

97th General Assembly state and local tax legislation now law

By William Seitz

HB1645—LIVE ADULT ENTERTAINMENT FACILITY SURCHARGE ACT (P. A. 97-1125)

Creates the Live Adult Entertainment Facility Surcharge Act. It imposes an annual surcharge upon each operator who operates a live adult entertainment facility in this State that serves or permits the consumption of alcohol on its premises. It provides that each operator shall elect to (i) pay a surcharge in an amount equal to \$3 per person admitted to a live adult entertainment facility operated by the operator or (ii) pay a surcharge in a specified amount based on the gross receipts of the operator (30 ILCS 105/5.811 (new)).

HB3859—MUNI/COUNTIES CD-TAX SHARING (P.A. 97-0976)

Cities and counties that strike sales-tax rebate deals to attract businesses to their community required to disclose those revenue-sharing arrangements to the Illinois Department of Revenue ("IDOR"), who will post much of the information online in a single place but will not share individual companies' tax liabilities. The Regional Transportation Authority ("RTA") is a big proponent of this bill.

HB3859 arises because Illinois has applied the "order acceptance test" an objective test. Applicability of the "point of sale test" and "sales tax sourcing" has become a much disputed issue with the Hartney Oil case in Putman County, as well as pending legal challenges to deals in Kankakee, Channahon. Those cases argue that the Chicago-area sales are being routed through retail operations that are not legitimate offices in those lower-tax towns, thus depriving the RTA of revenues it should be receiving.

The RTA will be able to get that information from the IDOR. The Section 5-1014.3 of the Counties Code, Agreements to share or rebate occupation taxes, is amended (55 ILCS 5/5-1014.3).

HB3934—EDGE-ECON INCENTIVE COMMITTEE (P.A. 97-0749)

Amends the Economic Development for

a Growing Economy Tax Credit Act. It seeks to add transparency to the state's main economic development program. The program, known as Economic Development for a Growing Economy, or EDGE, offers tax breaks to companies that create or retain jobs and make investments in the state.

Under this Act, the Department of Commerce and Economic Opportunity, which administers the program, enters into an Agreement with an Applicant that is awarded a Credit. The names of companies receiving the credits are annually released, but details of the agreements, such as the dollar value of the incentives, have not been easily publicly available. The bill requires the department to post on its website the terms of each agreement after it is reached (35 ILCS 10/5-50).

HB4239—REVENUE-TECH (P.A. 97-1125)

Amends the Property Tax Code. It provides that the chief county assessment officer may require certain conditions to be met when granting a General Homestead Exemption. Provides that certain provisions of Public Act 97-557 requiring collectors to either (i) employ an automated bidding system that is programmed to accept the lowest redemption price bid by an eligible tax purchaser or (ii) digitally record all tax sales with video and audio take effect January 1, 2013. See, Sec. 15-175, General homestead exemption. (35 ILCS 200/15-175) and Sec. 21-205, Tax sale procedures (35 ILCS 200/21-205).

HB4242—REVENUE-TECH (P.A. 97-0716)

Creates the Natural Disaster Homestead Exemption. It provides that the exemption is equal to equalized assessed value of the residence in the first taxable year for which the taxpayer applies for an exemption under this Section minus the base amount. Provides that the taxpayer must make an initial application for an exemption under this Section no later than the first taxable year after the residential structure is rebuilt. Proposed after FEMA refused disaster relief for tornado victims in Harrisburg, located in Southern Illinois. (35 ILCS 200/15-173 (new)).

TAX TRENDS

Published at least four times per year.

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HB5192—REVENUE-TECH (P.A. 1129)

Creates new "Illinois Independent Tax Tribunal Act of 2012," setting forth jurisdiction and procedures of agency created by Illinois Independent Tax Tribunal Act (current 35 ILCS 1005/). The "Illinois Independent Tax Tribunal" is separate from the authority of the Director of Revenue and the Department of Revenue. The Tax Tribunal shall exercise its jurisdiction on and after July 1, 2013.

