



# TAX TRENDS

The newsletter of the Illinois State Bar Association's Section on State & Local Taxation

## A note from the co-editors

By Mary Ann Connelly and Stanley R. Kaminski

The newsletter this month is a synopsis of recent tax-related legislation that was reviewed by the ISBA's State and Local Taxation Section Council, passed by the General Assembly and signed into law. This review was prepared by Bill Seitz, and includes PUBLIC ACT 97-557, which was a State and Local Sec-

tion Council "good idea" initiative. This synopsis provides the reader with not only an explanation of the law and its effective date, but provides information on the key provisions of each law. Our thanks to Ex-Officio William J. Seitz for all the time and effort he put forth in tracking the tax-related legislation. ■

## Recent tax-related legislation

Prepared by William Seitz

In the 2011 session of the 97th General Assembly, eight of the bills assigned to the ISBA State and Local Taxation ("SALT") Section Council passed both houses and signed into law. Those new Public Acts are as follows:

PA. 97-146	Property Tax - Outside of Cook County - Assessment Notice Content
PA. 97-296	Property Tax - Outside of Cook County - Open Space Application Deadline
PA. 97-353	Tax Disclosure Act (new) - Tax Rate Information on IDOR Website
PA. 97-507	Illinois Income Tax Act - IDOR Technical Corrections Bill
PA. 97-521	Property Tax - Cook County - Overpayment Refunds
PA. 97-533	Property Tax - Special Service Area Tax Law - Restrictive Covenants
PA. 97-557	Property Tax - Delinquent Taxes - Omnibus Tax Sale/Tax Deed Bill
PA. 97-587	Cigarette Tax Act - Manufacturer Representative

What follows is a summary of each of those bills.

### Public Act 97-146 - Property Tax Notices (SB 1686)

For counties other than Cook County, the various provisions concerning publication of as-

sessments the Property Tax Code were amended to require that taxpayers to be notified of additional information. The effective date is July 14, 2011, effective for the 2011 general assessment in most counties in Illinois.

### Published Assessment Notices- Outside of Cook County

Section 12-10 of the Property Tax Code requires the publication of assessments 2011 is the general assessment for most counties in Illinois, which occurs every four years in counties other than Cook. For a general assessment, a complete list of the assessments, by township if so organized, is required to be published for the county or assessment district. In years other than years of a general assessment, the chief county assessment officer is required to publish a list of properties for which assessments have been added or changed since the preceding assessment. At the top of the list of assessments there shall be a "Notice to Taxpayers" (35 ILCS 200/12-10).

PA. 97-146 makes changes to Section 12-10, by requiring that the following information be added to the notice published:

- (1) A statement advising the taxpayer that assessments of property, other than farm land

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## Recent tax-related legislation

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- and coal, are required by law to be assessed at 33-1/3% of fair market value.
- (2) The name, the address, phone number, office hours, and, if one exists, the Web site address of the assessor.
  - (3) A statement advising the taxpayer of the steps to follow if the taxpayer believes the full fair market value of the property is incorrect or believes the assessment is not uniform with other comparable properties in the same neighborhood. The statement shall also (i) advise all taxpayers to contact the township assessor's office, in those counties under township organization, first to review the assessment, (ii) advise all taxpayers to file an appeal with the board of review if not satisfied with the assessor review, and (iii) give the phone number to call for a copy of the board of review rules; if the Board of Review maintains a Web site, the notice must also include the address of the Web site where the Board of Review rules can be viewed.
  - (4) A statement advising the taxpayer that there is a deadline date for filing an appeal with the board of review and indicating that deadline date (30 days following the scheduled publication date).
  - (5) A brief explanation of the relationship between the assessment and the tax bill.
  - (6) In bold type, a notice of possible eligibility for the various homestead exemptions as provided in Section 15-165 through Section 15-175 and Section 15-180 of the Property Tax Code.

### **Publication Fees and Content- Outside of Cook County**

Previously, Section 12-15 set forth the publication fee paid to newspapers of the assessment list according to a schedule that ranged from \$.80 to \$2 per parcel, and the preamble was paid based on the newspaper's published rate for such advertising (35 ILCS 200/12-15).

P.A. 97-146 eliminates that schedule. For a parcel listing including the name of the property owner, a property index number, property address, or both, and the total assessment, the newspaper is now to be paid 80¢ per parcel. For the preamble, headings, and any other explanatory matter either required by law, or requested by the supervisor of assessments, to be published, the rate shall be set according to the Legal Advertising Rate

Act (instead of the newspaper's published rate for such advertising).

Section 12-25 sets forth the contents of assessment list publication (35 ILCS 200/12-25). P.A. 97-146 eliminates the requirement to publish how much of the assessment is attributable to the improvements on the property. Under P.A. 97-146, the publication of the assessments shall include the name of the owner or of the person who last paid the taxes on each property, and the total amount of its assessment.

