

TAX FACTS



Taxpayers' Federation of Illinois

68 • 1 ■ January/February 2015

2014 LEGISLATIVE SYNOPSIS

By Nancy Dollison

Prior to joining the Taxpayers' Federation of Illinois in January 2013 as Legislative Director, Nancy Dollison was the senior tax policy analyst for 25 years for the Illinois State Senate Republican Caucus. Before that, she was with the former Illinois Department of Commerce and Community Affairs providing technical assistance to local officials regarding tax increment financing and other property tax administration matters. Ms. Dollison received her BA from Saint Mary's College of Notre Dame, Indiana, and a Master of Public Administration from the University of Illinois at Springfield.

This edition of Tax Facts presents our annual summary of legislative activity from the 2014 Spring and Fall Sessions of the Illinois General Assembly, including synopses of new major tax- and fiscal policy-related Public Acts and a brief recap of the fall election.

BUDGET

Fiscal Year 2014

Final appropriations for FY2014 (including supplemental appropriation bills passed mid-year) was \$ 68.9 billion, \$ 31.47 billion of which were general funds.

INSIDE THIS ISSUE

Notes from the inside2

Illinois Use Tax
Collection: One Small
Step, But in Which
Direction?11

Illinois General Assembly
Calendar14

TFI Spring Legislative
Conference16

CONTACT US:

430 East Vine Street, Suite A
Springfield, IL 62703
V. 217.522.6818
F. 217.522.6823
www.iltaxwatch.org
tfi@iltaxwatch.org

NOTES FROM THE INSIDE. . .

By Carol S. Portman

This edition of *Tax Facts* includes our annual summary of bills that passed during the 2014 Spring and Fall legislative sessions, updated through the time Gov. Pat Quinn left office. Nancy Dollison, our now-retired legislative director, compiled the summary and her successor, Maurice Scholten, added the 2015 updates.

I would like to take a minute to thank Nancy for her work for TFI and its members. When I arrived two years ago as the new president, it was a great comfort to be able to rely on her knowledge and experience with the General Assembly and the legislative process. We are equally fortunate to find someone of Maurice's caliber to replace her and continue to represent the Taxpayers' Federation before the General Assembly.

The second article is a summary of a study done by David Merriman of the Institute of Government and Public Affairs and Joanna Koh and Hector Vielma of the Department of Revenue on Illinois' efforts to increase Use Tax compliance by adding a line to the individual income tax return.

In a nutshell, the new line increased Use Tax collections by \$10 million per year, but the non-compliance rate remains so high (the authors estimate 95 percent) that the situation has been characterized as "widespread tax evasion." Interestingly, taxpayers with higher incomes, those who make charitable contributions, and those who prepare their own returns were more likely to make Use Tax payments.

The Use Tax study points to what we all know is the solution: Congress needs to give states the authority to compel remote retailers, above some de minimus level of sales, to collect and remit state Use Tax. TFI supports that concept and the Merriman study demonstrates the need for that legislation.

According to the Comptroller's office, the State ended the fiscal year with an estimated total bill backlog of roughly \$ 4.6 billion, an improvement from the prior end-of-fiscal-year backlog of \$6.1 billion.

Fiscal Year 2015

The budgeting process begins each spring with a legislative resolution projecting available revenues for the coming year, based on then-current tax law. House Joint Resolution 100, as adopted by both Houses, set the general funds revenue estimate for the coming fiscal year at \$35.352 billion. (This amount increased over time, from the date the resolution was first introduced until its final passage on May 29.) Next, if everything goes according to plan, the Governor presents a proposed budget, appropriating those available funds. This year, Governor Quinn's budget address followed a slightly different path. As required by law, he did show spending based on current law, but he called this his "not recommended" budget. At the same time, he also proposed keeping income tax rates high and presented a "recommended" budget with higher spending.

The legislature kept spending near 2014 levels despite the coming drop in tax rates, using a variety of budgeting tactics, some of which were heavily criticized. The FY2015 final, approved budget totals \$69.8 billion, a slight increase from FY2014. This includes \$31.4 billion in general funds. (The total general funds budget for the year is more frequently cited as \$35.8 billion, which includes appropriations and other

spending.) As is usually the case, the budget itself is spread across several bills:

- HB 3793 – various capital projects and back wages for State employees. Public Act 98-0675
- HB 6093 – elementary and secondary education. Public Act 98-0677
- HB 6094 – higher education. Public Act 98-0678
- HB 6095 – general services. This includes \$803,000 in general funds for the Independent Tax Tribunal. Public Act 98-0679
- HB 6096 – human services. Public Act 98-0680
- HB 6097 – public safety. Public Act 98-0681
- SB 741 increases the amount of the statutory transfer from the Hospital Provider fund to the General Revenue Fund by \$40 million. Public Act 98-0651
- SB 220 – Public Act 98-0674
- SB 274 – allows for up to \$650 million in interfund borrowing. Public Act 98-0682

