

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 determining proper tax  
8 jurisdiction.

9 (a) Tax jurisdiction information provided by a  
10 municipality upon written request from a telecommunications  
11 retailer. For purposes of this subsection (a),  
12 "telecommunications retailer" does not include retailers  
13 providing Commercial Mobile Radio Service as the term is used  
14 in the Mobile Telecommunications Sourcing Act.

15 (1) A municipality may provide, within 30 days  
16 following receipt of a written request from a  
17 telecommunications retailer, the following:

18 (A) A list containing each street name, known  
19 street name aliases, street address number ranges,  
20 applicable directionals, and zip codes associated  
21 with each street name, for all street addresses  
22 located within the municipality. For a range of  
23 street address numbers located within a municipality  
24 that consists only of odd or even street numbers,  
25 the list must specify whether the street numbers in  
26 the range are odd or even. The list shall be  
27 alphabetical, except that numbered streets shall be  
28 in numerical sequence.

29 (B) A list containing each postal zip code and  
30 all the city names associated therewith for all zip  
31 codes assigned to geographic areas located entirely

1           within the municipality, including zip codes  
2           assigned to rural route boxes.

3           (C) A sequential list containing all rural  
4           route box number ranges and the city names and zip  
5           codes associated therewith, for all rural route  
6           boxes located within the municipality, except that  
7           rural route boxes with postal zip codes entirely  
8           within the municipality that are included on the  
9           list furnished under paragraph (B) need not be  
10          duplicated.

11          (D) The lists shall be printed. If a list is  
12          available through another medium, however, the  
13          municipality shall, upon request, furnish the list  
14          through such medium in addition to or in lieu of the  
15          printed lists. The municipality shall be responsible  
16          for updating the lists as changes occur and for  
17          furnishing this information to all  
18          telecommunications retailers affected by the  
19          changes. Each update shall specify an effective  
20          date, which shall be the next ensuing January 1,  
21          April 1, July 1, or October 1; shall be furnished to  
22          the telecommunications retailer not less than 60  
23          days prior to the effective date; and shall identify  
24          the additions, deletions, and other changes to the  
25          preceding version of the list. If the information is  
26          received less than 60 days prior to the effective  
27          date of the change, the telecommunications retailer  
28          has until the next ensuing January 1, April 1, July  
29          1, or October 1 to make the appropriate changes.

30          Nothing in this subsection (a) shall prevent a  
31          municipality from providing a telecommunications retailer  
32          with the information set forth in this subdivision (a)(1)  
33          in the absence of a written request from the  
34          telecommunications retailer.

1           (2) The telecommunications retailer shall be  
2           responsible for charging the tax to the service addresses  
3           contained in the lists requested under subdivision (a)(1)  
4           that include all of the elements required by this  
5           Section. If a service address is not included in the list  
6           or if no list is provided, the telecommunications  
7           retailer shall be held harmless from situsing errors  
8           provided it uses a reasonable methodology to assign the  
9           service address or addresses to a local tax jurisdiction.  
10          The telecommunications retailer shall be held harmless  
11          for any tax overpayments or underpayments (including  
12          penalty or interest) resulting from written information  
13          provided by the municipality or, in the case of disputes,  
14          the Department. If a municipality is aware of a situsing  
15          error in a telecommunications retailer's records, the  
16          municipality may file a written notification to the  
17          telecommunications retailer at an address specified by  
18          the telecommunications retailer describing the street  
19          address or addresses that are incorrect and, if known,  
20          the affected customer name or names and account number or  
21          numbers. If another jurisdiction is claiming the same  
22          street address or addresses that are the subject of the  
23          notification, the telecommunications retailer must notify  
24          the Department as specified in subdivision (a)(3) of this  
25          Section, otherwise, the telecommunications retailer shall  
26          make such correction to its records within 90 days.

27          (3) If it is determined from the lists or updates  
28          furnished under subdivision (a)(1) that more than one  
29          municipality claims the same address or group of  
30          addresses, the telecommunications retailer shall notify  
31          the Department within 60 days of discovering the  
32          discrepancy. After notification and until resolution, the  
33          telecommunications retailer will continue its prior tax  
34          treatment and will be held harmless for any tax, penalty,

1 and interest in the event the prior tax treatment is  
2 wrong. Upon resolution, the Department will notify the  
3 telecommunications retailer in a written form describing  
4 the resolution. Upon receipt of the resolution, the  
5 telecommunications retailer has until the next ensuing  
6 January 1, April 1, July 1, or October 1 to make the  
7 change.