### **Certificate of Error Publication Eliminated- Outside of Cook County**

P.A. 97-146 eliminates the previous requirement in Sections 12-45 and 12-60 that the Board of Review publish a complete list of the changes made in assessments by the issuance of certificates of error under Sections 14-20 and 16-75.

### **Public Act 97-296 – Property Tax- Open Space Application (HB 234)**

In counties other than Cook County, P.A. 97-296 amends the deadline for open space applications in Section 10-160 of the Property Tax Code (35 ILCS 200/10-160).

In counties with less than 3,000,000 inhabitants, applications for open space valuation must be filed by June 30 (current law is January 31). The effective date is August 11, 2011.

### **Public Act 97-353 – Tax Disclosure Act (SB 43)**

This bill creates the Taxation Disclosure Act (20 ILCS 2530/). It provides that the Illinois Department of Revenue ("IDOR") shall make tax rate information publicly available on its Internet Web site.

By tax, it provides that this tax rate database shall include the following:

#### **Use and Occupation Taxes:**

The tax rate applicable in a municipality or the unincorporated area of a county and list the individual rates that comprise the aggregate rate in that municipality or in the unincorporated area of that county.

#### **Property Taxes**

Beginning with the 2008 levy year, and for every subsequent levy year, the name of each taxing district, a list of all funds for which taxes were extended and the corre-

sponding tax rate for each fund, and the district's total tax rate. The Department may also include such other property tax information that it determines is necessary to achieve the public accessibility intent of this Act.

#### **Income Taxes**

The individual and the corporate income tax rates.

#### **Excise Taxes**

The statewide and the local rates.

The information shall be made available in a viewable and downloadable format and shall be updated regularly. Effective date is July 1, 2012.

### **Public Act 97-507 – Illinois Income Tax Act – Technical Corrections (HB 2955)**

This bill is the Illinois Department of Revenue's technical corrections bill amending the Illinois Income Tax Act ("IITA") (35 ILCS 5/). Unless otherwise provided for a particular provision, the effective date is August 23, 2011.

Key provisions of this bill:

#### **Notices**

Unless otherwise provided, whenever notice is required by the IITA, such notice may (previously "shall") be given or issued by mailing it by first-class (previously, registered or certified) mail addressed to the person concerned at his last known address. The statute will now read in conformance with the Department's existing practice, particularly for how "math error" notices are sent to taxpayers.

#### **Tax Refund Inquiries and Responses**

The Department of Revenue shall establish procedures to inform taxpayers of the status of their income tax refunds and shall provide a response to each inquiry within 10 days after receiving the inquiry (previously, such response was required to be in writing with the telephone number of a person within the Department whom the taxpayer may contact with further inquiries).

#### **Credits and Refunds**

In the case of any overpayment, the additional qualifier that this must be within the applicable period of limitations for a claim for refund is added to the provision whereby the Department may credit the amount of such

overpayment, including any interest allowed thereon, against any liability in respect of the tax imposed by the IITA.

### Tax Liens

The time limitation period on the Department's right to file a notice of lien shall not run during any period of time in which the order of any court has the effect of enjoining or restraining the Department from filing such notice of lien.

### Holding Companies in Unitary business groups

A definition of "Holding Company" is added to clarify existing law concerning the definition of "unitary business group" in Section 1501(a)(27), whereby such interrelated companies are to be included as a member of a unitary business group notwithstanding whether they are ordinarily required to apportion business income under different subsections of Section 304.

### Insurance companies

For tax years ending on or after December 31, 2011, "Gross income" shall mean all amounts included in life insurance gross income under Section 803(a)(3) of the Internal Revenue Code. For its first taxable year ending on or after December 31, 2011, the apportionment election by insurance companies for which the principal source of premiums it writes consists of premiums for reinsurance accepted by it, shall be binding for that company for that taxable year and for all subsequent taxable years, and may be altered only with the written permission of the Department, which shall not be unreasonably withheld.

For taxpayers who are required to add back any insurance premiums where there are entities who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) of the IITA, for taxable years ending on or after December 31, 2011, such taxpayer may elect to subtract that part of a reimbursement received from the insurance company equal to the amount of the expense or loss (including expenses incurred by the insurance company) that would have been taken into account as a deduction for federal income tax purposes if the expense or loss had been uninsured.

### Public Act 97-521 – Property Tax-Overpayments (SB 1386)

For Cook County only, this bill amends Section 20-175 of the Property Tax Code: Refund for erroneous assessments or overpay-

ments (35 ILCS 200/20-175). The effective date is August 23, 2011.