Highlights of this version of proposed Illinois Tax Tribunal Act of 2012: Governor appoints ALJs; Tax Tribunal has jurisdiction where the amount at issue for the same tax year or audit period exceeds \$15,000, exclusive of penalties and interest; hearings conducted in accordance with rules of practice and procedure as the Tax Tribunal promulgates; judicial review of a final decision of the Tribunal in the IL Appellate Court; only attorneys may represent TPs and the AG represents the IDOR.

HB5289—USE/OCC TAX-PENALTIES (P.A. 97-1074)

Amends the Retailers' Occupation Tax Act. It creates the offense of sales tax evasion. Provides that the offense of sales tax evasion of \$100,000 or more is a Class 1 felony. Provides that the term "affirmative act in furtherance of the evasion" means an act designed in whole or in part to (i) conceal, misrepresent, falsify, or manipulate any material fact or (ii) tamper with or destroy documents or materials related to a person's tax liability. (35 ILCS 120/13).

SB409—PROP TX-SPECIAL SERVICE AREA (P.A. 97-1053)

Amends the Property Tax Code. It provides that notice of a proposed tax levy in a special service area must include the proposed amount of the tax levy for special services for the initial year for which taxes will be levied within the special service area. It provides that a public hearing on the establishment of a special service area may not be held less than 60 days after the adoption of the ordinance proposing the establishment of the special service area. Provides that, if, in any year other than the initial levy year, the estimated special service area tax levy is more than 105% of the amount extended for special service area purposes for the preceding levy year, notice shall be given and a hearing held on the reason for the increase

(i.e., more than 5% increase; hearing). (35 ILCS 200/27-25, Sec. 27-32 (new)).

SB2194—MEDICAID/HEALTH CARE (P.A. 97-0688)

Amendatory provisions increase the Cigarette Machine Operators' Occupation Tax Act (35 ILCS 130/2), adds various state and local tax hospital credits and exemptions (income, sales & use, property). Of most significance, it makes Property Tax Code changes relating to the charity exemption for hospitals (Section 15-10 (Exempt property; procedures for certification) and adds new Section 15-86 (Exemptions related to access to hospital and health care services by low-income and underserved individuals) (35 ILCS 200/15-10 and 15-86)).

Charity care changes will allow hospitals to apply a much broader definition for what qualifies as charity care. Effective immediately, the legislation sets a clear formula for how much free care and services hospitals must provide to qualify for tax breaks. It seeks to end 10 years of disputes between the Illinois Department of Revenue and hospitals and clinics. The most prominent such dispute was that involving the Provena Covenant Medical Center in Urbana.

SB3101—PROP TX-CHANGE OF ADDRESS (P.A. 97-1084)

Amends the Property Tax Code. Provides that, if a property owner conveys a permanent change of address in writing to the United States Postal Service, then, on or after the effective date of that change of address, the county collector may mail a property tax bill to the property owner at his or her new address regardless of whether or not the owner notifies the county collector of the address change.

Provides that, as an alternative to mailing a copy of the bill, the collector may send tax bills via e-mail at the request of the taxpayer. (35 ILCS 200/20-20).

SB3250—PROP TX-INSTALLMENT DATE (P.A. 97-0944)

Provides that all property upon which the first installment of taxes remains unpaid on the later of June 1 or the day after the first installment due date shall be deemed delinquent and shall bear interest after that date. Provides that all property upon which the second installment of taxes remains due and unpaid on the later of September 1 or the

day after the second installment due date shall be deemed delinquent and shall bear interest after that date. (Sec. 21-15. General tax due dates (35 ILCS 200 15)).