8 (4) Municipalities shall notify any  
9 telecommunications retailer that has previously requested  
10 a list under subdivision (a)(1) of this Section of any  
11 annexations, de-annexations, or other boundary changes at  
12 least 60 days after the effective date of such changes.  
13 The notification shall contain each street name, known  
14 street name aliases, street address number ranges,  
15 applicable directionals, and zip codes associated with  
16 each street name, for all street addresses for which a  
17 change has occurred. The notice shall be mailed to an  
18 address designated by the telecommunications retailer.  
19 The telecommunications retailer has until the next  
20 ensuing January 1, April 1, July 1, or October 1 to make  
21 the changes described in such notification.

22 (b) The safe harbor provisions, Sections 40 and 45 of  
23 the Mobile Telecommunications Sourcing Conformity Act, shall  
24 apply to any telecommunications retailer electing to employ  
25 enhanced zip codes (zip+4) to assign each street address,  
26 address range, rural route box, or rural route box range in  
27 their service area to a specific municipal tax jurisdiction,  
28 except as provided under subdivision (c)(5). A  
29 telecommunications retailer shall make its election as  
30 prescribed by rules adopted by the Department.

31 (c) Persons who believe that they are improperly being  
32 charged a tax imposed under this Act because their service  
33 address is assigned to the wrong taxing jurisdiction shall  
34 file a written complaint with their telecommunications

1 (mobile or non-mobile) retailer. The written complaint shall  
2 include the street address for her or his place of primary  
3 use for mobile telecommunications service or the service  
4 address for non-mobile telecommunications, the name and  
5 address of the telecommunications retailer who is collecting  
6 the tax imposed by this Act, the account name and number for  
7 which the person seeks a correction of the tax assignment, a  
8 description of the error asserted by that person, an  
9 estimated amount of tax claimed to have been incorrectly  
10 paid, the time period for which that amount of tax applies,  
11 and any other information that the telecommunications  
12 retailer may reasonably require to process the request. For  
13 purposes of this Section, the terms "place of primary use"  
14 and "mobile telecommunications service" shall have the same  
15 meanings as those terms are defined in the Mobile  
16 Telecommunications Sourcing Conformity Act.

17 Within 60 days after receiving the complaint under this  
18 subsection (c), the telecommunications retailer shall review  
19 its records, the written complaint, any information submitted  
20 by the affected municipality or municipalities, and the  
21 electronic database, if existing, or enhanced zip code used  
22 pursuant to Section 25 or 40 of the Mobile Telecommunications  
23 Sourcing Conformity Act to determine the customer's taxing  
24 jurisdiction. If this review shows that the amount of tax,  
25 assignment of place of primary use or service address, or  
26 taxing jurisdiction is in error, the telecommunications  
27 retailer shall correct the error and refund or credit the  
28 amount of tax erroneously collected from the customer for the  
29 period still available for the filing of a claim for credit  
30 or refund by the telecommunications retailer under this Act.  
31 If this review shows that the amount of tax, assignment of  
32 place of primary use or service address, or taxing  
33 jurisdiction is correct, the telecommunications retailer  
34 shall provide a written explanation to the person from whom

1 the notice was received.

2 (1) If the person is dissatisfied with the response  
3 from the telecommunications retailer, the customer may  
4 request a written determination from the Department on a  
5 form prescribed by the Department. The request shall  
6 contain the same information as was provided to the  
7 telecommunications retailer. The Department shall review  
8 the request for determination and make all reasonable  
9 efforts to determine if such person's place of primary  
10 use for mobile telecommunications service or the service  
11 address for non-mobile telecommunications is located  
12 within the jurisdictional boundaries of the municipality  
13 for which the person is being charged tax under this Act.  
14 Upon request by the Department, municipalities that have  
15 imposed a tax under this Act shall have 30 days to  
16 provide information to the Department regarding such  
17 requests for determination via certified mail.

18 (2) Within 90 days after receipt of a request for  
19 determination under subdivision (c)(1) of this Section,  
20 the Department shall issue a letter of determination to  
21 the person stating whether that person's place of primary  
22 use for mobile telecommunications service or the service  
23 address for non-mobile telecommunications is located  
24 within the jurisdictional boundaries of the municipality  
25 for which the person is being charged tax under this Act  
26 or naming the proper municipality, if different. The  
27 Department shall also list in the letter of  
28 determination, if the municipality has provided that  
29 information to the Department, the Department's findings  
30 as to the limit of the jurisdictional boundary (street  
31 address range) for the municipality in relation to the  
32 street address listed in the request for a letter of  
33 determination. A copy of such letter of determination  
34 shall be provided by the Department to the

1        telecommunications retailer listed on the request for  
2        determination. The copy shall be sent via mail to an  
3        address designated by the telecommunications retailer.

