

AN ACT concerning taxes.

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

Section 5. 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.

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 village that does not levy any real property taxes for village operations and that receives more than 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, 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 home rule unit or non-home rule unit that has imposed a tax similar to that imposed by this Act pursuant to its home rule powers or the successful passage of a public referendum by a majority of the registered voters of the community, or to any village that does not levy any real property taxes for village operations and that receives more than 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, upon request of the Chief Executive thereof, is an official purpose within the meaning of this Section, provided the home rule unit, non-home rule unit with referendum

approval, or village that does not levy any real property taxes for village operations and that receives more than 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 agrees in writing to the requirements of this Section.

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

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. 93-25, eff. 6-20-03.)

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