Frequently, election years bring out the capital spending. That didn't really happen this year, although HB 3794 authorizes a \$ 1.1 billion Department of Transportation capital program, to be spent around the state as follows:

	Project Location
\$1 billion	Determined by IDOT
\$49.1 million	Municipalities
\$16.74 million	Cook County
\$18.27 million	All other counties
\$15.89 million	Road districts
Source: Public Act 98-0780	

The State's FY2015 general funds pension cost is \$ 7.549 billion, down slightly from \$ 7.643 billion in FY 2014.

General Funds Pension Costs (\$ in billions)		
	FY2014	FY2015
Contributions	\$5.988	\$6.046
Debt Service	\$1.655	\$1.503
Total	\$7.643	\$7.549
Source: COGFA		

SALES TAX

Sales Tax Task Force

After the Illinois Supreme Court's decision in *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130, and the Illinois Department of Revenue ("DOR")'s regulatory response, there was much discussion as to whether the legislature needed to address local sales tax sourcing. SB 2612, sponsored by Sen. Dan Kotowski (D-Park Ridge) and Rep. Barbara Flynn Currie (D-Chicago), is the only bill that did so and became law. The bill provides up to \$2.5 million additional annual funding to the Department for its audit functions, adds non-controversial sales tax sourcing clarity, and imposes penalties for failure to report rebate arrangements. The bill also creates the Use and Occupation Tax Reform Task Force to examine Illinois' sales tax system; specifically "... a study on modernizing State and local use and occupation taxes in Illinois, including the possible conversion to a destination-based taxing regime." The Task Force is composed of four legislators (one per

caucus), a Department of Revenue representative, an RTA representative and several gubernatorial appointments: representatives of a municipality, a county, and statewide organizations representing municipalities, taxpayers, manufacturers, chambers of commerce, and retail merchants. To date, there have been no gubernatorial appointments to this task force. Public Act 98-1098: <http://ilga.gov/legislation/publicacts/98/PDF/098-1098.pdf>

Sharing of ROT Data with Municipalities

HB 3885, sponsored by Rep. Natalie Manley (D-Joliet) and Sen. Jennifer Bertino-Tarrant (D-Shorewood), allows DOR to share specified sales tax data with all municipalities—previously, sharing was only permitted with home rule municipalities and there were fewer limits on what could be shared—and imposes a \$7,500 penalty for confidentiality violations. Public Act 98-1058: <http://ilga.gov/legislation/publicacts/98/PDF/098-1058.pdf>

Changes in Nexus

SB 352, sponsored by Sen. Toi Hutchinson (D-Olympia Fields) and Rep. Barbara Flynn Currie (D-Chicago) amends the Use Tax Act and Service Use Tax Act to correct the flaws identified in *Performance Marketing Ass’n v. Hamer*, 2013 IL 114496, by expanding the definition of nexus to include the provision of a promotional code or other mechanism via internet links, printed material, or broadcast media. Public Act 98-1089: <http://ilga.gov/legislation/publicacts/98/PDF/098-1089.pdf>

Sales Tax on Leased Vehicles

HB 2317, sponsored by Rep. Michael Zalewski (D-Chicago) and Sen. Don Harmon (D-Oak Park), changes the tax base for leased vehicles from purchase price to the total lease payments. The bill also eliminates the trade-in credit for these vehicles. Public Act 98-0628: <http://ilga.gov/legislation/publicacts/98/PDF/098-0628.pdf>

HB 5684, sponsored by Rep. Barbara Flynn Currie (D-Chicago) and Sen. Don Harmon (D-Oak Park), delays the effective date of HB 2317 to 1/1/2015. Public Act 98-1080: <http://ilga.gov/legislation/publicacts/98/PDF/098-1080.pdf>

INCOME TAX

Task Force on Regulation of Tax Return Preparers

HB 4381, sponsored by Rep. Michael Zalewski (D-Chicago) and Sen. Terry Link (D-Waukegan), creates a tax return preparation task force to examine the regulating of commercial tax return preparers, including minimum and continuing educational requirements. Public Act 98-1040: <http://ilga.gov/legislation/publicacts/98/PDF/098-1040.pdf>