4            (3) If the municipality or municipalities fail to  
5        respond as set forth in subdivision (c)(1), then the  
6        complaining person will no longer be subject to the tax  
7        imposed under this Act. The Department shall notify the  
8        relevant telecommunications retailer in writing of the  
9        automatic determination and also list its findings as to  
10       the street address listed in the request for a letter of  
11       determination. Upon receipt of the notice of automatic  
12       determination, the telecommunications retailer shall  
13       correct its records and refund or credit the amount of  
14       tax determined to have been paid by such person for the  
15       period still available for the filing of a claim for  
16       credit or refund by the telecommunications retailer under  
17       this Act. A copy of the letter of determination shall be  
18       provided by the Department to the telecommunications  
19       retailer listed on the request for determination at an  
20       address designated by the telecommunications retailer.

21           (4) If the telecommunications retailer receives a  
22        copy of the letter of determination from the Department  
23        described in subdivision (c)(2) of this Section that  
24        states that such person's place of primary use for mobile  
25        telecommunications service or the service address for  
26        non-mobile telecommunications is not located within the  
27        jurisdictional boundaries of the municipality for which  
28        that person is being charged tax under this Act and that  
29        provides the correct tax jurisdiction for the particular  
30        street address, the telecommunications retailer shall  
31        correct the error and refund or credit the amount of tax  
32        determined to have been paid in error by such person up  
33        to the period still available for the filing of a claim  
34        for credit or refund by the telecommunications retailer

1       under this Act. The telecommunications retailer shall  
2       retain such copy of the letter of determination in its  
3       books and records and shall be held harmless for any tax,  
4       penalty, or interest due as a result of its reliance on  
5       such determination. If the Department subsequently  
6       receives information that discloses that such service  
7       addresses or places of primary use on that street are  
8       within the jurisdictional boundaries of a municipality  
9       other than the one specified in the previous letter, the  
10       Department shall notify the telecommunications retailer  
11       and the telecommunications customer in writing that the  
12       telecommunications retailer is to begin collecting tax  
13       for a specified municipality on the accounts associated  
14       with those service addresses or places of primary use.  
15       Notification to begin collecting tax on such accounts  
16       sent by the Department to the telecommunications  
17       retailers on or after October 1 and prior to January 1  
18       shall be effective the following April 1. Notification to  
19       begin collecting tax on such accounts sent by the  
20       Department to the telecommunications retailers on or  
21       after January 1 and prior to April 1 shall be effective  
22       the following July 1. Notification to begin collecting  
23       tax on such accounts sent by the Department to the  
24       telecommunications retailers on or after April 1 and  
25       prior to July 1 shall be effective the following October  
26       1. Notification to begin collecting tax on such accounts  
27       sent by the Department to the telecommunications  
28       retailers on or after July 1 and prior to October 1 shall  
29       be effective the following January 1.

30       (5) If the telecommunications retailer receives a  
31       copy of the letter of determination from the Department  
32       described in subdivisions (c)(2), (c)(3), or (c)(4) of  
33       this Section that states that such person's place of  
34       primary use for mobile telecommunications service or the



1 service address for non-mobile telecommunications is not  
2 located within the jurisdictional boundaries of the  
3 municipality for which that person is being charged tax  
4 under this Act and the telecommunications retailer fails  
5 to correct the error and refund or credit the appropriate  
6 amount of tax paid in error within the time period  
7 prescribed in subdivisions (c)(3) and (c)(4), the  
8 telecommunications retailer shall not be held harmless  
9 for any tax, penalty, or interest due the Department as a  
10 result of the error.

11 (6) The procedures in this subsection (c) shall be  
12 the first course of remedy available to customers seeking  
13 correction of assignment of service address, place of  
14 primary use, taxing jurisdiction, an amount of tax paid  
15 erroneously, or other compensation for taxes, charges, or  
16 fees erroneously collected by a telecommunications  
17 retailer. No cause of action based upon a dispute arising  
18 from these taxes, charges, or fees shall accrue until a  
19 customer has reasonably exercised the rights and  
20 procedures set forth in this subsection (c). If a  
21 customer is not satisfied after exercising the rights and  
22 following the procedures set forth in this subsection  
23 (c), the customer shall have the normal cause of action  
24 available under the law to recover any tax, penalty, or  
25 interest from the telecommunications retailer.

26 (d) The provisions of this Section shall not apply to a  
27 municipality that directly receives collected tax revenue  
28 from a retailer pursuant to subsection (b) of Section 5-40. A  
29 municipality that receives tax revenue pursuant to subsection  
30 (b) of Section 5-40 for telecommunications other than mobile  
31 telecommunications service, as that term is defined in the  
32 Mobile Telecommunications Sourcing Conformity Act, shall  
33 establish a procedure to remedy the complaints of persons who  
34 believe they are being improperly taxed, which should

1 consider the requirements set forth in subsection (c) of this  
2 Section.