SB3314—PROP TX-EQUALIZATION FACTOR (P.A. 97-1087)

Amends the Property Tax Extension Limitation Law in the Property Tax Code. Provides that the approximate amount of the tax extendable, as stated on the referendum question submitted to impose a new or increased limiting rate or increase the extension limitation, shall be calculated by multiplying \$100,000 by (i) the percentage level of assessment prescribed for that property by statute, or by ordinance of the county board in counties that classify property for purposes of taxation in accordance with Section 4 of Article IX of the Illinois Constitution; (ii) the most recent final equalization factor certified to the county clerk by the Department of Revenue at the time the taxing district initiates the submission of the proposition to the electors; and (iii) either the new rate or the amount by which the limiting rate is to be increased. Provides that the approximate amount of the additional tax extendable, as stated on the referendum question submitted to increase the extension limitation, shall be calculated by multiplying \$100,000 by (i) the percentage level of assessment prescribed for that property by statute, or by ordinance of the county board in counties that classify property for purposes of taxation in accordance with Section 4 of Article IX of the Illinois Constitution; (ii) the most recent final equalization factor certified to the county clerk by the Department of Revenue at the time the taxing district initiates the submission of the proposition to the electors; (iii) the last known aggregate extension base of the taxing district at the time the submission of the question is initiated by the taxing district; and (iv) the difference between the percentage increase proposed in the question and the lesser of 5% or the percentage increase in the Consumer Price Index for the prior levy year; and dividing the result by the last known equalized assessed value of the taxing district at the time the submission of the question is initiated by the taxing district.

Most importantly, concerning the cases involving referendum language issues raised in Oak Park and elsewhere in suburban Cook County, it provides that the amendatory Act is intended to clarify existing requirements,

and shall not be construed to validate any prior non-compliant referendum language.

Effective immediately. (35 ILCS 200/18-190, 18-205).

SB3320—TAX CHECKOFFS-MIN CONTRIB (P.A. 97-1117)

Amends the Illinois Income Tax Act. Creates income tax checkoffs for new funds created. Creates a tax checkoff for the Department of Human Services Community Services Fund. Requires the Department of Revenue to include certain tax checkoff funds on its individual income tax forms. Sec. 509. Tax checkoff explanations and new fund checkoffs (35 ILCS 5/509 and (35 ILCS 5/507AAA to CCC (new)).

SB3386—PROP TX-ELECTRONIC RECORDS (97-1054)

Amends Property Tax Code (Cook County Board of Review bill). Authorizes Cook Coun-

ty Board of Review to send electronic notices of assessment changes and provides authority for the electronic filing of assessment complaints. It defines "electronic," "electronic record," and "electronic signature". If the taxpayer is represented by an attorney, notice to a taxpayer after a change in assessment by Boards of Review shall be mailed or e-mailed to the attorney. (35 ILCS 200/12-50 (BORs generally) and 35 ILCS 200/16-115 (Cook County)).

SB3607—PROP TX-COMPLAINTS (P.A. 97-0812)

Amends the Property Tax Code (Non-Cook BOR). Provides that complaints affecting the assessment of property shall be filed on or before 30 calendar days after the date of publication of the assessment list (now, those complaints must be filed on or before the 10th day of August in counties with less than 150,000 inhabitants and on or before

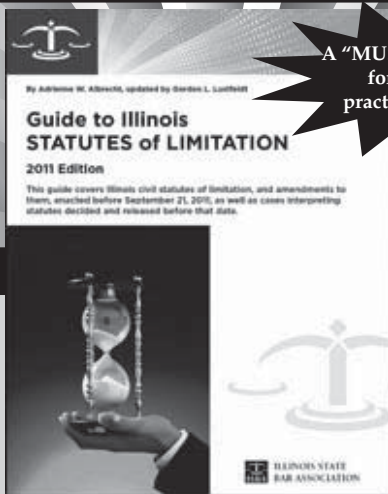
the 10th day of September in counties with 150,000 or more but less than 3,000,000 inhabitants) (35 ILCS 200/16-55).

SB3616—REVENUE-TECH (P.A. 97-0905)

Amends the Illinois Enterprise Zone Act. There are currently 95 Enterprise Zones in Illinois that start expiring in 2013. Extends the life of the zones and creates additional ones. It provides that an area is qualified to become an enterprise zone, if it meets certain specified criteria.

As a tool for development and attract investments, the Illinois Enterprise Zone Act was signed into law in 1982. It stimulates business and industrial growth and revitalize blighted areas. Each zone offers state and local incentives to enhance business or neighborhood development efforts, including abatement of property taxes on new improvements. (20 ILCS 655/4). ■

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