

SB3475



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3475

Introduced 2/8/2024, by Sen. Elgie R. Sims, Jr.

SYNOPSIS AS INTRODUCED:

35 ILCS 145/6

from Ch. 120, par. 481b.36

Amends the Hotel Operators' Occupation Tax Act. Makes changes concerning the distribution of proceeds under the Act. Effective immediately.

LRB103 35867 HLH 65952 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 Hotel Operators' Occupation Tax Act is
5 amended by changing Section 6 as follows:

6 (35 ILCS 145/6) (from Ch. 120, par. 481b.36)

7 Sec. 6. Filing of returns and distribution of revenue.

8 (a) Except as provided hereinafter in this Section, on or
9 before the last day of each calendar month, every person
10 engaged in the business of renting, leasing or letting rooms
11 in a hotel in this State during the preceding calendar month
12 shall file a return with the Department, stating:

13 1. The name of the operator;

14 2. His residence address and the address of his
15 principal place of business and the address of the
16 principal place of business (if that is a different
17 address) from which he engages in the business of renting,
18 leasing or letting rooms in a hotel in this State;

19 3. Total amount of rental receipts received by him
20 during the preceding calendar month from renting, leasing
21 or letting rooms during such preceding calendar month;

22 4. Total amount of rental receipts received by him
23 during the preceding calendar month from renting, leasing

1 or letting rooms to permanent residents during such
2 preceding calendar month;

3 5. Total amount of other exclusions from gross rental
4 receipts allowed by this Act;

5 6. Gross rental receipts which were received by him
6 during the preceding calendar month and upon the basis of
7 which the tax is imposed;

8 7. The amount of tax due;

9 8. Such other reasonable information as the Department
10 may require.

11 If the operator's average monthly tax liability to the
12 Department does not exceed \$200, the Department may authorize
13 his returns to be filed on a quarter annual basis, with the
14 return for January, February and March of a given year being
15 due by April 30 of such year; with the return for April, May
16 and June of a given year being due by July 31 of such year;
17 with the return for July, August and September of a given year
18 being due by October 31 of such year, and with the return for
19 October, November and December of a given year being due by
20 January 31 of the following year.

21 If the operator's average monthly tax liability to the
22 Department does not exceed \$50, the Department may authorize
23 his returns to be filed on an annual basis, with the return for
24 a given year being due by January 31 of the following year.

25 Such quarter annual and annual returns, as to form and
26 substance, shall be subject to the same requirements as

1 monthly returns.

2 Notwithstanding any other provision in this Act concerning
3 the time within which an operator may file his return, in the
4 case of any operator who ceases to engage in a kind of business
5 which makes him responsible for filing returns under this Act,
6 such operator shall file a final return under this Act with the
7 Department not more than 1 month after discontinuing such
8 business.

9 Where the same person has more than 1 business registered
10 with the Department under separate registrations under this
11 Act, such person shall not file each return that is due as a
12 single return covering all such registered businesses, but
13 shall file separate returns for each such registered business.

14 In his return, the operator shall determine the value of
15 any consideration other than money received by him in
16 connection with the renting, leasing or letting of rooms in
17 the course of his business and he shall include such value in
18 his return. Such determination shall be subject to review and
19 revision by the Department in the manner hereinafter provided
20 for the correction of returns.

21 Where the operator is a corporation, the return filed on
22 behalf of such corporation shall be signed by the president,
23 vice-president, secretary or treasurer or by the properly
24 accredited agent of such corporation.

25 The person filing the return herein provided for shall, at
26 the time of filing such return, pay to the Department the

1 amount of tax herein imposed. The operator filing the return
2 under this Section shall, at the time of filing such return,
3 pay to the Department the amount of tax imposed by this Act
4 less a discount of 2.1% or \$25 per calendar year, whichever is
5 greater, which is allowed to reimburse the operator for the
6 expenses incurred in keeping records, preparing and filing
7 returns, remitting the tax and supplying data to the
8 Department on request.

9 If any payment provided for in this Section exceeds the
10 operator's liabilities under this Act, as shown on an original
11 return, the Department may authorize the operator to credit
12 such excess payment against liability subsequently to be
13 remitted to the Department under this Act, in accordance with
14 reasonable rules adopted by the Department. If the Department
15 subsequently determines that all or any part of the credit
16 taken was not actually due to the operator, the operator's
17 discount shall be reduced by an amount equal to the difference
18 between the discount as applied to the credit taken and that
19 actually due, and that operator shall be liable for penalties
20 and interest on such difference.

