinance or resolution or under this Section. The Department
3 shall have full power to administer and enforce this Section;
4 to collect all taxes and penalties due hereunder; to dispose of
5 taxes and penalties so collected in the manner hereinafter
6 provided; and to determine all rights to credit memoranda
7 arising on account of the erroneous payment of tax or penalty
8 hereunder. In the administration of, and compliance with, this
9 Section the Department and persons who are subject to this
10 Section shall have the same rights, remedies, privileges,
11 immunities, powers and duties, and be subject to the same
12 conditions, restrictions, limitations, penalties and
13 definitions of terms, and employ the same modes of procedure,
14 as are prescribed in Sections 1, 1a, 1d, 1e, 1f, 1i, 1j, 1k,
15 1m, 1n, 2 through 2-65 (in respect to all provisions therein
16 other than the State rate of tax), 2c, 3 (except as to the
17 disposition of taxes and penalties collected), 4, 5, 5a, 5b,
18 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9,
19 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and
20 Section 3-7 of the Uniform Penalty and Interest Act, as fully
21 as if those provisions were set forth herein.

22 No tax may be imposed by a home rule municipality under
23 this Section unless the municipality also imposes a tax at the
24 same rate under Section 8-11-5 of this Act.

25 Except as otherwise provided in this Section, beginning on
26 the first day of the first month to occur not less than 30

1 calendar days after the effective date of this amendatory Act
2 of the 95th General Assembly, the maximum rate of any tax
3 imposed under this Section by the City of Chicago is 1.25%. If
4 the rate of tax imposed by the City of Chicago exceeds 1.25% on
5 the effective date of this amendatory Act of the 95th General
6 Assembly, then the rate shall be reduced to 1.25% beginning on
7 the first day of the first month to occur not less than 30
8 calendar days after the effective date of this amendatory Act
9 of the 95th General Assembly. The corporate authorities of the
10 City of Chicago may increase the rate to more than 1.25%, but
11 only after the question is approved by the voters residing
12 within the City of Chicago at an election held in accordance
13 with the general election law. The corporate authorities shall
14 certify the proposition to the proper election officials who
15 shall submit the proposition to the voters at an election in
16 accordance with the general election law. The proposition shall
17 be in substantially the following form:

18 "Shall the City of Chicago be authorized to increase
19 its retailers' occupation tax (commonly referred to as its
20 sales tax) to (percent)?"

21 Votes shall be recorded as "Yes" or "No". If a majority of
22 the votes cast on the proposition are in favor of the increase,
23 then the increase is authorized.

24 Persons subject to any tax imposed under the authority
25 granted in this Section may reimburse themselves for their
26 seller's tax liability hereunder by separately stating that tax

1 as an additional charge, which charge may be stated in
2 combination, in a single amount, with State tax which sellers
3 are required to collect under the Use Tax Act, pursuant to such
4 bracket schedules as the Department may prescribe.

5 Whenever the Department determines that a refund should be
6 made under this Section to a claimant instead of issuing a
7 credit memorandum, the Department shall notify the State
8 Comptroller, who shall cause the order to be drawn for the
9 amount specified and to the person named in the notification
10 from the Department. The refund shall be paid by the State
11 Treasurer out of the home rule municipal retailers' occupation
12 tax fund.

13 The Department shall immediately pay over to the State
14 Treasurer, ex officio, as trustee, all taxes and penalties
15 collected hereunder. On or before the 25th day of each calendar
16 month, the Department shall prepare and certify to the
17 Comptroller the disbursement of stated sums of money to named
18 municipalities, the municipalities to be those from which
19 retailers have paid taxes or penalties hereunder to the
20 Department during the second preceding calendar month. The
21 amount to be paid to each municipality shall be the amount (not
22 including credit memoranda) collected hereunder during the
23 second preceding calendar month by the Department plus an
24 amount the Department determines is necessary to offset any
25 amounts that were erroneously paid to a different taxing body,
26 and not including an amount equal to the amount of refunds made

1 during the second preceding calendar month by the Department on
2 behalf of such municipality, and not including any amount that
3 the Department determines is necessary to offset any amounts
4 that were payable to a different taxing body but were
5 erroneously paid to the municipality. Within 10 days after
6 receipt by the Comptroller of the disbursement certification to
7 the municipalities provided for in this Section to be given to
8 the Comptroller by the Department, the Comptroller shall cause
9 the orders to be drawn for the respective amounts in accordance
10 with the directions contained in the certification.

