

1 AN ACT in relation to taxes.

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

4 Section 5. The Property Tax Code is amended by changing  
5 Sections 9-195 and 15-60 as follows:

6 (35 ILCS 200/9-195)

7 Sec. 9-195. Leasing of exempt property.

8 (a) Except as provided in Sections 15-35, 15-55, 15-60,  
9 15-100, and 15-103, when property which is exempt from  
10 taxation is leased to another whose property is not exempt,  
11 and the leasing of which does not make the property taxable,  
12 the leasehold estate and the appurtenances shall be listed as  
13 the property of the lessee thereof, or his or her assignee.  
14 Taxes on that property shall be collected in the same manner  
15 as on property that is not exempt, and the lessee shall be  
16 liable for those taxes. However, no tax lien shall attach to  
17 the exempt real estate. The changes made by this amendatory  
18 Act of 1997 and by this amendatory Act of the 91st General  
19 Assembly are declaratory of existing law and shall not be  
20 construed as a new enactment. The changes made by Public  
21 Acts 88-221 and 88-420 that are incorporated into this  
22 Section by this amendatory Act of 1993 are declarative of  
23 existing law and are not a new enactment.

24 (b) The provisions of this Section regarding taxation of  
25 leasehold interests in exempt property do not apply to any  
26 leasehold interest created pursuant to any transaction  
27 described in subsection (e) of Section 15-35, subsection  
28 (c-5) of Section 15-60, subsection (b) of Section 15-100, or  
29 Section 15-103.

30 (Source: P.A. 90-562, eff. 12-16-97; 91-513, eff. 8-13-99.)

1 (35 ILCS 200/15-60)

2 Sec. 15-60. Taxing district property. All property  
3 belonging to any county or municipality used exclusively for  
4 the maintenance of the poor is exempt, as is all property  
5 owned by a taxing district that is being held for future  
6 expansion or development, except if leased by the taxing  
7 district to lessees for use for other than public purposes.

8 Also exempt are:

9 (a) all swamp or overflowed lands belonging to any  
10 county;

11 (b) all public buildings belonging to any county,  
12 township, or municipality, with the ground on which the  
13 buildings are erected;

14 (c) all property owned by any municipality located  
15 within its incorporated limits. Any such property leased by  
16 a municipality shall remain exempt, and the leasehold  
17 interest of the lessee shall be assessed under Section 9-195  
18 of this Act, (i) for a lease entered into on or after January  
19 1, 1994, unless the lease expressly provides that this  
20 exemption shall not apply; (ii) for a lease entered into on  
21 or after the effective date of Public Act 87-1280 and before  
22 January 1, 1994, unless the lease expressly provides that  
23 this exemption shall not apply or unless evidence other than  
24 the lease itself substantiates the intent of the parties to  
25 the lease that this exemption shall not apply; and (iii) for  
26 a lease entered into before the effective date of Public Act  
27 87-1280, if the terms of the lease do not bind the lessee to  
28 pay the taxes on the leased property or if, notwithstanding  
29 the terms of the lease, the municipality has filed or  
30 hereafter files a timely exemption petition or complaint with  
31 respect to property consisting of or including the leased  
32 property for an assessment year which includes part or all of  
33 the first 12 months of the lease period. The foregoing  
34 clause (iii) added by Public Act 87-1280 shall not operate to

1 exempt property for any assessment year as to which no timely  
2 exemption petition or complaint has been filed by the  
3 municipality or as to which an administrative or court  
4 decision denying exemption has become final and  
5 nonappealable. For each assessment year or portion thereof  
6 that property is made exempt by operation of the foregoing  
7 clause (iii), whether such year or portion is before or after  
8 the effective date of Public Act 87-1280, the leasehold  
9 interest of the lessee shall, if necessary, be considered  
10 omitted property for purposes of this Act;

11 (c-5) Notwithstanding clause (i) of subsection (c), all  
12 property owned by a municipality with a population of over  
13 500,000 that is used for toll road or toll bridge purposes  
14 and that is leased for those purposes to another entity whose  
15 property is not exempt shall remain exempt, and any leasehold  
16 interest in the property shall not be subject to taxation  
17 under Section 9-195 of this Act;