21 (b) Until July 1, 2024, the Department shall deposit the
22 total net revenue realized from the tax imposed under this Act
23 as provided in this subsection (b). Beginning on July 1, 2024,
24 the Department shall deposit the total net revenue realized
25 from the tax imposed under this Act as provided in subsection
26 (c).

1 There shall be deposited into the Build Illinois Fund in
2 the State Treasury for each State fiscal year 40% of the amount
3 of total net revenue from the tax imposed by subsection (a) of
4 Section 3. Of the remaining 60%: (i) \$5,000,000 shall be
5 deposited into the Illinois Sports Facilities Fund and
6 credited to the Subsidy Account each fiscal year by making
7 monthly deposits in the amount of 1/8 of \$5,000,000 plus
8 cumulative deficiencies in such deposits for prior months, and
9 (ii) an amount equal to the then applicable Advance Amount, as
10 defined in subsection (d), shall be deposited into the
11 Illinois Sports Facilities Fund and credited to the Advance
12 Account each fiscal year by making monthly deposits in the
13 amount of 1/8 of the then applicable Advance Amount plus any
14 cumulative deficiencies in such deposits for prior months.
15 (The deposits of the then applicable Advance Amount during
16 each fiscal year shall be treated as advances of funds to the
17 Illinois Sports Facilities Authority for its corporate
18 purposes to the extent paid to the Authority or its trustee and
19 shall be repaid into the General Revenue Fund in the State
20 Treasury by the State Treasurer on behalf of the Authority
21 pursuant to Section 19 of the Illinois Sports Facilities
22 Authority Act, as amended. If in any fiscal year the full
23 amount of the then applicable Advance Amount is not repaid
24 into the General Revenue Fund, then the deficiency shall be
25 paid from the amount in the Local Government Distributive Fund
26 that would otherwise be allocated to the City of Chicago under

1 the State Revenue Sharing Act.)

2 ~~For purposes of the foregoing paragraph, the term "Advance~~
3 ~~Amount" means, for fiscal year 2002, \$22,179,000, and for~~
4 ~~subsequent fiscal years through fiscal year 2033, 105.615% of~~
5 ~~the Advance Amount for the immediately preceding fiscal year,~~
6 ~~rounded up to the nearest \$1,000.~~

7 Of the remaining 60% of the amount of total net revenue
8 beginning on August 1, 2011 through June 30, 2023, from the tax
9 imposed by subsection (a) of Section 3 after all required
10 deposits into the Illinois Sports Facilities Fund, an amount
11 equal to 8% of the net revenue realized from this Act during
12 the preceding month shall be deposited as follows: 18% of such
13 amount shall be deposited into the Chicago Travel Industry
14 Promotion Fund for the purposes described in subsection (n) of
15 Section 5 of the Metropolitan Pier and Exposition Authority
16 Act and the remaining 82% of such amount shall be deposited
17 into the Local Tourism Fund each month for purposes authorized
18 by Section 605-705 of the Department of Commerce and Economic
19 Opportunity Law. Beginning on August 1, 2011 and through June
20 30, 2023, an amount equal to 4.5% of the net revenue realized
21 from this Act during the preceding month shall be deposited as
22 follows: 55% of such amount shall be deposited into the
23 Chicago Travel Industry Promotion Fund for the purposes
24 described in subsection (n) of Section 5 of the Metropolitan
25 Pier and Exposition Authority Act and the remaining 45% of
26 such amount deposited into the International Tourism Fund for

1 the purposes authorized in Section 605-707 of the Department
2 of Commerce and Economic Opportunity Law. ~~"Net revenue
3 realized" means the revenue collected by the State under this
4 Act less the amount paid out as refunds to taxpayers for
5 overpayment of liability under this Act.~~

6 Beginning on July 1, 2023 and until July 1, 2024, of the
7 remaining 60% of the amount of total net revenue realized from
8 the tax imposed under subsection (a) of Section 3, after all
9 required deposits into the Illinois Sports Facilities Fund:

10 (1) an amount equal to 8% of the net revenue realized
11 under this Act for the preceding month shall be deposited
12 as follows: 82% to the Local Tourism Fund and 18% to the
13 Chicago Travel Industry Promotion Fund; and

14 (2) an amount equal to 4.5% of the net revenue
15 realized under this Act for the preceding month shall be
16 deposited as follows: 55% to the Chicago Travel Industry
17 Promotion Fund and 45% to the International Tourism Fund.

18 After making all these deposits, any remaining net revenue
19 realized from the tax imposed under subsection (a) of Section
20 3 shall be deposited into the Tourism Promotion Fund in the
21 State Treasury. All moneys received by the Department from the
22 additional tax imposed under subsection (b) of Section 3 shall
23 be deposited into the Build Illinois Fund in the State
24 Treasury.

