



Sen. Carol Ronen

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1 AMENDMENT TO SENATE BILL 795

2 AMENDMENT NO. _____. Amend Senate Bill 795 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Income Tax Act is amended by
5 changing Section 917 and by adding Section 1409 as follows:

6 (35 ILCS 5/917) (from Ch. 120, par. 9-917)

7 Sec. 917. Confidentiality and information sharing.

8 (a) Confidentiality. Except as provided in this Section,
9 all information received by the Department from returns filed
10 under this Act, or from any investigation conducted under the
11 provisions of this Act, shall be confidential, except for
12 official purposes within the Department or pursuant to official
13 procedures for collection of any State tax or pursuant to an
14 investigation or audit by the Illinois State Scholarship
15 Commission of a delinquent student loan or monetary award or
16 enforcement of any civil or criminal penalty or sanction

1 imposed by this Act or by another statute imposing a State tax,
2 and any person who divulges any such information in any manner,
3 except for such purposes and pursuant to order of the Director
4 or in accordance with a proper judicial order, shall be guilty
5 of a Class A misdemeanor. However, the provisions of this
6 paragraph are not applicable to information furnished to (i)
7 the Department of Healthcare and Family Services (formerly
8 Department of Public Aid), State's Attorneys, and the Attorney
9 General for child support enforcement purposes and (ii) a
10 licensed attorney representing the taxpayer where an appeal or
11 a protest has been filed on behalf of the taxpayer. If it is
12 necessary to file information obtained pursuant to this Act in
13 a child support enforcement proceeding, the information shall
14 be filed under seal.

15 (b) Public information. Nothing contained in this Act shall
16 prevent the Director from publishing or making available to the
17 public the names and addresses of persons filing returns under
18 this Act, or from publishing or making available reasonable
19 statistics concerning the operation of the tax wherein the
20 contents of returns are grouped into aggregates in such a way
21 that the information contained in any individual return shall
22 not be disclosed.

23 (c) Governmental agencies. The Director may make available
24 to the Secretary of the Treasury of the United States or his
25 delegate, or the proper officer or his delegate of any other
26 state imposing a tax upon or measured by income, for

1 exclusively official purposes, information received by the
2 Department in the administration of this Act, but such
3 permission shall be granted only if the United States or such
4 other state, as the case may be, grants the Department
5 substantially similar privileges. The Director may exchange
6 information with the Department of Healthcare and Family
7 Services and the Department of Human Services (acting as
8 successor to the Department of Public Aid under the Department
9 of Human Services Act) for the purpose of verifying sources and
10 amounts of income and for other purposes directly connected
11 with the administration of this Act and the Illinois Public Aid
12 Code. The Director may exchange information with the Director
13 of the Department of Employment Security for the purpose of
14 verifying sources and amounts of income and for other purposes
15 directly connected with the administration of this Act and Acts
16 administered by the Department of Employment Security. The
17 Director may make available to the Illinois Workers'
18 Compensation Commission information regarding employers for
19 the purpose of verifying the insurance coverage required under
20 the Workers' Compensation Act and Workers' Occupational
21 Diseases Act. The Director may exchange information with the
22 Illinois Department on Aging for the purpose of verifying
23 sources and amounts of income for purposes directly related to
24 confirming eligibility for participation in the programs of
25 benefits authorized by the Senior Citizens and Disabled Persons
26 Property Tax Relief and Pharmaceutical Assistance Act.

1 The Director may make available to any State agency,
2 including the Illinois Supreme Court, which licenses persons to
3 engage in any occupation, information that a person licensed by
4 such agency has failed to file returns under this Act or pay
5 the tax, penalty and interest shown therein, or has failed to
6 pay any final assessment of tax, penalty or interest due under
7 this Act. The Director may make available to any State agency,
8 including the Illinois Supreme Court, information regarding
9 whether a bidder, contractor, or an affiliate of a bidder or
10 contractor has failed to file returns under this Act or pay the
11 tax, penalty, and interest shown therein, or has failed to pay
12 any final assessment of tax, penalty, or interest due under
13 this Act, for the limited purpose of enforcing bidder and
14 contractor certifications. For purposes of this Section, the
15 term "affiliate" means any entity that (1) directly,
16 indirectly, or constructively controls another entity, (2) is
17 directly, indirectly, or constructively controlled by another
18 entity, or (3) is subject to the control of a common entity.
19 For purposes of this subsection (a), an entity controls another
20 entity if it owns, directly or individually, more than 10% of
21 the voting securities of that entity. As used in this
22 subsection (a), the term "voting security" means a security
23 that (1) confers upon the holder the right to vote for the
24 election of members of the board of directors or similar
25 governing body of the business or (2) is convertible into, or
26 entitles the holder to receive upon its exercise, a security

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

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

10 The Director may also make available to the Secretary of
11 State information that a corporation which has been issued a
12 certificate of incorporation by the Secretary of State has
13 failed to file returns under this Act or pay the tax, penalty
14 and interest shown therein, or has failed to pay any final
15 assessment of tax, penalty or interest due under this Act. An
16 assessment is final when all proceedings in court for review of
17 such assessment have terminated or the time for the taking
18 thereof has expired without such proceedings being instituted.
19 For taxable years ending on or after December 31, 1987, the
20 Director may make available to the Director or principal
21 officer of any Department of the State of Illinois, information
22 that a person employed by such Department has failed to file
23 returns under this Act or pay the tax, penalty and interest
24 shown therein. For purposes of this paragraph, the word
25 "Department" shall have the same meaning as provided in Section
26 3 of the State Employees Group Insurance Act of 1971.