18 (d) all property owned by any municipality located  
19 outside its incorporated limits but within the same county  
20 when used as a tuberculosis sanitarium, farm colony in  
21 connection with a house of correction, or nursery, garden, or  
22 farm, or for the growing of shrubs, trees, flowers,  
23 vegetables, and plants for use in beautifying, maintaining,  
24 and operating playgrounds, parks, parkways, public grounds,  
25 buildings, and institutions owned or controlled by the  
26 municipality; and

27 (e) all property owned by a township and operated as  
28 senior citizen housing under Sections 35-50 through 35-50.6  
29 of the Township Code.

30 All property owned by any municipality outside of its  
31 corporate limits is exempt if used exclusively for municipal  
32 or public purposes.

33 For purposes of this Section, "municipality" means a  
34 municipality, as defined in Section 1-1-2 of the Illinois

1 Municipal Code.

2 (Source: P.A. 89-165, eff. 1-1-96; 90-176, eff. 1-1-98.)

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

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

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

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

21 (b) In home rule municipalities with 2,000,000 or more  
22 inhabitants, the corporate authorities of the municipality  
23 may additionally impose a tax beginning July 1, 1991 upon the  
24 privilege of using in the municipality, any item of tangible  
25 personal property, other than tangible personal property  
26 titled or registered with an agency of the State's  
27 government, that is purchased at retail from a retailer  
28 located outside the corporate limits of the municipality, at  
29 a rate that is an increment of 1/4% not to exceed 1% and  
30 based on the selling price of the tangible personal property,  
31 as "selling price" is defined in the Use Tax Act. Such tax  
32 shall be collected from the purchaser ~~or the retailer~~ either

1 by the municipality imposing such tax or by the Department of  
2 Revenue pursuant to an agreement between the Department and  
3 the municipality.

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

12 (c) If a municipality having 2,000,000 or more  
13 inhabitants imposes the tax authorized by subsection (a),  
14 then the tax shall be collected by the Illinois Department of  
15 Revenue when the property is purchased at retail from a  
16 retailer in the county in which the home rule municipality  
17 imposing the tax is located, and in all contiguous counties.  
18 The tax shall be remitted to the State, or an exemption  
19 determination must be obtained from the Department before the  
20 title or certificate of registration for the property may be  
21 issued. The tax or proof of exemption may be transmitted to  
22 the Department by way of the State agency with which, or  
23 State officer with whom, the tangible personal property must  
24 be titled or registered if the Department and that agency or  
25 State officer determine that this procedure will expedite the  
26 processing of applications for title or registration.

27 The Department shall have full power to administer and  
28 enforce this Section to collect all taxes, penalties and  
29 interest due hereunder, to dispose of taxes, penalties and  
30 interest so collected in the manner hereinafter provided, and  
31 determine all rights to credit memoranda or refunds arising  
32 on account of the erroneous payment of tax, penalty or  
33 interest hereunder. In the administration of and compliance  
34 with this Section the Department and persons who are subject

1 to this Section shall have the same rights, remedies,  
2 privileges, immunities, powers and duties, and be subject to  
3 the same conditions, restrictions, limitations, penalties and  
4 definitions of terms, and employ the same modes of procedure  
5 as are prescribed in Sections 2 (except the definition of  
6 "retailer maintaining a place of business in this State"), 3  
7 (except provisions pertaining to the State rate of tax, and  
8 except provisions concerning collection or refunding of the  
9 tax by retailers), 4, 11, 12, 12a, 14, 15, 19, 20, 21 and 22  
10 of the Use Tax Act, which are not inconsistent with this  
11 Section, as fully as if provisions contained in those  
12 Sections of the Use Tax Act were set forth herein.

13 Whenever the Department determines that a refund shall be  
14 made under this Section to a claimant instead of issuing a  
15 credit memorandum, the Department shall notify the State  
16 Comptroller, who shall cause the order to be drawn for the  
17 amount specified, and to the person named, in such  
18 notification from the Department. Such refund shall be paid  
19 by the State Treasurer out of the home rule municipal  
20 retailers' occupation tax fund.