Credit for Overpayments

HB 5564, sponsored by Rep. Carol Sente (D-Vernon Hills) and Sen. David Luechtefeld (R-Okawville), allows a taxpayer to elect to credit the amount of an income tax overpayment (as opposed to obtain a refund) on any return; previously the election could only be made on the original return. Public Act 98-0925: <http://>

ilga.gov/legislation/publicacts/98/PDF/098-0925.pdf

Millionaire Tax

HB 3816, sponsored by Rep. Michael Madigan (D-Chicago) and Sen. Michael Noland (D-Elgin), placed the 'millionaire tax' question on the November, 2014 ballot, asking voters if an additional 3% tax should be imposed on income greater than \$1 million, with all of the revenue going to local school districts. This was approved by 64% of the voters but, as it was an advisory referendum only, it is not binding; enactment of the necessary Constitutional amendment is a long shot. Public Act 98-0794: <http://ilga.gov/legislation/publicacts/98/PDF/098-0794.pdf>

PROPERTY TAX

Tax Cap Clarification for Pension Costs

SB 345, sponsored by Sen. Michael Hastings (D-Orland Hills) and Rep. Al Riley (D-Olympia Fields), amends the Property Tax Extension Limitation Law (a/k/a tax caps) to state that levies for Social Security and Medicare shall not be considered new rates. The limitation on the aggregate extension still applies. Public Act 98-1088: <http://ilga.gov/legislation/publicacts/98/PDF/098-1088.pdf>

Calculation of Property Tax Rates

SB 347, sponsored by Sen. Linda Holmes (D-Aurora) and Rep. Katherine Cloonen (D-Bradley), allows the county clerk to calculate property tax rates beyond three decimal points to allow the

extension to be as close as possible to the levy requested. Public Act 98-0863: <http://ilga.gov/legislation/publicacts/98/PDF/098-0863.pdf>

Road District Funds

SB 2598, sponsored by Sen. Pamela Althoff (R-Crystal Lake) and Rep. Jack Franks (D-Woodstock), allows road districts in the collar counties to accumulate up to 50% of property taxes collected from a subdivision for improvements of certain roads. The total accumulations under this provision may not exceed 10% of the total funds held by the district for road purposes. Public Act 98-0818: <http://ilga.gov/legislation/publicacts/98/PDF/098-0818.pdf>

Assessment Increase Notices

HB 5893, sponsored by Rep. Jim Durkin (R-Western Springs) and Sen. Michael Connelly (R-Lisle), adds fire protection districts to the list of taxing districts that receive notice of assessment appeals that could reduce an assessment by more than \$100,000. The list currently includes affected municipalities, school districts, and community college districts. Public Act 98-0937: <http://ilga.gov/legislation/publicacts/98/PDF/098-0937.pdf>

Rebuilt Commercial & Industrial Properties

SB 3259, sponsored by Sen. Michael Frerichs (D-Gifford) and Rep. Chad Hays (R-Catlin), sets the assessment level of commercial or industrial property that is re-built following a tornado disaster. Public Act 98-0702; <http://ilga.gov/legislation/publicacts/98/PDF/098-0702.pdf>

Cook County Tax Sales

SB 2778, sponsored by Sen. Daniel Biss (D-Evanston) and Rep. Christian Mitchell (D-Chicago), sets new dates for all applications for

judgment and order of sale for taxes and special assessments on delinquent properties in Cook County. The new dates are July 1, 2015 for tax year 2013; May 1, 2016 for tax year 2014; March 1, 2017 for tax year 2015; and 90 days after the second installment date beginning with the 2016 tax year. Public Act 98-1101: <http://ilga.gov/legislation/publicacts/98/PDF/098-1101.pdf>

Cook County Refunds

SB 2854, sponsored by Sen. Emil Jones, III (D-Chicago) and Rep. Robert Rita (D-Blue Island), makes the following changes in a section concerning certain refunds for erroneous assessments or overpayments in Cook County: (i) allows the claimant to recover the costs of suit, (ii) extends the time period from 5 to 20 years, and (iii) provides that the total amount of taxes and interest refunded for claims for which the right to a refund arose prior to January 1, 2009 shall not exceed \$2,500,000 per year. Public Act 98-1026: <http://ilga.gov/legislation/publicacts/98/PDF/098-1026.pdf>

Disabled Veterans

SB 2905, sponsored by Sen. Michael Hastings (D-Matteson) and Rep. Stephanie Kifowit (D-Aurora), increases the amount of the disabled veterans homestead exemption for adaptive housing from \$70,000 to \$100,000. The bill also allows that military personnel killed in the line of duty qualify their surviving spouses to claim the \$5,000 disabled veterans homestead exemption. Public Act 98-1145: <http://ilga.gov/legislation/publicacts/98/PDF/098-1145.pdf>

Housing Opportunity Abatement Program

SB 3147, sponsored by Sen. Mattie Hunter (D-Chicago) and Rep. Barbara Flynn Currie (D-Chicago), extends the housing opportunity abatement program until 2024 (now, 2014). Eligible areas must meet poverty criteria and be located within counties of 200,000 or more inhabitants. Public Act 98-0957: <http://ilga.gov/legislation/publicacts/98/PDF/098-0957.pdf>