11 In addition to the disbursement required by the preceding
12 paragraph and in order to mitigate delays caused by
13 distribution procedures, an allocation shall, if requested, be
14 made within 10 days after January 14, 1991, and in November of
15 1991 and each year thereafter, to each municipality that
16 received more than \$500,000 during the preceding fiscal year,
17 (July 1 through June 30) whether collected by the municipality
18 or disbursed by the Department as required by this Section.
19 Within 10 days after January 14, 1991, participating
20 municipalities shall notify the Department in writing of their
21 intent to participate. In addition, for the initial
22 distribution, participating municipalities shall certify to
23 the Department the amounts collected by the municipality for
24 each month under its home rule occupation and service
25 occupation tax during the period July 1, 1989 through June 30,
26 1990. The allocation within 10 days after January 14, 1991,

1 shall be in an amount equal to the monthly average of these
2 amounts, excluding the 2 months of highest receipts. The
3 monthly average for the period of July 1, 1990 through June 30,
4 1991 will be determined as follows: the amounts collected by
5 the municipality under its home rule occupation and service
6 occupation tax during the period of July 1, 1990 through
7 September 30, 1990, plus amounts collected by the Department
8 and paid to such municipality through June 30, 1991, excluding
9 the 2 months of highest receipts. The monthly average for each
10 subsequent period of July 1 through June 30 shall be an amount
11 equal to the monthly distribution made to each such
12 municipality under the preceding paragraph during this period,
13 excluding the 2 months of highest receipts. The distribution
14 made in November 1991 and each year thereafter under this
15 paragraph and the preceding paragraph shall be reduced by the
16 amount allocated and disbursed under this paragraph in the
17 preceding period of July 1 through June 30. The Department
18 shall prepare and certify to the Comptroller for disbursement
19 the allocations made in accordance with this paragraph.

20 For the purpose of determining the local governmental unit
21 whose tax is applicable, a retail sale by a producer of coal or
22 other mineral mined in Illinois is a sale at retail at the
23 place where the coal or other mineral mined in Illinois is
24 extracted from the earth. This paragraph does not apply to coal
25 or other mineral when it is delivered or shipped by the seller
26 to the purchaser at a point outside Illinois so that the sale

1 is exempt under the United States Constitution as a sale in
2 interstate or foreign commerce.

3 Nothing in this Section shall be construed to authorize a
4 municipality to impose a tax upon the privilege of engaging in
5 any business which under the Constitution of the United States
6 may not be made the subject of taxation by this State.

7 An ordinance or resolution imposing or discontinuing a tax
8 hereunder or effecting a change in the rate thereof shall be
9 adopted and a certified copy thereof filed with the Department
10 on or before the first day of June, whereupon the Department
11 shall proceed to administer and enforce this Section as of the
12 first day of September next following the adoption and filing.
13 Beginning January 1, 1992, an ordinance or resolution imposing
14 or discontinuing the tax hereunder or effecting a change in the
15 rate thereof shall be adopted and a certified copy thereof
16 filed with the Department on or before the first day of July,
17 whereupon the Department shall proceed to administer and
18 enforce this Section as of the first day of October next
19 following such adoption and filing. Beginning January 1, 1993,
20 an ordinance or resolution imposing or discontinuing the tax
21 hereunder or effecting a change in the rate thereof shall be
22 adopted and a certified copy thereof filed with the Department
23 on or before the first day of October, whereupon the Department
24 shall proceed to administer and enforce this Section as of the
25 first day of January next following the adoption and filing.
26 However, a municipality located in a county with a population

1 in excess of 3,000,000 that elected to become a home rule unit
2 at the general primary election in 1994 may adopt an ordinance
3 or resolution imposing the tax under this Section and file a
4 certified copy of the ordinance or resolution with the
5 Department on or before July 1, 1994. The Department shall then
6 proceed to administer and enforce this Section as of October 1,
7 1994. Beginning April 1, 1998, an ordinance or resolution
8 imposing or discontinuing the tax hereunder or effecting a
9 change in the rate thereof shall either (i) be adopted and a
10 certified copy thereof filed with the Department on or before
11 the first day of April, whereupon the Department shall proceed
12 to administer and enforce this Section as of the first day of
13 July next following the adoption and filing; or (ii) be adopted
14 and a certified copy thereof filed with the Department on or
15 before the first day of October, whereupon the Department shall
16 proceed to administer and enforce this Section as of the first
17 day of January next following the adoption and filing.

