

AN ACT concerning revenue.

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

Section 5. The Department of Revenue Law of the Civil Administrative Code of Illinois is amended by changing Section 2505-190 as follows:

(20 ILCS 2505/2505-190) (was 20 ILCS 2505/39c-4)

Sec. 2505-190. Tax Compliance and Administration Fund.

(a) Amounts deposited into the Tax Compliance and Administration Fund, a special fund in the State treasury that is hereby created, must be appropriated to the Department to reimburse the Department for its costs of collecting, administering, and enforcing the tax laws that provide for deposits into the Fund. Moneys in the Fund shall consist of deposits provided for in tax laws, reimbursements, or other payments received from units of local government for administering a local tax or fee on behalf of the unit of local government in accordance with the Local Tax Collection Act, or other payments designated for deposit into the Fund.

(b) As soon as possible after July 1, 2015, and as soon as possible after each July 1 thereafter, the Director of the Department of Revenue shall certify the balance in the Tax Compliance and Administration Fund as of July 1, less any

amounts obligated, and the State Comptroller shall order transferred and the State Treasurer shall transfer from the Tax Compliance and Administration Fund to the General Revenue Fund the amount certified that exceeds \$2,500,000.

(Source: P.A. 98-1098, eff. 8-26-14.)

Section 10. The Retailers' Occupation Tax Act is amended by changing Section 11 as follows:

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

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

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

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

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

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

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

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

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

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

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

The furnishing of financial information to a municipality or county, upon request of the chief executive officer ~~Chief Executive~~ thereof, is an official purpose within the meaning of this Section, provided the municipality or county agrees in writing to the requirements of this Section. Information provided to municipalities and counties under this paragraph shall be limited to: (1) the business name; (2) the business address; (3) the standard classification number assigned to the business; (4) net revenue distributed to the requesting municipality or county that is directly related to the requesting municipality's or county's local share of the proceeds under the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act distributed from the Local Government Tax Fund, and, if applicable, any locally imposed retailers' occupation tax or service occupation tax; and (5) ~~(4)~~ a listing of all businesses within the requesting municipality or county by account identification number and address. On and after July 1, 2015, the furnishing of financial information to municipalities and counties under this paragraph may be by electronic means.

Information so provided shall be subject to all confidentiality provisions of this Section. The written

agreement shall provide for reciprocity, limitations on access, disclosure, and procedures for requesting information.

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

The Director may make available to any State agency, including the Illinois Supreme Court, which licenses persons to engage in any occupation, information that a person licensed by such agency has failed to file returns under this Act or pay the tax, penalty and interest shown therein, or has failed to pay any final assessment of tax, penalty or interest due under this Act. The Director may make available to any State agency, including the Illinois Supreme Court, information regarding

whether a bidder, contractor, or an affiliate of a bidder or contractor has failed to collect and remit Illinois Use tax on sales into Illinois, or any tax under this Act or pay the tax, penalty, and interest shown therein, or has failed to pay any final assessment of tax, penalty, or interest due under this Act, for the limited purpose of enforcing bidder and contractor certifications. The Director may make available to units of local government and school districts that require bidder and contractor certifications, as set forth in Sections 50-11 and 50-12 of the Illinois Procurement Code, information regarding whether a bidder, contractor, or an affiliate of a bidder or contractor has failed to collect and remit Illinois Use tax on sales into Illinois, file returns under this Act, or pay the tax, penalty, and interest shown therein, or has failed to pay any final assessment of tax, penalty, or interest due under this Act, for the limited purpose of enforcing bidder and contractor certifications. For purposes of this Section, the term "affiliate" means any entity that (1) directly, indirectly, or constructively controls another entity, (2) is directly, indirectly, or constructively controlled by another entity, or (3) is subject to the control of a common entity. For purposes of this Section, an entity controls another entity if it owns, directly or individually, more than 10% of the voting securities of that entity. As used in this Section, the term "voting security" means a security that (1) confers upon the holder the right to vote for the election of members of the

board of directors or similar governing body of the business or (2) is convertible into, or entitles the holder to receive upon its exercise, a security that confers such a right to vote. A general partnership interest is a voting security.

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

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

The Director shall make available for public inspection in the Department's principal office and for publication, at cost, administrative decisions issued on or after January 1, 1995. These decisions are to be made available in a manner so that

the following taxpayer information is not disclosed:

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

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

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

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

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

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

Section 15. The Local Tax Collection Act is amended by

changing Section 1 as follows:

(35 ILCS 720/1) (from Ch. 120, par. 1901)

Sec. 1. (a) The Department of Revenue and any unit of local government ~~county or municipality~~ may agree to the Department's collecting, and transmitting back to the unit of local government ~~such county or municipality~~, any tax lawfully imposed by that unit of local government ~~county or municipality~~, the subject of which is similar to that of a tax imposed by the State and collected by the Department of Revenue, unless the General Assembly has specifically required a different method of collection for such tax. However, the Department may not enter into a contract with any unit of local government ~~municipality or county~~ pursuant to this Act for the collection of any tax based on the sale or use of tangible personal property generally, not including taxes based only on the sale or use of specifically limited kinds of tangible personal property, unless the ~~municipal or county~~ ordinance adopted by the unit of local government imposes a sales or use tax which is substantively identical to and which contains the same exemptions as the taxes imposed by the unit of local government's ~~municipalities' or counties'~~ ordinances authorized by the Home Rule or Non-Home Rule Municipal or County Retailers' Occupation Tax Act, the Home Rule or Non-Home Rule ~~or the~~ Municipal or County Use Tax, or any other Retailers' Occupation Tax Act or Law that is administered by

the Department of Revenue, as interpreted by the Department through its regulations as those Acts and as those regulations may from time to time be amended.