Mobile Home Tax

SB 3027, sponsored by Sen. Terry Link (D-Waukegan) and Rep. Barbara Flynn Currie (D-Chicago), amends the mobile home privilege tax to allow a sale in error if the mobile home is owned by the United States, the State of Illinois, a municipality, or a taxing district. Public Act 98-0949: <http://ilga.gov/legislation/publicacts/98/PDF/098-0949.pdf>

Treasurer's Books

SB 3036, sponsored by Sen. Pamela Althoff (R-Crystal Lake) and Rep. Patrick Verschoore (D-Milan), allows electronic treasurer's books. Public Act 98-0840: <http://ilga.gov/legislation/publicacts/98/PDF/098-0840.pdf>

TIF Districts

HB 3924, sponsored by Rep. Frank Mautino (D-Spring Valley) and Sen. Sue Rezin (R-Morris), allows a twelve-year extension of a tax increment financing district in the City of Ottawa. Public Act 98-0889: <http://ilga.gov/legislation/publicacts/98/PDF/098-0889.pdf>

HB 4185, sponsored by Rep. David Harris (R-Arlington Heights) and Sen. Matt Murphy (R-

Palatine), allows a twelve-year extension of a tax increment financing district in the Village of Arlington Heights. Public Act 98-0893: <http://ilga.gov/legislation/publicacts/98/PDF/098-0893.pdf>

HB 4286, sponsored by Rep. John Cabello (R-Machesney Park) and Sen. Steve Stadelman (D-Loves Park), allows a twelve-year extension of a tax increment financing district in the Village of Machesney Park. Public Act 98-1064: <http://ilga.gov/legislation/publicacts/98/PDF/098-1064.pdf>

SB 504, sponsored by Sen. John Mulroe (D-Chicago) and Rep. Robert Martwick (D-Norridge), allows a twelve-year extension of tax increment financing districts in the City of Naperville; and Chicago's Read/Dunning and Sanitary & Ship Canal Districts. Public Act 98-0667: <http://ilga.gov/legislation/publicacts/98/PDF/098-0667.pdf>

SB 2071, sponsored by Sen. Napoleon Harris, III (D-Flossmoor) and Rep. William Davis (D-Hazel Crest), allows a twelve-year extension of tax increment financing districts in the Village of Germantown, Gibson City, Village of Washington Park, and the City of Harvey. Public Act 98-0614: <http://ilga.gov/legislation/publicacts/98/PDF/098-0614.pdf>

Milford School District Bonds

HB 5283, sponsored by Rep. Josh Harms (R-Watseka) and Sen. Jason Barickman (R-Champaign), allows Milford Community Consolidated School District 280 and Milford

Township High School District 233 to issue an aggregate of \$17.5 million in bond issues if approved by the voters. Public Act 98-0916: <http://ilga.gov/legislation/publicacts/98/PDF/098-0916.pdf>

OTHER BILLS OF INTEREST

Insurance Premiums Tax

SB 3324, sponsored by Sen. William Haine (D-Alton) and Rep. JoAnn Osmond (R-Antioch), amends the Illinois Insurance Code to apply the premiums tax on self-procured or directly-placed insurance. This item was buried in an administrative proposal from the Illinois Department of Insurance, along with a number of technical changes. In fact, the premiums tax change was neither cited in the official position paper from the Department of Insurance nor mentioned in discussions. TFI and other interested groups worked with Sen. Haine to seek a veto of that portion of the bill. Those efforts were unsuccessful, as were later attempts at an outright repeal, and the premiums tax change became law on January 1, 2015. Public Act 98-0978: <http://ilga.gov/legislation/publicacts/98/PDF/098-0978.pdf>

Study on Illinois Tax Volatility

SB 274, sponsored by Sen. John Cullerton (D-Chicago) and Rep. Michael Madigan (D-Chicago), required the Commission on Government Forecasting and Accountability (COGFA) to conduct a study of the volatility of the sources of general revenue funds. The study examined

Illinois' tax base and tax revenue volatility, among other things. Link to the study:

http://cgfa.ilga.gov/Upload/IllinoisRevenueVolatilityStudy_2014CGFA.pdf

The bill also contains language prohibiting the reduction of General Assembly salaries midterm. This is in response to Governor Quinn's 2013 action to eliminate legislators' salaries until a pension solution was reached, an action later ruled 'unconstitutional and immediately void' by a Cook County Circuit Court judge. Public Act 98-0682: <http://ilga.gov/legislation/publicacts/98/PDF/098-0682.pdf>

