

2013 PRACTITIONERS' MEETING

SALES and EXCISE TAX LEGISLATION

November 19, 2013

SALES/EXCISE TAX LEGISLATION

PA 98-0022 (SB 1715) and PA 98-0023 (SB 2155) - Hydraulic Fracturing

PA 98-0022 creates the Illinois Hydraulic Fracturing Regulatory Act, including the Illinois Hydraulic Fracturing Tax Act. Effective 6-17-2013. PA 98-0023 allows the Department of Natural Resources to forward information regarding fracking activities to county assessors. Effective 6-17-2013.

PA 98-0109 (SB 0020) - New Sales Tax Business Incentives; Annual Incentive Reporting Requirements

Amends current enterprise zone annual reporting requirements and penalty provisions; creates building materials exemption for South Suburban Airport public-private partnership; adds High Impact Business designation for fertilizer plants. Effective 7-25-2013.

PA 98-0122 (HB 0001) - Compassionate Use of Medical Cannabis Pilot Program Act -

Implements the Compassionate Use of Medical Cannabis Pilot Program Act. Provides for Department-administered tax on cultivators (7% of the sales price per ounce); amends the sales taxes to provide that "prescription and nonprescription medicines and drugs" [taxable at the 1% rate] includes medical cannabis purchased from a qualified dispensing organization. Effective 1-1-2014.

PA 98-0273 (SB 0338) - Taxation of Little Cigars Under Tobacco Products Tax Act

Amends the Tobacco Products Tax Act to add a definition of "little cigar," provides for taxation at the same rate as cigarettes, and establishes stamping, reporting and enforcement provisions. Effective 8-9-2013.

PA 98-0352 (HB 0049) - Criminal Penalties for Zappers

Amends the Retailers' Occupation Tax to provide that any person who knowingly sells, purchases, installs, transfers, possesses, uses, or accesses any automated sales suppression device, zapper, or phantom-ware in this State is guilty of a Class 3 felony. Effective 1-1-2014.

PA 98-0422 (HB 2499) - International Fuel Exemption

Modifies the international fuel exemption to exempt fuel and petroleum products sold to or used by an air carrier for consumption, shipment or storage in the conduct of its business as an air common carrier, for flights that are (i) engaged in foreign trade or engaged in trade between the United States and any of its possessions and (ii) transport at least one individual or package for hire from the city of origination to the city of final destination on the same aircraft, without regard to a change in the flight number of that aircraft. Effective 7-1-2013.

PA 98-0425 (HB 2518) - Penalty for Failure to File Transactional Returns; Payment by Credit Card

1. Amends the UPIA to impose a penalty (in addition to other penalties imposed by law) of \$100 for failure to file a transaction return required by Section 3 of the Retailers' Occupation Tax or Section 9 of the Use Tax Act on or before the due date. The penalty is imposed regardless of whether the return would result in the imposition of a tax. Effective 8-16-2013.
2. Amends the Department of Revenue Law of the Civil Administrative Code to allow the Department to adopt rules for payment by credit card of amounts due under any Act administered by the Department, provided that the Department is not required to pay a discount fee charged by the credit card issuer. Effective 8-16-2013.

PA 98-0446 (HB 2752) - Liens and Payment Plans

Provides that the Department's right to file a notice of lien shall not run during the term of a repayment plan, provided that the taxpayer remains in compliance with the terms of the plan. Effective 8-16-2013.

PA 98-0456 (HB 2918) - Coal/Aggregate Exemptions

Retroactively (to July 1, 2003) restores coal and aggregate exemptions; provides that no claims or refunds will be approved for taxes paid during the period beginning July 1, 2003 through August 16, 2013.

PA 98-0496 (SB 2169) - High Risk Procedures Authorized For All Taxes; Loss of Retailer Collection Discount

Authorizes the Department to utilize the high risk procedure for persons seeking a certificate of registration, permit or license authorized under any act administered by the Department; provides that high risk determination takes into account liability owed for all taxes, not just those under the tax for which registration is being requested. Effective 1-1-2014.

Amends the Retailers' Occupation Tax Act by authorizing the Department to disallow the collection discount for a retailer whose certificate of registration is revoked at the time his return is filed. Effective 1-1-2014.