(b) Regarding the collection of a tax pursuant to this Section, the Department and any person subject to a tax collected by the Department pursuant to this Section shall, as much as practicable, have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties, definitions of terms and procedures, as those set forth in the Act imposing the State tax, the subject of which is similar to the tax being collected by the Department pursuant to this Section. The Department and unit of local government ~~county or municipality~~ shall specifically agree in writing to such rights, remedies, privileges, immunities, powers, duties, conditions, restrictions, limitations, penalties, definitions of terms and procedures, as well as any other terms deemed necessary or advisable. All terms so agreed upon shall be incorporated into an ordinance of such unit of local government ~~county or municipality~~, and the Department shall not collect the tax pursuant to this Section until such ordinance takes effect.

(c) (1) The Department shall forthwith pay over to the State Treasurer, ex officio, as trustee, all taxes and penalties collected hereunder. On or before the 25th day of each calendar month, the Department shall prepare and certify

to the Comptroller the disbursement of stated sums of money to named units of local government ~~cities and counties~~ from which retailers or other taxpayers have paid taxes or penalties hereunder to the Department during the second preceding calendar month.

(i) The ~~an~~ amount to be paid to each unit of local government ~~county and municipality, which~~ shall equal the taxes and penalties collected by the Department for the unit of local government ~~such county or municipality~~ pursuant to this Section during the second preceding calendar month (not including credit memoranda), plus an amount the Department determines is necessary to offset any amounts which were erroneously paid to a different taxing body, and not including (i) an amount equal to the amount of refunds made during the second preceding calendar month by the Department of behalf of such county or municipality and (ii) any amount which the Department determines is necessary to offset any amounts which are payable to a different taxing body but were erroneously paid to the municipality or county, less 2% of the balance, or any greater amount of the balance as provided in the agreement between the Department and the unit of local government required under this Section, which sum shall be retained by the State Treasurer. ~~total amount of taxes and penalties collected by the Department for such county or municipality pursuant to this Section or the actual cost of collection of such taxes and penalties determined pursuant to the agreement described in subsection~~

~~(b), whichever is less, which shall be retained by the State, and~~

(ii) With respect to the total amount to be retained by the State Treasurer pursuant to subparagraph (i), the Department, at the time of each monthly disbursement to the units of local government, shall prepare and certify to the Comptroller the amount so retained by the State Treasurer, which shall be transferred ~~such amount to be deposited~~ into the Tax Compliance and Administration General Revenue Fund of the State treasury and used by the Department, subject to appropriation, to cover the costs incurred by the Department in collecting ~~such~~ taxes and penalties.

(2) Within 10 ~~7~~ days after receiving the certifications described in paragraph (1), the Comptroller shall issue orders for payment of the amounts specified in subparagraph (i) of paragraph (1).

(d) Any ~~home rule~~ unit of local government which imposes a tax collected by the Department pursuant to this Section ~~substantially similar to a State imposed tax, or which imposes a tax which is intended to be collected from a retail purchaser of goods or services at the same time a similar State tax is also collected,~~ must file a certified copy of the ordinance imposing the tax with the Department within 10 days after its passage. Beginning on the effective date of this amendatory Act of the 99th General Assembly, an ordinance or resolution imposing or discontinuing a tax collected by the Department

under this Section or effecting a change in the rate thereof shall either (i) be adopted and a certified copy thereof filed with the Department on or before the first day of April, whereupon the Department shall proceed to administer and enforce the tax imposition, discontinuance, or rate change as of the first day of July next following the adoption and filing; or (ii) be adopted and certified copy thereof filed with the Department on or before the first day of October, whereupon the Department shall proceed to administer and enforce the tax imposition, discontinuance, or rate change as of the first day of January next following the adoption and filing. ~~No such ordinance shall become effective until it is so filed. Any home rule unit of local government which has enacted such an ordinance prior to the effective date of this Act shall file a copy of such ordinance with the Department within 90 days after the effective date of this Act.~~

(e) It is declared to be the law of this State, pursuant to paragraph (g) of Section 6 of Article VII of the Illinois Constitution, that this amendatory Act of 1988 is a denial of the power of a home rule unit to fail to comply with the requirements of paragraphs (d) and (e) of this Section.

(Source: P.A. 85-1215.)

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

Public Act 099-0517

HB5598 Enrolled

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Statutes amended in order of appearance

20 ILCS 2505/2505-190	was 20 ILCS 2505/39c-4
35 ILCS 120/11	from Ch. 120, par. 450
35 ILCS 720/1	from Ch. 120, par. 1901