DEPARTMENT OF REVENUE ADMINISTRATIVE CHANGES

SB 3234, sponsored by Sen. Daniel Biss (D-Evanston) and Rep. Michael Zalewski (D-Chicago), eliminates obsolete tire fee language. Public Act 98-0962: <http://ilga.gov/legislation/publicacts/98/PDF/098-0962.pdf>

HB 5684, sponsored by Rep. Barbara Flynn Currie (D-Chicago) and Sen. Don Harmon (D-Oak Park), allows the Secretary of State to suspend or revoke a driver's license for violations of the corporate income tax, personal property replacement tax, or employee withholding tax. The bill also delays the effective date of the auto leasing bill. Public Act 98-1080: <http://ilga.gov/legislation/publicacts/98/PDF/098-1080.pdf>

HB 5613, sponsored by Rep. Rich Brauer (R-Petersburg) and Sen. Andy Manar (D-Bunker Hill), amends the Real Estate Transfer Tax Law to

provide for electronic stamps and filing. Public Act 98-0929: <http://ilga.gov/legislation/publicacts/98/PDF/098-0929.pdf>

SB 3262, sponsored by Sen. John Sullivan (D-Rushville) and Rep. Frank Mautino (D-Spring Valley), changes the interest rate on delinquent motor fuel taxes from 1% per month to the rate set by IFTA; currently, 5% annually. Public Act 98-0964: <http://ilga.gov/legislation/publicacts/98/PDF/098-0964.pdf>

SB 3334, sponsored by Sen. Melinda Bush (D-Grayslake) and Rep. Marcus Evans (D-Chicago), suspends the statute of limitations for refund claims if the taxpayer is unable to manage his or her financial affairs by reason of a physical or mental impairment lasting at least 12 months. Public Act 98-0970: <http://ilga.gov/legislation/publicacts/98/PDF/098-0970.pdf>

SB 3447, sponsored by Sen. Michael Noland (D-Elgin) and Rep. Fred Crespo (D-Hoffman Estates), changes the DOR collection reimbursement for the county MFT and the HRMUT from a maximum of 2% to a flat 2%. Public Act 98-1049: <http://ilga.gov/legislation/publicacts/98/PDF/098-1049.pdf>

SB 3448, sponsored by Sen. Michael Noland (D-Elgin) and Rep. Marcus Evans (D-Chicago), shortens DOR's notice requirement for ROT certificate non-renewal to a retailer in default to the State to 60 (now, 120) days. Public Act 98-0974: <http://ilga.gov/legislation/publicacts/98/PDF/098-0974.pdf>

PENDING ISSUES

MPC Fix and Extension

When the Manufacturer's Purchase Credit was reinstated in 2004 following the 2003 repeal by former Governor Blagojevich, the necessary language was inadvertently left out of the Service Use Tax Act. Attorneys at the Department of Revenue discovered the omission in August of 2013; this prompted a Compliance Alert which would have allowed audit findings leading to back taxes, fines, and interest. However, the Department has not done so, anticipating a legislative "fix". Bills to do so have passed both the House and Senate, but no bill has yet reached the Governor's desk. The MPC itself expired on August 30, 2014. Both House and Senate have passed bills to extend it, but not the *same* bill. These issues will likely be addressed in 2015.

Bad Debt ROT Recovery

SB 3397, sponsored by Sen. Toi Hutchinson (D-Olympia Fields) and Rep. Anthony DeLuca (D-Crete), amends the Retailers' Occupation Tax Act to allow sales tax recovery for private label credit card bad debt. Governor Quinn Amendatorily vetoed the bill minutes before his term as Governor expired. He added a provision that would double the Earned Income Tax Credit over 5 years. The 98th General Assembly did not reconvene after the amendatory veto so the bill died.

ELECTION NEWS

With few exceptions, Illinois State Government during the 98th General Assembly was firmly controlled by the Democratic Party, beginning at the top with Governor Pat Quinn (D-Chicago). The 99th General Assembly starts with a different political landscape.

Statewide Offices

- Republican Bruce Rauner defeated Democratic Governor Pat Quinn.
- Democrat Michael Frerichs replaces outgoing Republican Treasurer Dan Rutherford.
- Democrat Lisa Madigan was re-elected Attorney General.
- Democrat Jesse White was re-elected Secretary of State.

Sadly, Comptroller Judy Baar Topinka passed away in December, shortly after her re-election. This raised unprecedented questions as to the appointment of a successor. Attorney General Lisa Madigan quickly issued an unofficial opinion that outgoing Governor Quinn may appoint someone for the remainder of this term and Governor-elect Rauner may appoint someone for the new term beginning in January. Governor Quinn appointed Jerry Stermer as Comptroller until the new executive officers were sworn in. The 98th General Assembly passed a bill to hold a special election in November 2016 to elect a Comptroller for the final two years of the term. Shortly after Governor Rauner was sworn in, he appointed Leslie Geissler Munger as Comptroller.

