

# HB3168



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB3168

by Rep. David R. Leitch

#### SYNOPSIS AS INTRODUCED:

35 ILCS 120/11

from Ch. 120, par. 450

Amends the Retailers' Occupation Tax Act. Provides that the Department of Revenue may furnish certain financial information to municipalities and counties (now, only municipalities) if the municipality or county agrees in writing to the Act's confidentiality provisions. Provides that the Department of Revenue is authorized to provide the information to municipalities or counties by electronic means.

LRB099 10095 AWJ 30318 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 Retailers' Occupation Tax Act is amended by  
5 changing Section 11 as follows:

6 (35 ILCS 120/11) (from Ch. 120, par. 450)

7 Sec. 11. All information received by the Department from  
8 returns filed under this Act, or from any investigation  
9 conducted under this Act, shall be confidential, except for  
10 official purposes, and any person who divulges any such  
11 information in any manner, except in accordance with a proper  
12 judicial order or as otherwise provided by law, shall be guilty  
13 of a Class B misdemeanor with a fine not to exceed \$7,500.

14 Nothing in this Act prevents the Director of Revenue from  
15 publishing or making available to the public the names and  
16 addresses of persons filing returns under this Act, or  
17 reasonable statistics concerning the operation of the tax by  
18 grouping the contents of returns so the information in any  
19 individual return is not disclosed.

20 Nothing in this Act prevents the Director of Revenue from  
21 divulging to the United States Government or the government of  
22 any other state, or any officer or agency thereof, for  
23 exclusively official purposes, information received by the

1 Department in administering this Act, provided that such other  
2 governmental agency agrees to divulge requested tax  
3 information to the Department.

4 The Department's furnishing of information derived from a  
5 taxpayer's return or from an investigation conducted under this  
6 Act to the surety on a taxpayer's bond that has been furnished  
7 to the Department under this Act, either to provide notice to  
8 such surety of its potential liability under the bond or, in  
9 order to support the Department's demand for payment from such  
10 surety under the bond, is an official purpose within the  
11 meaning of this Section.

12 The furnishing upon request of information obtained by the  
13 Department from returns filed under this Act or investigations  
14 conducted under this Act to the Illinois Liquor Control  
15 Commission for official use is deemed to be an official purpose  
16 within the meaning of this Section.

17 Notice to a surety of potential liability shall not be  
18 given unless the taxpayer has first been notified, not less  
19 than 10 days prior thereto, of the Department's intent to so  
20 notify the surety.

21 The furnishing upon request of the Auditor General, or his  
22 authorized agents, for official use, of returns filed and  
23 information related thereto under this Act is deemed to be an  
24 official purpose within the meaning of this Section.

25 Where an appeal or a protest has been filed on behalf of a  
26 taxpayer, the furnishing upon request of the attorney for the

1 taxpayer of returns filed by the taxpayer and information  
2 related thereto under this Act is deemed to be an official  
3 purpose within the meaning of this Section.

4 The furnishing of financial information to a municipality  
5 or county, upon request of the Chief Executive thereof, is an  
6 official purpose within the meaning of this Section, provided  
7 the municipality or county agrees in writing to the  
8 requirements of this Section. Information provided to  
9 municipalities and counties under this paragraph shall be  
10 limited to: (1) the business name; (2) the business address;  
11 (3) net revenue distributed to the requesting municipality or  
12 county that is directly related to the requesting  
13 municipality's or county's local share of the proceeds under  
14 the Use Tax Act, the Service Use Tax Act, the Service  
15 Occupation Tax Act, and the Retailers' Occupation Tax Act, and,  
16 if applicable, any locally imposed retailers' occupation tax or  
17 service occupation tax; and (4) a listing of all businesses  
18 within the requesting municipality or county by account  
19 identification number and address. On and after July 1, 2015,  
20 the furnishing of financial information to municipalities or  
21 counties under this paragraph may be by electronic means.

22 Information so provided shall be subject to all  
23 confidentiality provisions of this Section. The written  
24 agreement shall provide for reciprocity, limitations on  
25 access, disclosure, and procedures for requesting information.

