

AN ACT concerning revenue.

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

Section 5. The Counties Code is amended by changing Section 5-1035.1 as follows:

(55 ILCS 5/5-1035.1) (from Ch. 34, par. 5-1035.1)

Sec. 5-1035.1. County Motor Fuel Tax Law. The county board of the counties of DuPage, Kane and McHenry may, by an ordinance or resolution adopted by an affirmative vote of a majority of the members elected or appointed to the county board, impose a tax upon all persons engaged in the county in the business of selling motor fuel, as now or hereafter defined in the Motor Fuel Tax Law, at retail for the operation of motor vehicles upon public highways or for the operation of recreational watercraft upon waterways. Kane County may exempt diesel fuel from the tax imposed pursuant to this Section. The tax may be imposed, in half-cent increments, at a rate not exceeding 4 cents per gallon of motor fuel sold at retail within the county for the purpose of use or consumption and not for the purpose of resale. The proceeds from the tax shall be used by the county solely for the purpose of operating, constructing and improving public highways and waterways, and acquiring real property and right-of-ways for public highways

and waterways within the county imposing the tax.

A tax imposed pursuant to this Section, and all civil penalties that may be assessed as an incident thereof, shall be administered, collected and enforced by the Illinois Department of Revenue in the same manner as the tax imposed under the Retailers' Occupation Tax Act, as now or hereafter amended, insofar as may be practicable; except that in the event of a conflict with the provisions of this Section, this Section shall control. The Department of Revenue shall have full power: to administer and enforce this Section; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties so collected in the manner hereinafter provided; and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder.

Whenever the Department determines that a refund shall be made under this Section to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified, and to the person named, in the notification from the Department. The refund shall be paid by the State Treasurer out of the County Option Motor Fuel Tax Fund.

The Department shall forthwith pay over to the State Treasurer, ex-officio, as trustee, all taxes and penalties collected hereunder, which shall be deposited into the County Option Motor Fuel Tax Fund, a special fund in the State Treasury which is hereby created. On or before the 25th day of

each calendar month, the Department shall prepare and certify to the State Comptroller the disbursement of stated sums of money to named counties for which taxpayers have paid taxes or penalties hereunder to the Department during the second preceding calendar month. The amount to be paid to each county shall be the amount (not including credit memoranda) collected hereunder from retailers within the county during the second preceding calendar month by the Department, but not including an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of the county; less 2% of the balance, which sum shall be retained by the State Treasurer to cover the costs incurred by the Department in administering and enforcing the provisions of this Section. The Department, at the time of each monthly disbursement to the counties, shall prepare and certify to the Comptroller the amount so retained by the State Treasurer, which shall be transferred into the Tax Compliance and Administration Fund ~~the amount expended during the second preceding month by the Department pursuant to appropriation from the County Option Motor Fuel Tax Fund for the administration and enforcement of this Section, which appropriation shall not exceed \$200,000 for fiscal year 1990 and, for each year thereafter, shall not exceed 2% of the amount deposited into the County Option Motor Fuel Tax Fund during the preceding fiscal year.~~

A county may direct, by ordinance, that all or a portion of

the taxes and penalties collected under the County Option Motor Fuel Tax shall be deposited into the Transportation Development Partnership Trust Fund.

Nothing in this Section shall be construed to authorize a county to impose a tax upon the privilege of engaging in any business which under the Constitution of the United States may not be made the subject of taxation by this State.

An ordinance or resolution imposing a tax hereunder or effecting a change in the rate thereof shall be effective on the first day of the second calendar month next following the month in which the ordinance or resolution is adopted and a certified copy thereof is filed with the Department of Revenue, whereupon the Department of Revenue shall proceed to administer and enforce this Section on behalf of the county as of the effective date of the ordinance or resolution. Upon a change in rate of a tax levied hereunder, or upon the discontinuance of the tax, the county board of the county shall, on or not later than 5 days after the effective date of the ordinance or resolution discontinuing the tax or effecting a change in rate, transmit to the Department of Revenue a certified copy of the ordinance or resolution effecting the change or discontinuance.

This Section shall be known and may be cited as the County Motor Fuel Tax Law.

(Source: P.A. 96-845, eff. 7-1-12.)

Section 10. The Illinois Municipal Code is amended by changing Section 8-11-6 as follows:

(65 ILCS 5/8-11-6) (from Ch. 24, par. 8-11-6)

Sec. 8-11-6. Home Rule Municipal Use Tax Act.

(a) The corporate authorities of a home rule municipality may impose a tax upon the privilege of using, in such municipality, any item of tangible personal property which is purchased at retail from a retailer, and which is titled or registered at a location within the corporate limits of such home rule municipality with an agency of this State's government, at a rate which is an increment of 1/4% and based on the selling price of such tangible personal property, as "selling price" is defined in the Use Tax Act. In home rule municipalities with less than 2,000,000 inhabitants, the tax shall be collected by the municipality imposing the tax from persons whose Illinois address for titling or registration purposes is given as being in such municipality.

(b) In home rule municipalities with 2,000,000 or more inhabitants, the corporate authorities of the municipality may additionally impose a tax beginning July 1, 1991 upon the privilege of using in the municipality, any item of tangible personal property, other than tangible personal property titled or registered with an agency of the State's government, that is purchased at retail from a retailer located outside the corporate limits of the municipality, at a rate that is an

increment of 1/4% not to exceed 1% and based on the selling price of the tangible personal property, as "selling price" is defined in the Use Tax Act. Such tax shall be collected from the purchaser either by the municipality imposing such tax or by the Department of Revenue pursuant to an agreement between the Department and the municipality.

