

SB2933



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2933

Introduced 2/18/2016, by Sen. Michael E. Hastings

SYNOPSIS AS INTRODUCED:

35 ILCS 120/11

from Ch. 120, par. 450

Amends the Retailers' Occupation Tax Act. Provides that, subject to certain restrictions, if the Department may disclose confidential financial information to a municipality, then the Department may also disclose that financial information to an independent third party who is authorized in writing by that municipality to receive the information.

LRB099 15407 HLH 40726 b

A BILL FOR

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 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, including an eligible third
11 party, who divulges any such information in any manner, except
12 in accordance with a proper judicial order or as otherwise
13 provided by law, shall be guilty of a Class B misdemeanor with
14 a fine not to exceed \$7,500.

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

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

1 exclusively official purposes, information received by the
2 Department in administering this Act, provided that such other
3 governmental agency agrees to divulge requested tax
4 information to the Department.

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

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

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

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

26 Where an appeal or a protest has been filed on behalf of a

1 taxpayer, the furnishing upon request of the attorney for the
2 taxpayer of returns filed by the taxpayer and information
3 related thereto under this Act is deemed to be an official
4 purpose within the meaning of this Section.

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

1 disclose that information to eligible third parties,
2 including, but not limited to, consultants, attorneys,
3 accountants, auditors, and financial advisors. The furnishing
4 of financial information to an eligible third party is an
5 official purpose within the meaning of this Section, provided
6 the third party agrees in writing to the requirements of this
7 Section and meets the criteria set forth in this paragraph. To
8 be eligible to receive information from the Department, the
9 third party (1) must enter into a confidentiality agreement
10 with the Department prior to receiving the financial
11 information, (2) must have an existing contract with the
12 municipality at the time the third party enters into the
13 confidentiality agreement with the Department, and (3) must
14 abide by the same conditions as the municipality with respect
15 to the furnishing of financial information. The third party may
16 use the financial information only for the purpose of providing
17 services to the municipality as specified in the contract with
18 the municipality and may not use the information for any other
19 purpose. Electronic data submitted to third parties under this
20 paragraph must be encrypted and must be accessible only to
21 authorized users with secure passwords.

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.)