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

24 Any unobligated balance remaining in the Municipal
25 Retailers' Occupation Tax Fund on December 31, 1989, which fund
26 was abolished by Public Act 85-1135, and all receipts of

1 municipal tax as a result of audits of liability periods prior
2 to January 1, 1990, shall be paid into the Local Government Tax
3 Fund for distribution as provided by this Section prior to the
4 enactment of Public Act 85-1135. All receipts of municipal tax
5 as a result of an assessment not arising from an audit, for
6 liability periods prior to January 1, 1990, shall be paid into
7 the Local Government Tax Fund for distribution before July 1,
8 1990, as provided by this Section prior to the enactment of
9 Public Act 85-1135; and on and after July 1, 1990, all such
10 receipts shall be distributed as provided in Section 6z-18 of
11 the State Finance Act.

12 As used in this Section, "municipal" and "municipality"
13 means a city, village or incorporated town, including an
14 incorporated town that has superseded a civil township.

15 The City of Chicago may not impose retailers' occupation
16 taxes in a manner that is inconsistent with this Section. This
17 Section is a limitation of home rule powers and functions under
18 subsection (g) of Section 6 of Article VII of the Illinois
19 Constitution.

20 This Section shall be known and may be cited as the Home
21 Rule Municipal Retailers' Occupation Tax Act.

22 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

23 (65 ILCS 5/8-11-5) (from Ch. 24, par. 8-11-5)

24 Sec. 8-11-5. Home Rule Municipal Service Occupation Tax
25 Act. The corporate authorities of a home rule municipality may

1 impose a tax upon all persons engaged, in such municipality, in
2 the business of making sales of service at the same rate of tax
3 imposed pursuant to Section 8-11-1, of the selling price of all
4 tangible personal property transferred by such servicemen
5 either in the form of tangible personal property or in the form
6 of real estate as an incident to a sale of service. If imposed,
7 such tax shall only be imposed in 1/4% increments. On and after
8 September 1, 1991, this additional tax may not be imposed on
9 the sales of food for human consumption which is to be consumed
10 off the premises where it is sold (other than alcoholic
11 beverages, soft drinks and food which has been prepared for
12 immediate consumption) and prescription and nonprescription
13 medicines, drugs, medical appliances and insulin, urine
14 testing materials, syringes and needles used by diabetics. The
15 tax imposed by a home rule municipality pursuant to this
16 Section and all civil penalties that may be assessed as an
17 incident thereof shall be collected and enforced by the State
18 Department of Revenue. The certificate of registration which is
19 issued by the Department to a retailer under the Retailers'
20 Occupation Tax Act or under the Service Occupation Tax Act
21 shall permit such registrant to engage in a business which is
22 taxable under any ordinance or resolution enacted pursuant to
23 this Section without registering separately with the
24 Department under such ordinance or resolution or under this
25 Section. The Department shall have full power to administer and
26 enforce this Section; to collect all taxes and penalties due

1 hereunder; to dispose of taxes and penalties so collected in
2 the manner hereinafter provided, and to determine all rights to
3 credit memoranda arising on account of the erroneous payment of
4 tax or penalty hereunder. In the administration of, and
5 compliance with, this Section the Department and persons who
6 are subject to this Section shall have the same rights,
7 remedies, privileges, immunities, powers and duties, and be
8 subject to the same conditions, restrictions, limitations,
9 penalties and definitions of terms, and employ the same modes
10 of procedure, as are prescribed in Sections 1a-1, 2, 2a, 3
11 through 3-50 (in respect to all provisions therein other than
12 the State rate of tax), 4 (except that the reference to the
13 State shall be to the taxing municipality), 5, 7, 8 (except
14 that the jurisdiction to which the tax shall be a debt to the
15 extent indicated in that Section 8 shall be the taxing
16 municipality), 9 (except as to the disposition of taxes and
17 penalties collected, and except that the returned merchandise
18 credit for this municipal tax may not be taken against any
19 State tax), 10, 11, 12 (except the reference therein to Section
20 2b of the Retailers' Occupation Tax Act), 13 (except that any
21 reference to the State shall mean the taxing municipality), the
22 first paragraph of Section 15, 16, 17 (except that credit
23 memoranda issued hereunder may not be used to discharge any
24 State tax liability), 18, 19 and 20 of the Service Occupation
25 Tax Act and Section 3-7 of the Uniform Penalty and Interest
26 Act, as fully as if those provisions were set forth herein.