General Assembly Seats

In the 98th GA, Senate President John Cullerton (D-Chicago) enjoyed an unprecedented majority of 40 Democratic Senators over 19 Republican Senators. House Speaker Michael Madigan (D-Chicago) led 71 Democratic Representatives, versus 47 House Republicans.

In the November 4 election, the overall House numbers didn't change. The Senate Democrats also held onto their veto-proof majority, despite the defeat of Sen. Mike Jacobs (D-Moline) (the only incumbent to lose a re-election bid). In both houses, although the party percentages shifted hardly at all, there will of course be new

legislators coming to Springfield. Compared to the turnover from the 97th General Assembly to the 98th, when 25% of all legislators were new to Springfield, there is very little change, as illustrated in the chart below.

These numbers include legislators who were not elected originally as part of the 98th General Assembly, but who were appointed to replace retiring or otherwise departing legislators, so many of the "newbies" are actually not new faces in Springfield. State Senator Mike Frerichs, who was not up for re-election this year, resigned his Senate seat to take on the mantle of State Treasurer. Scott Bennett of Champaign was appointed to the seat.

	98th General Assembly	99th General Assembly	New Members
House Democrats	71	71	6
House Republicans	47	47	14
Senate Democrats	40	39	1
Senate Republicans	19	20	1

Illinois Tax Facts

Illinois Tax Facts is published by the Taxpayers' Federation of Illinois, a nonpartisan, nonprofit organization founded in 1940 to promote efficiency and economy in government. Reprint permission is granted for articles with credit given to source. Annual membership in the Taxpayers' Federation includes Tax Facts and other publications. For additional information write: Taxpayers' Federation of Illinois, 430 East Vine St., Suite A, Springfield, IL 62703, call 217.522.6818, e-mail at tfi@iltaxwatch.org or visit our website at www.iltaxwatch.org. A membership contribution is not deductible as a charitable contribution for federal income tax purposes, but may be deductible as an ordinary business expense. A portion of your membership contribution to TFI, however, is not deductible as a necessary business expense because of the organization's lobbying activity. The non-deductible portion is 25%. TFI is exempt from federal income tax under Section 501 (c)(4) of the Internal Revenue Code.

Carol S. PortmanPresident
Maurice Scholten Legislative Director
Kellie R. CooksonOffice Manager
Tracy ScadutoOffice Assistant

ILLINOIS USE TAX COLLECTION: ONE SMALL STEP, BUT IN WHICH DIRECTION?

By Carol Portman

President of the Taxpayers' Federation of Illinois since January 2013, Carol Portman has been working in the state and local tax arena for over two decades.

In 2010, Illinois added a use tax line to the Individual Income Tax Return. One recent study found that the addition of the use tax line resulted in 240,000 additional Illinoisans making total use tax payments of just over \$10 million annually, but total payments still represent only about 5 percent of what some estimate is actually due. The study says that so few taxpayers met their use tax obligations, even after the new line dramatically increased compliance, that it is plausible to characterize the situation as “widespread use tax evasion”.

Background

Illinois Use Tax is a tax on the privilege of using tangible personal property in Illinois. When a seller, typically an out of state seller, does not collect tax on a sale, the Illinois customer owes the Illinois Use Tax and is legally required to remit the tax directly to the State.

The paper, written by David Merriman, a University of Illinois at Chicago professor and member of the Institute for Government and Public Affairs, and by Joanna Koh and Hector Vielma of the Illinois Department of Revenue, was presented at a conference sponsored by the Internal Revenue Service and the Urban – Brookings Tax Policy Center in 2013.

According to the paper, in Calendar Year 2012 Illinois collected over \$1.2 billion in Illinois Use Tax, about 13 percent of total sales and use tax collections. Half the collections came from businesses that make sales from out of state locations to customers in Illinois and charge, collect and remit the tax. Most of the rest came from sales related to motor vehicles or from businesses who make taxable purchases and self-assess and remit the tax.

The slice of use tax obligations at issue (and the most difficult to enforce) are purchases that Illinois residents make (typically by catalog or over the Internet) from out-of-state retailers who do not collect and remit the use tax. In this case the Illinois purchaser owes Illinois Use Tax on his or her purchases and is supposed to report the purchases and pay the tax to the Illinois Department of Revenue, using Form ST-44 or the new Use Tax line on the IL-1040.

