

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 Illinois Municipal Code is amended by
5 changing Section 8-11-1.3 as follows:

6 (65 ILCS 5/8-11-1.3) (from Ch. 24, par. 8-11-1.3)

7 Sec. 8-11-1.3. Non-Home Rule Municipal Retailers'
8 Occupation Tax Act. The corporate authorities of a non-home
9 rule municipality may impose a tax upon all persons engaged
10 in the business of selling tangible personal property, other
11 than on an item of tangible personal property which is titled
12 and registered by an agency of this State's Government, at
13 retail in the municipality at the rate of one-half 1/2 of 1%
14 for expenditure on public infrastructure as defined in
15 Section 8-11-1.2 if approved by referendum as provided in
16 Section 8-11-1.1, of the gross receipts from such sales made
17 in the course of such business. The tax may not be imposed on
18 the sale of food for human consumption that is to be consumed
19 off the premises where it is sold (other than alcoholic
20 beverages, soft drinks, and food that has been prepared for
21 immediate consumption) and prescription and nonprescription
22 medicines, drugs, medical appliances, and insulin, urine
23 testing materials, syringes, and needles used by diabetics.
24 The tax imposed by a municipality pursuant to this Section
25 and all civil penalties that may be assessed as an incident
26 thereof shall be collected and enforced by the State
27 Department of Revenue. The certificate of registration which
28 is issued by the Department to a retailer under the
29 Retailers' Occupation Tax Act shall permit such retailer to
30 engage in a business which is taxable under any ordinance or
31 resolution enacted pursuant to this Section without

1 registering separately with the Department under such
2 ordinance or resolution or under this Section. The
3 Department shall have full power to administer and enforce
4 this Section; to collect all taxes and penalties due
5 hereunder; to dispose of taxes and penalties so collected in
6 the manner hereinafter provided, and to determine all rights
7 to credit memoranda, arising on account of the erroneous
8 payment of tax or penalty hereunder. In the administration
9 of, and compliance with, this Section, the Department and
10 persons who are subject to this Section shall have the same
11 rights, remedies, privileges, immunities, powers and duties,
12 and be subject to the same conditions, restrictions,
13 limitations, penalties and definitions of terms, and employ
14 the same modes of procedure, as are prescribed in Sections 1,
15 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to
16 all provisions therein other than the State rate of tax), 2c,
17 3 (except as to the disposition of taxes and penalties
18 collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k,
19 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the
20 Retailers' Occupation Tax Act and Section 3-7 of the Uniform
21 Penalty and Interest Act as fully as if those provisions were
22 set forth herein.

23 No municipality may impose a tax under this Section
24 unless the municipality also imposes a tax at the same rate
25 under Section 8-11-1.4 of this Code.

26 Persons subject to any tax imposed pursuant to the
27 authority granted in this Section may reimburse themselves
28 for their seller's tax liability hereunder by separately
29 stating such tax as an additional charge, which charge may be
30 stated in combination, in a single amount, with State tax
31 which sellers are required to collect under the Use Tax Act,
32 pursuant to such bracket schedules as the Department may
33 prescribe.

34 Whenever the Department determines that a refund should

1 be made under this Section to a claimant instead of issuing a
2 credit memorandum, the Department shall notify the State
3 Comptroller, who shall cause the order to be drawn for the
4 amount specified, and to the person named, in such
5 notification from the Department. Such refund shall be paid
6 by the State Treasurer out of the non-home rule municipal
7 retailers' occupation tax fund.

8 The Department shall forthwith pay over to the State
9 Treasurer, ex officio, as trustee, all taxes and penalties
10 collected hereunder. On or before the 25th day of each
11 calendar month, the Department shall prepare and certify to
12 the Comptroller the disbursement of stated sums of money to
13 named municipalities, the municipalities to be those from
14 which retailers have paid taxes or penalties hereunder to the
15 Department during the second preceding calendar month. The
16 amount to be paid to each municipality shall be the amount
17 (not including credit memoranda) collected hereunder during
18 the second preceding calendar month by the Department plus an
19 amount the Department determines is necessary to offset any
20 amounts which were erroneously paid to a different taxing
21 body, and not including an amount equal to the amount of
22 refunds made during the second preceding calendar month by
23 the Department on behalf of such municipality, and not
24 including any amount which the Department determines is
25 necessary to offset any amounts which were payable to a
26 different taxing body but were erroneously paid to the
27 municipality. Within 10 days after receipt, by the
28 Comptroller, of the disbursement certification to the
29 municipalities, provided for in this Section to be given to
30 the Comptroller by the Department, the Comptroller shall
31 cause the orders to be drawn for the respective amounts in
32 accordance with the directions contained in such
33 certification.

34 For the purpose of determining the local governmental

1 unit whose tax is applicable, a retail sale, by a producer of
2 coal or other mineral mined in Illinois, is a sale at retail
3 at the place where the coal or other mineral mined in
4 Illinois is extracted from the earth. This paragraph does
5 not apply to coal or other mineral when it is delivered or
6 shipped by the seller to the purchaser at a point outside
7 Illinois so that the sale is exempt under the Federal
8 Constitution as a sale in interstate or foreign commerce.

9 Nothing in this Section shall be construed to authorize a
10 municipality to impose a tax upon the privilege of engaging
11 in any business which under the constitution of the United
12 States may not be made the subject of taxation by this State.

13 When certifying the amount of a monthly disbursement to a
14 municipality under this Section, the Department shall
15 increase or decrease such amount by an amount necessary to
16 offset any misallocation of previous disbursements. The
17 offset amount shall be the amount erroneously disbursed
18 within the previous 6 months from the time a misallocation is
19 discovered.

20 The Department of Revenue shall implement this amendatory
21 Act of the 91st General Assembly so as to collect the tax on
22 and after January 1, 2002.

23 As used in this Section, "municipal" and "municipality"
24 means a city, village or incorporated town, including an
25 incorporated town which has superseded a civil township.

26 This Section shall be known and may be cited as the
27 "Non-Home Rule Municipal Retailers' Occupation Tax Act".

28 (Source: P.A. 91-51, eff. 6-30-99; 91-649, eff. 1-1-00.)