

HB0474



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB0474

Introduced 1/25/2013, by Rep. Michael J. Madigan

SYNOPSIS AS INTRODUCED:

65 ILCS 5/8-11-1.3

from Ch. 24, par. 8-11-1.3

Amends the Non-Home Rule Municipal Retailers' Occupation Tax Act in the Illinois Municipal Code. Makes a technical change in a Section authorizing the imposition of the tax.

LRB098 03292 OMW 33307 b

A BILL FOR

1 AN ACT concerning local government.

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

4 Section 5. The Illinois Municipal Code is amended by
5 changing Section 8-11-1.3 as follows:

6 (65 ILCS 5/8-11-1.3) (from Ch. 24, par. 8-11-1.3)

7 Sec. 8-11-1.3. Non-Home Rule Municipal Retailers'
8 Occupation Tax Act. The ~~The~~ corporate authorities of a non-home
9 rule municipality may impose a tax upon all persons engaged in
10 the business of selling tangible personal property, other than
11 on an item of tangible personal property which is titled and
12 registered by an agency of this State's Government, at retail
13 in the municipality for expenditure on public infrastructure or
14 for property tax relief or both as defined in Section 8-11-1.2
15 if approved by referendum as provided in Section 8-11-1.1, of
16 the gross receipts from such sales made in the course of such
17 business. If the tax is approved by referendum on or after July
18 14, 2010 (the effective date of Public Act 96-1057), the
19 corporate authorities of a non-home rule municipality may,
20 until December 31, 2020, use the proceeds of the tax for
21 expenditure on municipal operations, in addition to or in lieu
22 of any expenditure on public infrastructure or for property tax
23 relief. The tax imposed may not be more than 1% and may be

1 imposed only in 1/4% increments. The tax may not be imposed on
2 the sale of food for human consumption that is to be consumed
3 off the premises where it is sold (other than alcoholic
4 beverages, soft drinks, and food that has been prepared for
5 immediate consumption) and prescription and nonprescription
6 medicines, drugs, medical appliances, and insulin, urine
7 testing materials, syringes, and needles used by diabetics. The
8 tax imposed by a municipality pursuant to this Section and all
9 civil penalties that may be assessed as an incident thereof
10 shall be collected and enforced by the State Department of
11 Revenue. The certificate of registration which is issued by the
12 Department to a retailer under the Retailers' Occupation Tax
13 Act shall permit such retailer to engage in a business which is
14 taxable under any ordinance or resolution enacted pursuant to
15 this Section without registering separately with the
16 Department under such ordinance or resolution or under this
17 Section. The Department shall have full power to administer and
18 enforce this Section; to collect all taxes and penalties due
19 hereunder; to dispose of taxes and penalties so collected in
20 the manner hereinafter provided, and to determine all rights to
21 credit memoranda, arising on account of the erroneous payment
22 of tax or penalty hereunder. In the administration of, and
23 compliance with, this Section, the Department and persons who
24 are subject to this Section shall have the same rights,
25 remedies, privileges, immunities, powers and duties, and be
26 subject to the same conditions, restrictions, limitations,

1 penalties and definitions of terms, and employ the same modes
2 of procedure, as are prescribed in Sections 1, 1a, 1a-1, 1d,
3 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions
4 therein other than the State rate of tax), 2c, 3 (except as to
5 the disposition of taxes and penalties collected), 4, 5, 5a,
6 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,
7 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and
8 Section 3-7 of the Uniform Penalty and Interest Act as fully as
9 if those provisions were set forth herein.

10 No municipality may impose a tax under this Section unless
11 the municipality also imposes a tax at the same rate under
12 Section 8-11-1.4 of this Code.

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

20 Whenever the Department determines that a refund should be
21 made under this Section to a claimant instead of issuing a
22 credit memorandum, the Department shall notify the State
23 Comptroller, who shall cause the order to be drawn for the
24 amount specified, and to the person named, in such notification
25 from the Department. Such refund shall be paid by the State
26 Treasurer out of the non-home rule municipal retailers'

1 occupation tax fund.

2 The Department shall forthwith pay over to the State
3 Treasurer, ex officio, as trustee, all taxes and penalties
4 collected hereunder.

5 As soon as possible after the first day of each month,
6 beginning January 1, 2011, upon certification of the Department
7 of Revenue, the Comptroller shall order transferred, and the
8 Treasurer shall transfer, to the STAR Bonds Revenue Fund the
9 local sales tax increment, as defined in the Innovation
10 Development and Economy Act, collected under this Section
11 during the second preceding calendar month for sales within a
12 STAR bond district.

13 After the monthly transfer to the STAR Bonds Revenue Fund,
14 on or before the 25th day of each calendar month, the
15 Department shall prepare and certify to the Comptroller the
16 disbursement of stated sums of money to named municipalities,
17 the municipalities to be those from which retailers have paid
18 taxes or penalties hereunder to the Department during the
19 second preceding calendar month. The amount to be paid to each
20 municipality shall be the amount (not including credit
21 memoranda) collected hereunder during the second preceding
22 calendar month by the Department plus an amount the Department
23 determines is necessary to offset any amounts which were
24 erroneously paid to a different taxing body, and not including
25 an amount equal to the amount of refunds made during the second
26 preceding calendar month by the Department on behalf of such

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

12 For the purpose of determining the local governmental unit
13 whose tax is applicable, a retail sale, by a producer of coal
14 or other mineral mined in Illinois, is a sale at retail at the
15 place where the coal or other mineral mined in Illinois is
16 extracted from the earth. This paragraph does not apply to coal
17 or other mineral when it is delivered or shipped by the seller
18 to the purchaser at a point outside Illinois so that the sale
19 is exempt under the Federal Constitution as a sale in
20 interstate or foreign commerce.

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

25 When certifying the amount of a monthly disbursement to a
26 municipality under this Section, the Department shall increase

1 or decrease such amount by an amount necessary to offset any
2 misallocation of previous disbursements. The offset amount
3 shall be the amount erroneously disbursed within the previous 6
4 months from the time a misallocation is discovered.

5 The Department of Revenue shall implement this amendatory
6 Act of the 91st General Assembly so as to collect the tax on
7 and after January 1, 2002.

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

11 This Section shall be known and may be cited as the
12 "Non-Home Rule Municipal Retailers' Occupation Tax Act".

13 (Source: P.A. 96-939, eff. 6-24-10; 96-1057, eff. 7-14-10;
14 97-333, eff. 8-12-11; 97-837, eff. 7-20-12.)