Specifically the paper focuses on the results of a state law that required that there be a use tax line on the personal income tax return, starting with the 2010 tax year. To implement the law, the state constructed a lookup table for taxpayers who did not make a major purchase allowing them to pay what they owed or make an estimate using the table. The table provides a set

amount of use tax for ranges of Federal Adjusted Gross Income, calculated at 0.06 percent of the midpoint of each range.

Before the law change 2,000 to 10,000 taxpayers filed Form ST-44 each year and paid from \$2.5 to \$5 million annually. When the line was placed on the Individual Income Tax return for tax years 2010 and 2011 approximately 240,000 additional taxpayers paid an extra \$10 million each year. **(See Table 1 on page 13.)** In other words, 4.5% of Illinois residents now report making non-taxed purchases online, over the phone, or via mail order catalog. The authors' estimate of tax owed (calculated by applying the table calculation to all individual income tax returns), is \$214 million, or 20 times what was paid.¹

Additional Findings

Among the findings of the study, which covered Tax Years 2010 and 2011:

- Illinois' 4.5 percent payment rate was above the national average of 3.9 percent for states that had both a use tax line and a lookup table, but only about half the payment rates seen by the most successful states, Vermont and Maine.
- Nearly 60 percent of those who made a payment paid the exact amount in the lookup table.

- Returns prepared by paid preparers were less likely to have a use tax obligation reported than were self-prepared returns.
- Higher income taxpayers were more likely to make a use tax payment. Use tax payments were made on 3.2 percent of returns with AGI of \$125,000, 3.9 percent of returns with AGI of \$250,000, and 6.1% of returns with AGI of \$500,000.
- Taxpayers who made estimated payments (whom the authors presume to be business owners) were more likely to make use tax payments.
- Taxpayers who made charitable contributions were more likely to make use tax payments, supporting a hypothesis that use tax payments were viewed by some taxpayers as charitable contributions to the state.
- Taxpayers who lived in border counties were (slightly) less likely to make use tax payments, supporting the author's hypothesis that those in border counties drive to another state to save taxes and as a result are less likely to shop online.
- There was no significant relationship between having to make an income tax payment with the return and making a use tax payment.
- Taxpayer behavior is consistent. Fifty percent of taxpayers who made a use tax payment in 2010 also made a payment in 2011, while only 4.4% of those who did not make a 2010 use tax payment did so in 2011.

The authors make the point that because more than half the taxpayers use the lookup table, for

¹ The authors cite studies putting Illinois' loss from Internet transactions from \$169 to \$246 million. Other studies put the losses higher, with the National Conference of State Legislatures using a number for Internet and catalog/phone sales over \$1 billion.

the majority of taxpayers the use tax line serves as a 0.06 percent surcharge on their individual income tax.

The authors also note that the use tax line may reduce horizontal equity (similar treatment of similar taxpayers) because “risk-averse, naïve, or charitable taxpayers may comply while others do not.”

Conclusion

The law that required a use tax line on the Illinois personal income tax return has increased tax collections by \$10 million per year. Despite this, the researchers concluded that it is probable that widespread use tax evasion continues, because Illinois tax filers justifiably believe there is a very small possibility that failure to comply with use

tax requirements will result in any penalty. Until enforcement or self-reporting improves, the addition of a use tax payment line on the IL-1040 may have the (surely) unintended consequence of reducing tax fairness because risk-averse, naïve, or charitable taxpayers may be complying with the use tax obligation while others do not.

The paper is published as: Joanna Koh, David Merriman and Hector M. Vielma “Factors influencing use tax payment in Illinois” p.153-169 in New Research on Tax Administration: An IRS-TPC Conference. 2013 IRS Tax Policy Center Research Conference held in Washington, DC. <http://www.irs.gov/uac/501-Tax-Stats-2013-IRS-TPC-Research-Conference>.

TABLE 1. ILLINOIS USE TAX PAYMENTS BEFORE AND AFTER A USE TAX PAYMENT OPTION WAS ADDED TO PERSONAL INCOME TAX RETURN FORM

Calendar Year	Number of ST-44 Returns	Total Use Tax on ST-44 Returns (million dollars)	Number of IL-1040 Returns	Number of IL-1040 Returns With Nonzero Use Tax Payment	Total Use Tax Payment on IL-1040 Returns (million dollars)
2005	1,857	\$2.58	na	np	np
2006	4,520	\$4.00	na	np	np
2007	6,366	\$5.26	na	np	np
2008	9,801	\$4.86	na	np	np
2009	8,055	\$5.34	na	np	np
2010	6,415	\$6.09	4,747,133	242,412	\$10.22
2011	27,618	\$8.12	5,124,947	329,900	\$10.92
2012	4,256	\$5.94	na	na	na

Note: na=not available, np=not possible. Analysis of IL-1040 is restricted to 5,124,947 matched returns in 2010 and 2011. Dependents, returns with over \$1mm federal Adjusted Gross Income (AGI), returns with zero or negative AGI, and returns of nonresidents are dropped from the analysis. Prior to 2010 it was not possible to make a use tax payment on the IL-1040 form. The large number of ST-44 returns in 2011 is the result of a use tax amnesty in that year. Details are discussed in <http://tax.illinois.gov/Amnesty/Amnesty-FAQs-Use-Tax.htm>.