25 (c) Beginning on July 1, 2024, the total net revenue
26 realized from the tax imposed under this Act for the preceding

1 month shall be deposited each month as follows:

2 (1) 50% shall be deposited into the Build Illinois
3 Fund; and

4 (2) the remaining 50% shall be deposited in the
5 following order of priority:

6 (A) First:

7 (i) \$5,000,000 shall be deposited into the
8 Illinois Sports Facilities Fund and credited to
9 the Subsidy Account each fiscal year by making
10 monthly deposits in the amount of one-eighth of
11 \$5,000,000 plus cumulative deficiencies in those
12 deposits for prior months; and

13 (ii) an amount equal to the then applicable
14 Advance Amount, as defined in subsection (d),
15 shall be deposited into the Illinois Sports
16 Facilities Fund and credited to the Advance
17 Account each fiscal year by making monthly
18 deposits in the amount of one-eighth of the then
19 applicable Advance Amount plus any cumulative
20 deficiencies in such deposits for prior months;
21 the deposits of the then applicable Advance Amount
22 during each fiscal year shall be treated as
23 advances of funds to the Illinois Sports
24 Facilities Authority for its corporate purposes to
25 the extent paid to the Illinois Sports Facilities
26 Authority or its trustee and shall be repaid into

1 the General Revenue Fund in the State Treasury by
2 the State Treasurer on behalf of the Authority
3 pursuant to Section 19 of the Illinois Sports
4 Facilities Authority Act; if, in any fiscal year,
5 the full amount of the Advance Amount is not
6 repaid into the General Revenue Fund, then the
7 deficiency shall be paid from the amount in the
8 Local Government Distributive Fund that would
9 otherwise be allocated to the City of Chicago
10 under the State Revenue Sharing Act; and

11 (B) after all required deposits into the Illinois
12 Sports Facilities Fund under paragraph (A) have been
13 made each month, the remainder shall be deposited as
14 follows:

15 (i) 56% into the Tourism Promotion Fund;

16 (ii) 23% into the Local Tourism Fund;

17 (iii) 14% into the Chicago Travel Industry
18 Promotion Fund; and

19 (iv) 7% into the International Tourism Fund.

20 (d) As used in subsections (b) and (c):

21 "Advance Amount" means, for fiscal year 2002, \$22,179,000,
22 and for subsequent fiscal years through fiscal year 2033,
23 105.615% of the Advance Amount for the immediately preceding
24 fiscal year, rounded up to the nearest \$1,000.

25 "Net revenue realized" means the revenue collected by the
26 State under this Act less the amount paid out as refunds to

1 taxpayers for overpayment of liability under this Act.

2 (e) The Department may, upon separate written notice to a
3 taxpayer, require the taxpayer to prepare and file with the
4 Department on a form prescribed by the Department within not
5 less than 60 days after receipt of the notice an annual
6 information return for the tax year specified in the notice.
7 Such annual return to the Department shall include a statement
8 of gross receipts as shown by the operator's last State income
9 tax return. If the total receipts of the business as reported
10 in the State income tax return do not agree with the gross
11 receipts reported to the Department for the same period, the
12 operator shall attach to his annual information return a
13 schedule showing a reconciliation of the 2 amounts and the
14 reasons for the difference. The operator's annual information
15 return to the Department shall also disclose payroll
16 information of the operator's business during the year covered
17 by such return and any additional reasonable information which
18 the Department deems would be helpful in determining the
19 accuracy of the monthly, quarterly or annual tax returns by
20 such operator as hereinbefore provided for in this Section.

21 If the annual information return required by this Section
22 is not filed when and as required the taxpayer shall be liable
23 for a penalty in an amount determined in accordance with
24 Section 3-4 of the Uniform Penalty and Interest Act until such
25 return is filed as required, the penalty to be assessed and
26 collected in the same manner as any other penalty provided for

1 in this Act.

2 The chief executive officer, proprietor, owner or highest
3 ranking manager shall sign the annual return to certify the
4 accuracy of the information contained therein. Any person who
5 willfully signs the annual return containing false or
6 inaccurate information shall be guilty of perjury and punished
7 accordingly. The annual return form prescribed by the
8 Department shall include a warning that the person signing the
9 return may be liable for perjury.

10 The foregoing portion of this Section concerning the
11 filing of an annual information return shall not apply to an
12 operator who is not required to file an income tax return with
13 the United States Government.

14 (Source: P.A. 102-16, eff. 6-17-21; 103-8, eff. 6-7-23.)

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