To prevent multiple home rule taxation, the use in a home rule municipality of tangible personal property that is acquired outside the municipality and caused to be brought into the municipality by a person who has already paid a home rule municipal tax in another municipality in respect to the sale, purchase, or use of that property, shall be exempt to the extent of the amount of the tax properly due and paid in the other home rule municipality.

(c) If a municipality having 2,000,000 or more inhabitants imposes the tax authorized by subsection (a), then the tax shall be collected by the Illinois Department of Revenue when the property is purchased at retail from a retailer in the county in which the home rule municipality imposing the tax is located, and in all contiguous counties. The tax shall be remitted to the State, or an exemption determination must be obtained from the Department before the title or certificate of registration for the property may be issued. The tax or proof of exemption may be transmitted to the Department by way of the State agency with which, or State officer with whom, the tangible personal property must be titled or registered if the

Department and that agency or State officer determine that this procedure will expedite the processing of applications for title or registration.

The Department shall have full power to administer and enforce this Section to collect all taxes, penalties and interest due hereunder, to dispose of taxes, penalties and interest so collected in the manner hereinafter provided, and determine all rights to credit memoranda or refunds arising on account of the erroneous payment of tax, penalty or interest hereunder. In the administration of and compliance with this Section the Department and persons who are subject to this Section shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties and definitions of terms, and employ the same modes of procedure as are prescribed in Sections 2 (except the definition of "retailer maintaining a place of business in this State"), 3 (except provisions pertaining to the State rate of tax, and except provisions concerning collection or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15, 19, 20, 21 and 22 of the Use Tax Act, which are not inconsistent with this Section, as fully as if provisions contained in those Sections of the Use Tax Act were set forth herein.

Whenever the Department determines that a refund shall be made under this Section to a claimant instead of issuing a credit memorandum, the Department shall notify the State

Comptroller, who shall cause the order to be drawn for the amount specified, and to the person named, in such notification from the Department. Such refund shall be paid by the State Treasurer out of the home rule municipal retailers' occupation tax fund.

The Department shall forthwith pay over to the State Treasurer, ex officio, as trustee, all taxes, penalties and interest collected hereunder. On or before the 25th day of each calendar month, the Department shall prepare and certify to the State Comptroller the disbursement of stated sums of money to named municipalities, the municipality in each instance to be that municipality from which the Department during the second preceding calendar month, collected municipal use tax from any person whose Illinois address for titling or registration purposes is given as being in such municipality. The amount to be paid to each municipality shall be the amount (not including credit memoranda) collected hereunder during the second preceding calendar month by the Department, and not including an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of such municipality, less 2% of the balance, which sum shall be retained by the State Treasurer to cover the costs incurred by the Department in administering and enforcing the provisions of this Section. The Department, at the time of each monthly disbursement to the municipalities, shall prepare and certify to the Comptroller the amount so retained by the State

Treasurer, which shall be transferred into the Tax Compliance and Administration Fund ~~the amount expended during the second preceding month by the Department to be paid from the appropriation to the Department from the Home Rule Municipal Retailers' Occupation Tax Trust Fund. The appropriation to cover the costs incurred by the Department in administering and enforcing this Section shall not exceed 2% of the amount estimated to be deposited into the Home Rule Municipal Retailers' Occupation Tax Trust Fund during the fiscal year for which the appropriation is made.~~ Within 10 days after receipt by the State Comptroller of the disbursement certification to the municipalities provided for in this Section to be given to the State Comptroller by the Department, the State Comptroller shall cause the orders to be drawn for the respective amounts in accordance with the directions contained in that certification.

Any ordinance imposing or discontinuing any tax to be collected and enforced by the Department under this Section shall be adopted and a certified copy thereof filed with the Department on or before October 1, whereupon the Department of Revenue shall proceed to administer and enforce this Section on behalf of the municipalities as of January 1 next following such adoption and filing. Beginning April 1, 1998, any ordinance imposing or discontinuing any tax to be collected and enforced by the Department under this Section shall either (i) be adopted and a certified copy thereof filed with the

Department on or before April 1, whereupon the Department of Revenue shall proceed to administer and enforce this Section on behalf of the municipalities as of July 1 next following the adoption and filing; or (ii) be adopted and a certified copy thereof filed with the Department on or before October 1, whereupon the Department of Revenue shall proceed to administer and enforce this Section on behalf of the municipalities as of January 1 next following the adoption and filing.

Nothing in this subsection (c) shall prevent a home rule municipality from collecting the tax pursuant to subsection (a) in any situation where such tax is not collected by the Department of Revenue under this subsection (c).

(d) Any unobligated balance remaining in the Municipal Retailers' Occupation Tax Fund on December 31, 1989, which fund was abolished by Public Act 85-1135, and all receipts of municipal tax as a result of audits of liability periods prior to January 1, 1990, shall be paid into the Local Government Tax Fund, for distribution as provided by this Section prior to the enactment of Public Act 85-1135. All receipts of municipal tax as a result of an assessment not arising from an audit, for liability periods prior to January 1, 1990, shall be paid into the Local Government Tax Fund for distribution before July 1, 1990, as provided by this Section prior to the enactment of Public Act 85-1135, and on and after July 1, 1990, all such receipts shall be distributed as provided in Section 6z-18 of the State Finance Act.

(e) As used in this Section, "Municipal" and "Municipality" means a city, village or incorporated town, including an incorporated town which has superseded a civil township.

(f) This Section shall be known and may be cited as the Home Rule Municipal Use Tax Act.

(Source: P.A. 91-51, eff. 6-30-99; 92-221, eff. 8-2-01; 92-844, eff. 8-23-02; 92-846, eff. 8-23-02.)

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