1 Except as otherwise provided in this Section, beginning on
2 the first day of the first month to occur not less than 30
3 calendar days after the effective date of this amendatory Act
4 of the 95th General Assembly, the maximum rate of any tax
5 imposed under this Section by the City of Chicago is 1.25%. If
6 the rate of tax imposed by the City of Chicago exceeds 1.25% on
7 the effective date of this amendatory Act of the 95th General
8 Assembly, then the rate shall be reduced to 1.25% beginning on
9 the first day of the first month to occur not less than 30
10 calendar days after the effective date of this amendatory Act
11 of the 95th General Assembly. The corporate authorities of the
12 City of Chicago may increase the rate to more than 1.25%, but
13 only after the question is approved by the voters residing
14 within the City of Chicago at an election held in accordance
15 with the general election law. The corporate authorities shall
16 certify the proposition to the proper election officials who
17 shall submit the proposition to the voters at an election in
18 accordance with the general election law. The proposition shall
19 be in substantially the following form:

20 "Shall the City of Chicago be authorized to increase
21 its service occupation tax (commonly referred to as its
22 sales tax) to (percent)?"

23 Votes shall be recorded as "Yes" or "No". If a majority of
24 the votes cast on the proposition are in favor of the increase,
25 then the increase is authorized.

26 No tax may be imposed by a home rule municipality pursuant

1 to this Section unless such municipality also imposes a tax at
2 the same rate pursuant to Section 8-11-1 of this Act.

3 Persons subject to any tax imposed pursuant to the
4 authority granted in this Section may reimburse themselves for
5 their serviceman's tax liability hereunder by separately
6 stating such tax as an additional charge, which charge may be
7 stated in combination, in a single amount, with State tax which
8 servicemen are authorized to collect under the Service Use Tax
9 Act, pursuant to such bracket schedules as the Department may
10 prescribe.

11 Whenever the Department determines that a refund should be
12 made under this Section to a claimant instead of issuing credit
13 memorandum, the Department shall notify the State Comptroller,
14 who shall cause the order to be drawn for the amount specified,
15 and to the person named, in such notification from the
16 Department. Such refund shall be paid by the State Treasurer
17 out of the home rule municipal retailers' occupation tax fund.

18 The Department shall forthwith pay over to the State
19 Treasurer, ex-officio, as trustee, all taxes and penalties
20 collected hereunder. On or before the 25th day of each calendar
21 month, the Department shall prepare and certify to the
22 Comptroller the disbursement of stated sums of money to named
23 municipalities, the municipalities to be those from which
24 suppliers and servicemen have paid taxes or penalties hereunder
25 to the Department during the second preceding calendar month.
26 The amount to be paid to each municipality shall be the amount

1 (not including credit memoranda) collected hereunder during
2 the second preceding calendar month by the Department, and not
3 including an amount equal to the amount of refunds made during
4 the second preceding calendar month by the Department on behalf
5 of such municipality. Within 10 days after receipt, by the
6 Comptroller, of the disbursement certification to the
7 municipalities, provided for in this Section to be given to the
8 Comptroller by the Department, the Comptroller shall cause the
9 orders to be drawn for the respective amounts in accordance
10 with the directions contained in such certification.

11 In addition to the disbursement required by the preceding
12 paragraph and in order to mitigate delays caused by
13 distribution procedures, an allocation shall, if requested, be
14 made within 10 days after January 14, 1991, and in November of
15 1991 and each year thereafter, to each municipality that
16 received more than \$500,000 during the preceding fiscal year,
17 (July 1 through June 30) whether collected by the municipality
18 or disbursed by the Department as required by this Section.
19 Within 10 days after January 14, 1991, participating
20 municipalities shall notify the Department in writing of their
21 intent to participate. In addition, for the initial
22 distribution, participating municipalities shall certify to
23 the Department the amounts collected by the municipality for
24 each month under its home rule occupation and service
25 occupation tax during the period July 1, 1989 through June 30,
26 1990. The allocation within 10 days after January 14, 1991,