21 The Department shall forthwith pay over to the State  
22 Treasurer, ex officio, as trustee, all taxes, penalties and  
23 interest collected hereunder. On or before the 25th day of  
24 each calendar month, the Department shall prepare and certify  
25 to the State Comptroller the disbursement of stated sums of  
26 money to named municipalities, the municipality in each  
27 instance to be that municipality from which the Department  
28 during the second preceding calendar month, collected  
29 municipal use tax from any person whose Illinois address for  
30 titling or registration purposes is given as being in such  
31 municipality. The amount to be paid to each municipality  
32 shall be the amount (not including credit memoranda)  
33 collected hereunder during the second preceding calendar  
34 month by the Department, and not including an amount equal to

1 the amount of refunds made during the second preceding  
2 calendar month by the Department on behalf of such  
3 municipality, less the amount expended during the second  
4 preceding month by the Department to be paid from the  
5 appropriation to the Department from the Home Rule Municipal  
6 Retailers' Occupation Tax Trust Fund. The appropriation to  
7 cover the costs incurred by the Department in administering  
8 and enforcing this Section shall not exceed 2% of the amount  
9 estimated to be deposited into the Home Rule Municipal  
10 Retailers' Occupation Tax Trust Fund during the fiscal year  
11 for which the appropriation is made. Within 10 days after  
12 receipt by the State Comptroller of the disbursement  
13 certification to the municipalities provided for in this  
14 Section to be given to the State Comptroller by the  
15 Department, the State Comptroller shall cause the orders to  
16 be drawn for the respective amounts in accordance with the  
17 directions contained in that certification.

18 Any ordinance imposing or discontinuing any tax to be  
19 collected and enforced by the Department under this Section  
20 shall be adopted and a certified copy thereof filed with the  
21 Department on or before October 1, whereupon the Department  
22 of Revenue shall proceed to administer and enforce this  
23 Section on behalf of the municipalities as of January 1 next  
24 following such adoption and filing. Beginning April 1, 1998,  
25 any ordinance imposing or discontinuing any tax to be  
26 collected and enforced by the Department under this Section  
27 shall either (i) be adopted and a certified copy thereof  
28 filed with the Department on or before April 1, whereupon the  
29 Department of Revenue shall proceed to administer and enforce  
30 this Section on behalf of the municipalities as of July 1  
31 next following the adoption and filing; or (ii) be adopted  
32 and a certified copy thereof filed with the Department on or  
33 before October 1, whereupon the Department of Revenue shall  
34 proceed to administer and enforce this Section on behalf of

1 the municipalities as of January 1 next following the  
2 adoption and filing.

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

7 (d) Any unobligated balance remaining in the Municipal  
8 Retailers' Occupation Tax Fund on December 31, 1989, which  
9 fund was abolished by Public Act 85-1135, and all receipts of  
10 municipal tax as a result of audits of liability periods  
11 prior to January 1, 1990, shall be paid into the Local  
12 Government Tax Fund, for distribution as provided by this  
13 Section prior to the enactment of Public Act 85-1135. All  
14 receipts of municipal tax as a result of an assessment not  
15 arising from an audit, for liability periods prior to January  
16 1, 1990, shall be paid into the Local Government Tax Fund for  
17 distribution before July 1, 1990, as provided by this Section  
18 prior to the enactment of Public Act 85-1135, and on and  
19 after July 1, 1990, all such receipts shall be distributed as  
20 provided in Section 6z-18 of the State Finance Act.

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

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

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

28 Section 90. The State Mandates Act is amended by adding  
29 Section 8.26 as follows:

30 (30 ILCS 805/8.26 new)

31 Sec. 8.26. Exempt mandate. Notwithstanding Sections 6  
32 and 8 of this Act, no reimbursement by the State is required



1 for the implementation of any mandate created by this  
2 amendatory Act of the 92nd General Assembly.

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