1 (d) The Director shall make available for public inspection
2 in the Department's principal office and for publication, at
3 cost, administrative decisions issued on or after January 1,
4 1995. These decisions are to be made available in a manner so
5 that the following taxpayer information is not disclosed:

6 (1) The names, addresses, and identification numbers
7 of the taxpayer, related entities, and employees.

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

13 The Director shall determine the appropriate extent of the
14 deletions allowed in paragraph (2). In the event the taxpayer
15 does not submit deletions, the Director shall make only the
16 deletions specified in paragraph (1).

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

24 (e) Nothing contained in this Act shall prevent the
25 Director from divulging information to any person pursuant to a
26 request or authorization made by the taxpayer, by an authorized

1 representative of the taxpayer, or, in the case of information
2 related to a joint return, by the spouse filing the joint
3 return with the taxpayer.

4 (f) Nothing contained in this Act prevents the Department
5 from disclosing information from reports filed pursuant to
6 Section 1409 of this Act. All such information may be made
7 available for public inspection at the Department, or by any
8 other means of publication, including the Internet, or under
9 the Freedom of Information Act.

10 (Source: P.A. 93-25, eff. 6-20-03; 93-721, eff. 1-1-05; 93-835;
11 93-841, eff. 7-30-04; 94-1074, eff. 12-26-06.)

12 (35 ILCS 5/1409 new)

13 Sec. 1409. Information reports by public corporations,
14 banks, and insurance companies.

15 (a) Beginning with November 1, 2007, and for each year
16 thereafter, each corporation that is required to file reports
17 under Section 13 of the Securities and Exchange Act of 1934,
18 each corporation (other than a Subchapter S corporation) that
19 has total assets of \$100,000,000 as of November 1 of that year,
20 each bank, each bank holding company, and each insurance
21 company that is qualified to do business in this State and
22 required to file a return under this Act, shall file with the
23 Department an information report containing the following
24 information:

25 (1) the name and address of the taxpayer, as shown on

1 its Illinois income tax return;

2 (2) the gross receipts of the taxpayer for the period
3 reported on its Illinois income tax return;

4 (3) the base income reported on its Illinois income tax
5 return;

6 (4) the net income reported on its Illinois income tax
7 return;

8 (5) the amount of each exemption, subtraction, or
9 credit reported on its Illinois income tax return;

10 (6) any Illinois net loss carryover claimed on its
11 Illinois income tax return;

12 (7) the income tax and Personal Property Replacement
13 Income Tax liability, net of credits allowed under Article
14 2 of this Act, reported on its Illinois income tax return;

15 (8) the book income of the taxpayer filing the report
16 for the period for which that taxpayers's Illinois income
17 tax return is filed;

18 (9) in the case of a taxpayer whose commercial domicile
19 is outside this State, the amount of net income allocated
20 to its commercial domicile on its income or franchise tax
21 return filed with the state of domicile;

22 (10) the number of full-time employees of the taxpayer
23 filing the report to whom "compensation paid in this State"
24 (within the meaning of Section 304(a)(2)(B) of this Act)
25 was paid during the period for which the Illinois income
26 tax return was filed; and

1 (11) in the case of a financial organization, the
2 amount of interest from Illinois customers received
3 outside this State.

4 (b) Reports required under this Section must be filed no
5 late than November 1 of each year. The Department may, by rule,
6 require any report under this Section to be filed
7 electronically.

8 (c) A penalty is imposed for the failure to timely file any
9 report that is due under this Section. The penalty is imposed
10 for each day that the report is late at a rate equal to the
11 greater of: (i) 1% of the liability imposed under subsections
12 (a), (b), (c), and (d) of Section 201 of this Act on the
13 Illinois income tax return; or (ii) either:

14 (A) for any day before the Department has issued a
15 written request for the report \$100; or

16 (B) for any day on or after the date that the
17 Department has issued a written request for the report,
18 \$1,000.

19 A penalty is imposed for a failure to timely report the
20 correct amount of any item required to be included in a report
21 under this Section. The penalty is imposed for each day after
22 the erroneous report is filed until a correct report is filed
23 at a rate equal to the greater of: (i) 1% of the liability
24 imposed under subsections (a), (b), (c), and (d) of Section 201
25 of this Act on the Illinois income tax return; or (ii) \$100.

26 No penalty is imposed under this Section on any person who

1 had a reasonable cause for failing to comply with this Section.

2 (d) For the purposes of this Section, "Illinois income tax
3 return" means the most recent original Illinois income tax
4 return filed prior to the due date of the information report
5 required by this Section and on or after November 1 of the
6 preceding year.

7 In the case of a combined return filed under Section 502(e)
8 of this Act, the report required by this Section must be filed
9 by the unitary business group on behalf of all of its members.
10 "Illinois income tax return" is the combined Illinois income
11 tax return of the unitary business group, and the information
12 required on the report shall include the information of every
13 member of the unitary business group regardless of whether any
14 such member would be required to file an information report
15 under this Section if it were not a member of a unitary
16 business group.

17 Section 99. Effective date. This Act takes effect upon
18 becoming law."