



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB2851

Introduced 2/22/2011, by Rep. Timothy L. Schmitz

#### SYNOPSIS AS INTRODUCED:

35 ILCS 120/11

from Ch. 120, par. 450

Amends the Retailers' Occupation Tax Act. Provides that the Director of Revenue may divulge information from a taxpayer's return or an investigation to the government of a municipality (now, any village that does not levy any real property taxes for village operations and receives 60% of its general corporate revenue from taxes under the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act). Makes other changes.

LRB097 08550 HLH 48677 b

FISCAL NOTE ACT  
MAY APPLY

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 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.

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 municipality ~~any village that does not levy~~  
23 ~~any real property taxes for village operations and that~~

1 ~~receives more than 60% of its general corporate revenue from~~  
2 ~~taxes under the Use Tax Act, the Service Use Tax Act, the~~  
3 ~~Service Occupation Tax Act, and the Retailers' Occupation Tax~~  
4 ~~Act, or any officer or agency thereof, for exclusively official~~  
5 purposes, information received by the Department in  
6 administering this Act, provided that such other governmental  
7 agency agrees to divulge requested tax information to the  
8 Department.

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

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

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

26 The furnishing upon request of the Auditor General, or his

1 authorized agents, for official use, of returns filed and  
2 information related thereto under this Act is deemed to be an  
3 official purpose within the meaning of this Section.

4 Where an appeal or a protest has been filed on behalf of a  
5 taxpayer, the furnishing upon request of the attorney for the  
6 taxpayer of returns filed by the taxpayer and information  
7 related thereto under this Act is deemed to be an official  
8 purpose within the meaning of this Section.

9 The furnishing of financial information to a home rule unit  
10 or non-home rule unit that has imposed a tax similar to that  
11 imposed by this Act pursuant to its home rule powers or the  
12 successful passage of a public referendum by a majority of the  
13 registered voters of the community, or to any municipality  
14 ~~village that does not levy any real property taxes for village~~  
15 ~~operations and that receives more than 60% of its general~~  
16 ~~corporate revenue from taxes under the Use Tax Act, the Service~~  
17 ~~Use Tax Act, the Service Occupation Tax Act, and the Retailers'~~  
18 ~~Occupation Tax Act, upon request of the Chief Executive~~  
19 thereof, is an official purpose within the meaning of this  
20 Section, provided the home rule unit, non-home rule unit with  
21 referendum approval, or municipality ~~village that does not levy~~  
22 ~~any real property taxes for village operations and that~~  
23 ~~receives more than 60% of its general corporate revenue from~~  
24 ~~taxes under the Use Tax Act, the Service Use Tax Act, the~~  
25 ~~Service Occupation Tax Act, and the Retailers' Occupation Tax~~  
26 ~~Act~~ agrees in writing to the requirements of this Section.

1 For a municipality ~~village that does not levy any real~~  
2 ~~property taxes for village operations and that receives more~~  
3 ~~than 60% of its general corporate revenue from taxes under the~~  
4 ~~Use Tax Act, Service Use Tax Act, Service Occupation Tax Act,~~  
5 ~~and Retailers' Occupation Tax Act,~~ the officers eligible to  
6 receive information from the Department of Revenue under this  
7 Section are the chief executive officer ~~village manager~~ and the  
8 chief financial officer of the municipality ~~village~~.

9 Information so provided shall be subject to all  
10 confidentiality provisions of this Section. The written  
11 agreement shall provide for reciprocity, limitations on  
12 access, disclosure, and procedures for requesting information.

13 The Department may make available to the Board of Trustees  
14 of any Metro East Mass Transit District information contained  
15 on transaction reporting returns required to be filed under  
16 Section 3 of this Act that report sales made within the  
17 boundary of the taxing authority of that Metro East Mass  
18 Transit District, as provided in Section 5.01 of the Local Mass  
19 Transit District Act. The disclosure shall be made pursuant to  
20 a written agreement between the Department and the Board of  
21 Trustees of a Metro East Mass Transit District, which is an  
22 official purpose within the meaning of this Section. The  
23 written agreement between the Department and the Board of  
24 Trustees of a Metro East Mass Transit District shall provide  
25 for reciprocity, limitations on access, disclosure, and  
26 procedures for requesting information. Information so provided

1 shall be subject to all confidentiality provisions of this  
2 Section.

3 The Director may make available to any State agency,  
4 including the Illinois Supreme Court, which licenses persons to  
5 engage in any occupation, information that a person licensed by  
6 such agency has failed to file returns under this Act or pay  
7 the tax, penalty and interest shown therein, or has failed to  
8 pay any final assessment of tax, penalty or interest due under  
9 this Act. The Director may make available to any State agency,  
10 including the Illinois Supreme Court, information regarding  
11 whether a bidder, contractor, or an affiliate of a bidder or  
12 contractor has failed to collect and remit Illinois Use tax on  
13 sales into Illinois, or any tax under this Act or pay the tax,  
14 penalty, and interest shown therein, or has failed to pay any  
15 final assessment of tax, penalty, or interest due under this  
16 Act, for the limited purpose of enforcing bidder and contractor  
17 certifications. The Director may make available to units of  
18 local government and school districts that require bidder and  
19 contractor certifications, as set forth in Sections 50-11 and  
20 50-12 of the Illinois Procurement Code, information regarding  
21 whether a bidder, contractor, or an affiliate of a bidder or  
22 contractor has failed to collect and remit Illinois Use tax on  
23 sales into Illinois, file returns under this Act, or pay the  
24 tax, penalty, and interest shown therein, or has failed to pay  
25 any final assessment of tax, penalty, or interest due under  
26 this Act, for the limited purpose of enforcing bidder and

1 contractor certifications. For purposes of this Section, the  
2 term "affiliate" means any entity that (1) directly,  
3 indirectly, or constructively controls another entity, (2) is  
4 directly, indirectly, or constructively controlled by another  
5 entity, or (3) is subject to the control of a common entity.  
6 For purposes of this Section, an entity controls another entity  
7 if it owns, directly or individually, more than 10% of the  
8 voting securities of that entity. As used in this Section, the  
9 term "voting security" means a security that (1) confers upon  
10 the holder the right to vote for the election of members of the  
11 board of directors or similar governing body of the business or  
12 (2) is convertible into, or entitles the holder to receive upon  
13 its exercise, a security that confers such a right to vote. A  
14 general partnership interest is a voting security.

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

22 The Director may also make available to the Secretary of  
23 State information that a limited liability company, which has  
24 filed articles of organization with the Secretary of State, or  
25 corporation which has been issued a certificate of  
26 incorporation by the Secretary of State has failed to file

1 returns under this Act or pay the tax, penalty and interest  
2 shown therein, or has failed to pay any final assessment of  
3 tax, penalty or interest due under this Act. An assessment is  
4 final when all proceedings in court for review of such  
5 assessment have terminated or the time for the taking thereof  
6 has expired without such proceedings being instituted.

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

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

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

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

23 The Director shall make available for public inspection and  
24 publication an administrative decision within 180 days after  
25 the issuance of the administrative decision. The term  
26 "administrative decision" has the same meaning as defined in



1 Section 3-101 of Article III of the Code of Civil Procedure.  
2 Costs collected under this Section shall be paid into the Tax  
3 Compliance and Administration Fund.

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

8 (Source: P.A. 93-25, eff. 6-20-03; 93-939, eff. 8-13-04;  
9 94-1074, eff. 12-26-06.)