1 shall be in an amount equal to the monthly average of these
2 amounts, excluding the 2 months of highest receipts. Monthly
3 average for the period of July 1, 1990 through June 30, 1991
4 will be determined as follows: the amounts collected by the
5 municipality under its home rule occupation and service
6 occupation tax during the period of July 1, 1990 through
7 September 30, 1990, plus amounts collected by the Department
8 and paid to such municipality through June 30, 1991, excluding
9 the 2 months of highest receipts. The monthly average for each
10 subsequent period of July 1 through June 30 shall be an amount
11 equal to the monthly distribution made to each such
12 municipality under the preceding paragraph during this period,
13 excluding the 2 months of highest receipts. The distribution
14 made in November 1991 and each year thereafter under this
15 paragraph and the preceding paragraph shall be reduced by the
16 amount allocated and disbursed under this paragraph in the
17 preceding period of July 1 through June 30. The Department
18 shall prepare and certify to the Comptroller for disbursement
19 the allocations made in accordance with this paragraph.

20 Nothing in this Section shall be construed to authorize a
21 municipality to impose a tax upon the privilege of engaging in
22 any business which under the constitution of the United States
23 may not be made the subject of taxation by this State.

24 An ordinance or resolution imposing or discontinuing a tax
25 hereunder or effecting a change in the rate thereof shall be
26 adopted and a certified copy thereof filed with the Department

1 on or before the first day of June, whereupon the Department
2 shall proceed to administer and enforce this Section as of the
3 first day of September next following such adoption and filing.
4 Beginning January 1, 1992, an ordinance or resolution imposing
5 or discontinuing the tax hereunder or effecting a change in the
6 rate thereof shall be adopted and a certified copy thereof
7 filed with the Department on or before the first day of July,
8 whereupon the Department shall proceed to administer and
9 enforce this Section as of the first day of October next
10 following such adoption and filing. Beginning January 1, 1993,
11 an ordinance or resolution imposing or discontinuing the tax
12 hereunder or effecting a change in the rate thereof shall be
13 adopted and a certified copy thereof filed with the Department
14 on or before the first day of October, whereupon the Department
15 shall proceed to administer and enforce this Section as of the
16 first day of January next following such adoption and filing.
17 However, a municipality located in a county with a population
18 in excess of 3,000,000 that elected to become a home rule unit
19 at the general primary election in 1994 may adopt an ordinance
20 or resolution imposing the tax under this Section and file a
21 certified copy of the ordinance or resolution with the
22 Department on or before July 1, 1994. The Department shall then
23 proceed to administer and enforce this Section as of October 1,
24 1994. Beginning April 1, 1998, an ordinance or resolution
25 imposing or discontinuing the tax hereunder or effecting a
26 change in the rate thereof shall either (i) be adopted and a

1 certified copy thereof filed with the Department on or before
2 the first day of April, whereupon the Department shall proceed
3 to administer and enforce this Section as of the first day of
4 July next following the adoption and filing; or (ii) be adopted
5 and a certified copy thereof filed with the Department on or
6 before the first day of October, whereupon the Department shall
7 proceed to administer and enforce this Section as of the first
8 day of January next following the adoption and filing.

9 Any unobligated balance remaining in the Municipal
10 Retailers' Occupation Tax Fund on December 31, 1989, which fund
11 was abolished by Public Act 85-1135, and all receipts of
12 municipal tax as a result of audits of liability periods prior
13 to January 1, 1990, shall be paid into the Local Government Tax
14 Fund, for distribution as provided by this Section prior to the
15 enactment of Public Act 85-1135. All receipts of municipal tax
16 as a result of an assessment not arising from an audit, for
17 liability periods prior to January 1, 1990, shall be paid into
18 the Local Government Tax Fund for distribution before July 1,
19 1990, as provided by this Section prior to the enactment of
20 Public Act 85-1135, and on and after July 1, 1990, all such
21 receipts shall be distributed as provided in Section 6z-18 of
22 the State Finance Act.

23 As used in this Section, "municipal" and "municipality"
24 means a city, village or incorporated town, including an
25 incorporated town which has superseded a civil township.

26 The City of Chicago may not impose service occupation taxes

1 in a manner that is inconsistent with this Section. This
2 Section is a limitation of home rule powers and functions under
3 subsection (g) of Section 6 of Article VII of the Illinois
4 Constitution.

5 This Section shall be known and may be cited as the Home
6 Rule Municipal Service Occupation Tax Act.

7 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.