3 Section 10. The Mobile Telecommunications Sourcing  
4 Conformity Act is amended by changing Section 80 as follows:

5 (35 ILCS 638/80)

6 (This Section may contain text from a Public Act with a  
7 delayed effective date)

8 Sec. 80. Customers' procedures and remedies for  
9 correcting taxes and fees.

10 (a) If a customer believes that he or she is being  
11 charged an improper amount of tax or is not subject to a tax  
12 imposed under the Simplified Municipal Telecommunications Tax  
13 Act for a telecommunications service covered by the term  
14 "mobile telecommunications" under this Act, he or she shall  
15 follow the procedures outlined in subsection (c) of Section  
16 5-42 of the Simplified Municipal Telecommunications Tax Act.  
17 The procedures outlined in subsection (c) of Section 5-42 of  
18 the Simplified Municipal Telecommunications Tax Act shall  
19 also apply to the home service provider, the Department, and  
20 municipalities.

21 (b) Nothing in subsection (a) shall apply to a  
22 municipality that directly receives collected tax revenue  
23 from a retailer under subsection (b) of Section 5-40 of the  
24 Simplified Municipal Telecommunications Tax Act for a  
25 telecommunications service covered by the term "mobile  
26 telecommunications service" under this Act. In lieu of  
27 subsection (a), a customer may seek relief under subsection  
28 (c) only if a municipality directly receives collected tax  
29 revenue from a retailer under subsection (b) of Section 5-40  
30 of the Simplified Municipal Telecommunications Tax Act for a  
31 telecommunications service covered by the term "mobile  
32 telecommunications service" under this Act.

1        (c) For municipalities covered under subsection (b) of  
2        Section 5-40 of the Simplified Municipal Telecommunications  
3        Tax Act, if a customer believes that an amount of tax or  
4        assignment of place of primary use or taxing jurisdiction  
5        included on a billing is erroneous, the customer shall notify  
6        the home service provider in writing. The customer shall  
7        include in this written notification the street address for  
8        her or his place of primary use, the account name and number  
9        for which the customer seeks a correction of the tax  
10       assignment, a description of the error asserted by the  
11       customer, and any other information that the home service  
12       provider reasonably requires to process the request. Within  
13       60 days after receiving a notice under this subsection (c)  
14       (a), the home service provider shall review its records and  
15       the electronic database or enhanced zip code used pursuant to  
16       Section 25 or 40 to determine the customer's taxing  
17       jurisdiction. If this review shows that the amount of tax,  
18       assignment of place of primary use, or taxing jurisdiction is  
19       in error, the home service provider shall correct the error  
20       and refund or credit the amount of tax erroneously collected  
21       from the customer for a period of up to 2 years. If this  
22       review shows that the amount of tax, assignment of place of  
23       primary use, or taxing jurisdiction is correct, the home  
24       service provider shall provide a written explanation to the  
25       customer. ~~(b)~~ If the customer is dissatisfied with the  
26       response of the home service provider under this Section, the  
27       customer may seek a correction or refund or both from the  
28       municipality that directly receives collected tax revenue  
29       from a retailer pursuant to subsection (b) of Section 5-40 of  
30       the Simplified Municipal Telecommunications Tax Act for a  
31       telecommunications service covered by the term "mobile  
32       telecommunications service" under this Act taxing  
33       jurisdiction-affected.

34       (d) (e) The procedures set forth in subsections (b) and

1     ~~(c) in this Section~~ shall be the first course of remedy  
2     available to customers seeking correction of assignment of  
3     place of primary use or taxing jurisdiction or a refund of or  
4     other compensation for taxes, charges, and fees erroneously  
5     collected by the home service provider, and no cause of  
6     action based upon a dispute arising from these taxes,  
7     charges, or fees shall accrue until a customer has reasonably  
8     exercised the rights and procedures set forth in this  
9     Section.

10    (Source: P.A. 92-474, eff. 8-1-02.)

11           Section 90. The State Mandates Act is amended by adding  
12    Section 8.26 as follows:

13           (30 ILCS 805/8.26 new)

14           Sec. 8.26. Exempt mandate. Notwithstanding Sections 6  
15    and 8 of this Act, no reimbursement by the State is required  
16    for the implementation of any mandate created by this  
17    amendatory Act of the 92nd General Assembly.

18           Section 95. No acceleration or delay. Where this Act  
19    makes changes in a statute that is represented in this Act by  
20    text that is not yet or no longer in effect (for example, a  
21    Section represented by multiple versions), the use of that  
22    text does not accelerate or delay the taking effect of (i)  
23    the changes made by this Act or (ii) provisions derived from  
24    any other Public Act.

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