ILLINOIS GENERAL ASSEMBLY CALENDAR FEBRUARY 2015

<u>SUNDAY</u>	<u>MONDAY</u>	<u>TUESDAY</u>	<u>WEDNESDAY</u>	<u>THURSDAY</u>	<u>FRIDAY</u>	<u>SATURDAY</u>
1	2	SENATE SESSION House Perfunctory SESSION 3	SESSION State of the State 4	SESSION 5	DEADLINE Senate & House LRB Requests 6	7
8	House Perfunctory SESSION 9	10	11	Lincoln's Birthday State Holiday 12	13	14
15	Presidents' Day State Holiday 16	SENATE SESSION 17	Governor's Budget Address SESSION 18	SESSION 19	HOUSE SESSION DEADLINE Intro. of Substantive Senate Bills 20	21
22	23	Municipal Primary Election 24	HOUSE SESSION 25	HOUSE SESSION 26	HOUSE SESSION DEADLINE Intro. of House Bills 27	28

ILLINOIS GENERAL ASSEMBLY CALENDAR MARCH 2015

<u>SUNDAY</u>	<u>MONDAY</u>	<u>TUESDAY</u>	<u>WEDNESDAY</u>	<u>THURSDAY</u>	<u>FRIDAY</u>	<u>SATURDAY</u>
1	2	SESSION 3	SESSION 4	SESSION 5	6	7
Daylight Savings 8	9	SESSION 10	SESSION 11	SESSION 12	13	14
15	16	St. Patrick's Day SESSION 17	SESSION 18	SESSION 19	Spring Begins 20	21
22	23	SESSION 24	SESSION 25	SESSION 26	SESSION Deadline Substantive SB & HB out of Committee 27	28
Palm Sunday 29	30	31				

ILLINOIS GENERAL ASSEMBLY CALENDAR APRIL 2015

<u>SUNDAY</u>	<u>MONDAY</u>	<u>TUESDAY</u>	<u>WEDNESDAY</u>	<u>THURSDAY</u>	<u>FRIDAY</u>	<u>SATURDAY</u>
			1	2	3	4
Easter						
5	6	7	8	9	10	11
12	13	SESSION	SESSION	SESSION	HOUSE SESSION	18
19	HOUSE SESSION	SESSION	SESSION	SESSION	SESSION DEADLINE 3rd Reading Substantive SB & HB	25
26	27	SESSION	SESSION	SESSION		

ILLINOIS GENERAL ASSEMBLY CALENDAR MAY 2015

<u>SUNDAY</u>	<u>MONDAY</u>	<u>TUESDAY</u>	<u>WEDNESDAY</u>	<u>THURSDAY</u>	<u>FRIDAY</u>	<u>SATURDAY</u>
					1	2
3	4	SESSION	SESSION	SESSION	SESSION Deadline Committee Senate Bills	9
Mother's Day		SESSION	SESSION	SESSION	SESSION Deadline Committee House Bills	16
17	Senate PM SESSION House Session	SESSION	SESSION	SESSION	SESSION DEADLINE 3rd Reading SB & HB	23
24 HOUSE SESSION	Memorial Day Senate PM SESSION House SESSION	SESSION	SESSION	SESSION	SESSION	SESSION
SESSION Adjournment	31	25	26	27	28	29
						30

Taxpayers' Federation of Illinois

430 East Vine Street, Suite A
Springfield, IL 62703
V. 217.522.6818
F. 217.522.6823

Return Service Requested

NONPROFIT
ORGANIZATION
U.S. POSTAGE
PAID
Springfield, IL
Permit No. 890

SAVE THE DATE!

2015 SPRING LEGISLATIVE CONFERENCE APRIL 14 & 15

Tuesday, April 14

Inn at 835, Springfield

- 5:30 - 6:30 p.m. Legislative Reception
- 6:45 p.m. Dinner for TFI members and guests

Wednesday, April 15

Sangamo Club, Springfield

- 8:15 a.m. Registration
- 8:30 - 11:00 a.m. Legislative Seminar

Earn MCLE & CPE Credit

Taxpayers' Federation of Illinois
430 East Vine Street, Suite A ♦ Springfield, IL 62703
V. 217.522.6818 ♦ E-mail: tfi@iltaxwatch.org