26 The Department may make available to the Board of Trustees

1 of any Metro East Mass Transit District information contained  
2 on transaction reporting returns required to be filed under  
3 Section 3 of this Act that report sales made within the  
4 boundary of the taxing authority of that Metro East Mass  
5 Transit District, as provided in Section 5.01 of the Local Mass  
6 Transit District Act. The disclosure shall be made pursuant to  
7 a written agreement between the Department and the Board of  
8 Trustees of a Metro East Mass Transit District, which is an  
9 official purpose within the meaning of this Section. The  
10 written agreement between the Department and the Board of  
11 Trustees of a Metro East Mass Transit District shall provide  
12 for reciprocity, limitations on access, disclosure, and  
13 procedures for requesting information. Information so provided  
14 shall be subject to all confidentiality provisions of this  
15 Section.

16 The Director may make available to any State agency,  
17 including the Illinois Supreme Court, which licenses persons to  
18 engage in any occupation, information that a person licensed by  
19 such agency has failed to file returns under this Act or pay  
20 the tax, penalty and interest shown therein, or has failed to  
21 pay any final assessment of tax, penalty or interest due under  
22 this Act. The Director may make available to any State agency,  
23 including the Illinois Supreme Court, information regarding  
24 whether a bidder, contractor, or an affiliate of a bidder or  
25 contractor has failed to collect and remit Illinois Use tax on  
26 sales into Illinois, or any tax under this Act or pay the tax,

1 penalty, and interest shown therein, or has failed to pay any  
2 final assessment of tax, penalty, or interest due under this  
3 Act, for the limited purpose of enforcing bidder and contractor  
4 certifications. The Director may make available to units of  
5 local government and school districts that require bidder and  
6 contractor certifications, as set forth in Sections 50-11 and  
7 50-12 of the Illinois Procurement Code, information regarding  
8 whether a bidder, contractor, or an affiliate of a bidder or  
9 contractor has failed to collect and remit Illinois Use tax on  
10 sales into Illinois, 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 Section, an entity controls another entity  
20 if it owns, directly or individually, more than 10% of the  
21 voting securities of that entity. As used in this Section, the  
22 term "voting security" means a security that (1) confers upon  
23 the holder the right to vote for the election of members of the  
24 board of directors or similar governing body of the business or  
25 (2) is convertible into, or entitles the holder to receive upon  
26 its exercise, a security that confers such a right to vote. A

1 general partnership interest is a voting security.

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

9 The Director may also make available to the Secretary of  
10 State information that a limited liability company, which has  
11 filed articles of organization with the Secretary of State, or  
12 corporation which has been issued a certificate of  
13 incorporation by the Secretary of State has failed to file  
14 returns under this Act or pay the tax, penalty and interest  
15 shown therein, or has failed to pay any final assessment of  
16 tax, penalty or interest due under this Act. An assessment is  
17 final when all proceedings in court for review of such  
18 assessment have terminated or the time for the taking thereof  
19 has expired without such proceedings being instituted.

20 The Director shall make available for public inspection in  
21 the Department's principal office and for publication, at cost,  
22 administrative decisions issued on or after January 1, 1995.  
23 These decisions are to be made available in a manner so that  
24 the following taxpayer information is not disclosed:

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

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

6           The Director shall determine the appropriate extent of the  
7           deletions allowed in paragraph (2). In the event the taxpayer  
8           does not submit deletions, the Director shall make only the  
9           deletions specified in paragraph (1).

10          The Director shall make available for public inspection and  
11          publication an administrative decision within 180 days after  
12          the issuance of the administrative decision. The term  
13          "administrative decision" has the same meaning as defined in  
14          Section 3-101 of Article III of the Code of Civil Procedure.  
15          Costs collected under this Section shall be paid into the Tax  
16          Compliance and Administration Fund.

17          Nothing contained in this Act shall prevent the Director  
18          from divulging information to any person pursuant to a request  
19          or authorization made by the taxpayer or by an authorized  
20          representative of the taxpayer.

21          (Source: P.A. 98-1058, eff. 1-1-15.)