For all counties, under current law, a claim for a property tax refund must be filed by a taxpayer within 5 years from the date the right to a refund arose. This is to be contrasted with the 20 year statute of limitation for collection of delinquent real estate taxes period that the government is allowed (35 ILCS 200/20-180).

Under P.A. 97-521, applicable only to Cook County, under certain conditions, from September 1, 2011 to September 1, 2012, taxpayers who are beyond the 5-year statute will also be allowed a 10-year period to recover refunds.

### Additional Claim for Refund Applications Allowed- 9/1/11 to 9/1/12

If filed between September 1, 2011 and September 1, 2012, an additional refund application is allowed for those circumstances where the right to a refund arose more than 5 years prior to the date the application is filed but not earlier than January 1, 2000. The Cook County Treasurer shall accept a claim for refund by mail or in person.

Upon being satisfied of the facts in the case, the Cook County Treasurer shall refund the taxes to the proper claimant, and shall proportionately reduce the distribution of taxes collected for each taxing district in which the property is situated. Refunds under this subsection shall be paid in the order in which the claims are received.

However, this new subsection would be inapplicable if the issuance of that refund would cause the aggregate total of taxes and interest refunded for all claims under this allowance for additional claims for refund to exceed \$350,000 (i.e. 5 year rule continues to apply).

### Post-9/1/12 Refund Applications

Claim for refund must be filed within 5 years from the date the right to a refund arose (current law applies).

### Public Act 97-533 – Property Tax – Covenants (SB 1804).

The Special Service Area Tax Law in the Property Tax Code is amended by adding new Section 27-55a, concerning restrictive covenants and waiver of certain rights (35 ILCS 200/27-55a). The effective date is August 23, 2011.

It provides that a deed restriction, restrictive covenant, or similar provision may not waive, prohibit, or restrict the statutory rights to notice of a public hearing or the right to object, oppose, or challenge (i) the creation

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of a special service area, (ii) the levy of any tax of a special service area, or (iii) the issuance of bonds of a special service area. Any such deed restriction, restrictive covenant, or similar provision shall not be enforceable and is null and void against the property owner, lot or unit owner of the common interest community, condominium, or cooperative. The term "common interest community" in this Section has the same meaning as set forth in Section 9-102(c) of the Code of Civil Procedure (735 ILCS 5/9-101).

### **Public Act 97-557 – Property Tax-Delinquent Taxes – Omnibus Bill (HB 1218)**

This is the omnibus tax sale/tax deed bill for this session of the General Assembly ((35 ILCS 200/21 (Due Dates, Delinquencies, and Enforcement of Payments) and 35 ILCS 200/22 (Tax Deeds and Procedures)). The effective date of the law changes is July 1, 2012, and the statutory clean-up amendments shall be construed as declaratory of existing law.

Key provisions of this bill:

#### **Statutory Language Clean-Up**

These amendments were an ISBA SALT "good ideas" initiative that was enacted into law. The language in Sections of the Prop-

erty Tax Code are cleaned up: examples are that "Permanent Index Number" is added to the definition to identify a parcel of property for assessment and taxation purposes, and changes to correct the Notices sent to owners whose property has been sold for delinquent taxes. These changes to the Sections made shall be construed as being declaratory of existing law and not as a new enactment.

#### **Notices Provisions**

The published notice of annual application for judgment and sale shall include the PIN number of each delinquent property. It may include the street address on file with the county collector, if available.

A new provision allowing a tax sale online database is added to the statute. It provides that at least 10 days prior to any tax sale, the county collector may post on his or her Web site a list of all properties that are eligible to be sold at the sale. The list shall include the street address on file with the county collector, if available, and shall include the PIN number assigned to the property. The list may not include the name of the property owner.

#### **Payment of delinquent tax before sale**

An owner can pay his/her taxes up to the business day immediately preceding the day the taxes are sold (instead of up to the day

of sale).

#### **Tax sale procedures**

Tax sales must be either digitally recorded or an automated bidding system used. The collector shall either (i) employ an automated bidding system that is programmed to accept the lowest redemption price bid by an eligible tax purchaser or (ii) all tax sales shall be digitally recorded with video and audio.

#### **Payments from Indemnity Fund**

A petition of indemnity must be filed within 10 years after the date the tax deed was issued.

#### **Public Act 97-587 – Cigarette Tax Act (SB 109)**

This bill amends the Cigarette Tax Act (35 ILCS 130/1). The effective date is August 26, 2011. It requires manufacturers to apply with the Department prior to marketing cigarettes in the State. It prohibits certain manufacturers from having manufacturer representatives in the State, and prohibits certain individuals from acting as manufacturer representatives. It contains provisions concerning sales of cigarettes by manufacturer representatives, and requires reports and returns under the Act to list the quantity of cigarettes sold by manufacturer representatives. ■



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