PA 98-0534 (SB 1801) - Aircraft Refurbishing Exemption

Amends the current exemption for materials, equipment and parts incorporated into aircraft as part of refurbishing, modification, replacement, completion, repair or maintenance of aircraft. Specifies that the exemption applies only to purchases made by persons doing the repairs or modifications. Effective 8-23-2013.

PA 98-0574 (SB 1772) - Vehicles Subject To The Automobile Renting Occupation Tax

Amends the Automobile Renting Occupation Tax to include second division vehicles that have a Gross Vehicle Weight Rating of 8,000 pounds or less. Exempts such vehicles from the Retailers' Occupation Tax/Use Tax. Effective 8-16-2013.

PA 98-0583 (SB 2243) - Taxation of Electricity, Water and Gas under Sales Taxes/Exemptions; New Registration Requirements for Publicly Traded Corporations-SSNs

Amends the sales tax acts to provide that electricity delivered to customers by wire and gas or water delivered through pipes or mains is not subject to tax; provides that the manufacturing machinery and equipment exemption is not available for machinery and equipment used to generate electricity for wholesale or retail sale, or to treat water or generate natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes or mains; provides that the "expanded" manufacturing exemption under Section 1d of the Retailers' Occupation Tax does not apply to property used or consumed in the generation of electricity for wholesale or retail sale, or in the treatment of water or the generation or treatment of natural or artificial gas when sold at wholesale or retail and delivered to customers through pipes or mains. Makes similar changes in the definition of "computer software" used in manufacturing processes. Declaratory of existing law.

Amends the Retailers' Occupation Tax Act to provide that registration applications for publicly traded corporations contain only the name and title of the Chief Financial Officer, Chief Operating Officer, and any other officer or employee with responsibility for preparing tax returns, along with the last 4 digits of each of their social security numbers. Effective 1-1-2014.

PA 98-0584 (SB 2326) - Rolling Stock Test for Watercraft/Aircraft; Miscellaneous Technical Changes

1. Rolling Stock test for Aircraft/watercraft modified. During 12 month period, craft must carry persons or property for hire in interstate commerce for greater than 50% of its total trips or miles for that period. Exemption effective 1-1-2014.
2. For local taxes that require referendum approval (County Public Safety, School Facility, Non-Home Rule taxes), changes the date on which ordinance/filing documents must be submitted to the Department from April 1 to May 1 (for enforcement beginning July 1). Effective 1-1-2014.

3. Tire User Fee. Provides that suppliers of tires remitting the fee may take the collection allowance of 10 cents per tire only if their returns are timely filed/for that amount that is timely paid. Effective 8-27-2013.
4. Amends the Retailers' Occupation Tax to provide that for returns not filed at the required time, no notice of tax liability may be issued on and after each July 1 or January 1 for such returns filed more than 3 years prior to such July 1 or January 1.

SALES/EXCISE TAX RULEMAKING

Proposed Rules

Part 900 – Live Adult Entertainment Facility Surcharge Act - implements the new act; publication in Illinois Register on November 22, 2013.

Current Projects

1. 130.321 (ROT) – New exemption for fuel used in flights engaged in foreign trade and trade between the U.S. and its possessions.
2. 130.351 (ROT) – aggregate mining/exploration exemption
3. 130.350 (ROT) – coal mining /exploration exemption
4. NEW PART /130.311 (ROT) - surcharge on medical marijuana cultivators; clarification of sales tax rate applicable to dispensary sales of medical marijuana.
5. 130.2080 (ROT) and 480.101 (Hotel Operators' Occupation Tax) – clarifies documentation of purchases by government bodies; updates regulations and ILLUSTRATION A to reflect new cards issued for diplomats by U.S. State Department; makes corresponding changes for the Hotel Tax.
6. 130.120 (ROT) – “Laundry List” of exemptions updated to reflect recent statutory changes.
7. Part 500 - Motor Fuel Tax – amends regulations to establish a formula to convert CNG from cubic feet/pounds sold to gallons sold
8. Automobile Renting Occupation Tax/ROT – updates regulations to reflect recent legislation changing the types of vehicles subject to automobile renting tax/exempt from ROT.