

1 AN ACT concerning taxation.

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

4 Section 5. The Simplified Municipal Telecommunications
5 Tax Act is amended by adding Section 5-42 as follows:

6 (35 ILCS 636/5-42 new)

7 Sec. 5-42. Procedure for correcting tax jurisdiction
8 errors.

9 (a) If a person believes that he or she is improperly
10 being charged a tax imposed under this Act because his or her
11 service address for non-mobile telecommunications or his or
12 her place of primary use for mobile telecommunications
13 service is located outside of the jurisdictional boundaries
14 of the municipality for which he or she is being charged tax
15 under this Act, that person may make a written request to the
16 Department for a determination of whether the person's place
17 of primary use for mobile telecommunications service or the
18 service address for non-mobile telecommunications is located
19 within the jurisdictional boundaries of the municipality for
20 which he or she is being charged tax under this Act. The
21 notification shall be on a form prescribed by the Department
22 and shall include the street address for her or his place of
23 primary use for mobile telecommunications service or the
24 service address for non-mobile telecommunications, the name
25 and address of the telecommunications retailer who is
26 collecting the tax imposed by this Act, the account name and
27 number for which the person seeks a correction of the tax
28 assignment, a description of the error asserted by that
29 person, and any other information that the Department may
30 reasonably require to process the request.

31 For purposes of this Section, the terms "place of primary

1 use" and "mobile telecommunications service" shall have the
2 same meanings as those terms are defined in the Mobile
3 Telecommunications Sourcing Conformity Act.

4 (b) The Department shall review the request for
5 determination and make all reasonable efforts to determine if
6 the person's place of primary use for mobile
7 telecommunications service or the service address for
8 non-mobile telecommunications is located within the
9 jurisdictional boundaries of the municipality for which he or
10 she is being charged tax under this Act. Upon request by the
11 Department, municipalities that have imposed a tax under this
12 Act shall timely provide information to the Department
13 regarding the requests for determination. The municipality
14 shall have 30 days to respond to the request submitted by the
15 Department.

16 (c) Within 90 days after receipt of a request for
17 determination under subsection (a) of this Section, the
18 Department shall issue a letter of determination to the
19 person stating whether that person's place of primary use for
20 mobile telecommunications service or the service address for
21 non-mobile telecommunications is located within the
22 jurisdictional boundaries of the municipality for which the
23 person is being charged tax under this Act. The Department
24 shall also list on the letter of determination its findings
25 as to the limit of the jurisdictional boundary for the
26 municipality in relation to the street listed in the request
27 for a letter of determination. A copy of the letter of
28 determination shall be provided by the Department to the
29 telecommunications retailer listed on the request for
30 determination.

31 (d) If the telecommunications retailer receives a copy
32 of the letter of determination from the Department described
33 in subsection (c) of this Section that states that the
34 person's place of primary use for mobile telecommunications

1 service or the service address for non-mobile
2 telecommunications is not located within the jurisdictional
3 boundaries of the municipality for which the person is being
4 charged tax under this Act, the telecommunications retailer
5 shall correct the error and refund or credit the appropriate
6 amount of tax paid in error by the person in any period still
7 available for the filing of a claim for credit or refund by
8 the telecommunications retailer under this Act. The
9 telecommunications retailer shall retain a copy of the letter
10 of determination in its books and records. The Department may
11 not assess tax, penalty, or interest on the service addresses
12 or places of primary use on that street that are disclosed in
13 the letter as being outside the municipality's jurisdictional
14 boundaries. If the Department subsequently receives
15 information that discloses that the service addresses or
16 places of primary use on that street are within the
17 jurisdictional boundaries of the municipality, the Department
18 shall notify the telecommunications retailer in writing that
19 they are to begin collecting tax on the accounts associated
20 with those service addresses or places of primary use. The
21 notification to begin collecting tax on the accounts sent by
22 the Department to the telecommunications retailers prior to
23 any April 1 or October 1 shall be effective with respect to
24 gross charges billed to those accounts on or after the
25 following July 1 or January 1, respectively.

26 (e) If the telecommunications retailer receives a copy
27 of the letter of determination from the Department described
28 in subsection (c) of this Section that states that the
29 person's place of primary use for mobile telecommunications
30 service or the service address for non-mobile
31 telecommunications is not located within the jurisdictional
32 boundaries of the municipality for which the person is being
33 charged tax under this Act and the telecommunications
34 retailer fails to correct the error and refund or credit the

1 appropriate amount of tax paid in error within 60 days after
2 the date the copy of the letter of determination was sent by
3 the Department, the person shall have a cause of action in
4 the circuit court of the person's county of residence to
5 compel the telecommunications retailer to correct the alleged
6 error and refund or credit the appropriate amount of tax. If
7 the person prevails in circuit court, he or she shall be
8 entitled to attorney's fees, costs, and 4 times the amount of
9 the improperly charged tax.

10 (f) If the telecommunications retailer receives a copy
11 of the letter of determination from the Department described
12 in subsection (c) of this Section that states that the
13 person's place of primary use for mobile telecommunications
14 service or the service address for non-mobile
15 telecommunications is located within the jurisdictional
16 boundaries of the municipality for which the person is being
17 charged tax under this Act, the telecommunications retailer
18 shall continue to charge the tax. If the person seeking the
19 determination is dissatisfied with the Department's
20 determination, the person shall have a cause of action in the
21 circuit court of his or her county of residence to compel the
22 telecommunications retailer to correct the alleged error and
23 refund or credit the appropriate amount of tax.

24 Section 99. Effective date. This Act takes effect on July
25 1, 2002.