

**COUNTY CANNABIS RETAILERS' OCCUPATION TAX
ORDINANCE NO. 19-67**

**AN ORDINANCE ESTABLISHING A COUNTY CANNABIS RETAILERS'
OCCUPATION TAX IN THE COUNTY OF MARSHALL, ILLINOIS**

WHEREAS, the County of Marshall, a body politic and corporate of the state of Illinois, Marshall County is a non-home rule unit of local government pursuant to Article VII, § 8 of the 1970 Illinois Constitution; and

WHEREAS, Public Act 101-0027, which is a comprehensive revision of State statues regulating the adult use of cannabis in Illinois, was signed into law on June 25, 2019 with many of its provisions effective January 1, 2020; and

WHEREAS, Public Act 101-0363 was subsequently signed into law increasing the rate of tax that may be imposed by counties upon persons engaged in the business of selling cannabis in a municipality located in that county; and

WHEREAS, the County has the authority to adopt ordinances and to promulgate rules and regulations that protect the public heath, safety and welfare of its citizens; and

WHEREAS, this Ordinance is adopted pursuant to the provisions of the Illinois County Cannabis Retailers' Occupation Tax Law (55 ILCS 5/5-1006.8) (the "Act"); and

WHEREAS, this Ordinance is intended to impose the tax authorized by the Act providing for a county cannabis retailers' occupation tax which will be collected by the Illinois Department of Revenue;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF THE COUNTY OF MARSHALL, ILLINOIS, THAT THIS ORDINACNE ESTABLISHING A COUNTY CANNABIS RETAILERS' OCCUPATION TAX BE AND HEREBY IS ADOPTED AS FOLLOWS:

SECTION I: RECITALS.

The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance

SECTION II: TAX IMPOSED; RATE.

(a) A tax is hereby imposed upon all persons engaged in the business of selling cannabis, other than cannabis purchased under the Compassionate Use of Medical Cannabis Pilot Program Act, at retail locations in the County on the gross receipts from these sales at the following rates:

- (i) [~~up to 3.75% in .25% increments~~] of the gross receipts from these sales made in the course of that business in unincorporated areas of Marshall County; and
- (ii) [~~up to 3.00% in .25% increments~~] of the gross receipts of sales made in a municipality located in Marshall County; and

- (b) The imposition of this tax is in accordance with the provisions of the County Cannabis Retailers' Occupation Tax Law (55 ILCS 5/5-1006.8)

SECTION III: COLLECTION OF TAX BY RETAILERS.

- (a) The tax imposed by this Ordinance shall be remitted by such retailer to the Illinois Department of Revenue (the "Department"). Any tax required to be collected pursuant to or as authorized by this Ordinance and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State. Retailers may reimburse themselves for their seller's tax liability hereunder by separately stating that tax as an additional charge, which may be stated in combination, in a single amount, with any State tax that sellers are required to collect.
- (b) The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department. The Department shall have full power to administer and enforce the provisions of this article.

SECTION IX: SEVERABILITY. The provisions and sections of this Ordinance shall be deemed separable and the invalidity of any portion of this Ordinance shall not affect the validity of the remainder.

SECTION V: EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its passage and approval and publication as required by law, provided, however, that the tax provided for herein shall take effect for all sales on or after the first day of January, 2020. Copies of this Ordinance shall be certified and sent to the Illinois Department of Revenue prior to September 30, 2019.

Passed by the County Board this 12 day of September, 2019.

AYES: 11
NAYS: 0
PRESENT: 11
ABSTAIN/ABSENT: 1

Approved this 12 day of September, 2019.


Vice-CHAIRPERSON, Marshall County

ATTEST


COUNTY CLERK

West's Smith-Hurd Illinois Compiled Statutes Annotated
Chapter 55. Counties
Act 5. Counties Code (Refs & Annos)
Article 5. Powers and Duties of County Boards
Division 5-1. In General

55 ILCS 5/5-1006.8

5/5-1006.8. County Cannabis Retailers' Occupation Tax Law

Effective: August 9, 2019

Currentness

§ 5-1006.8. County Cannabis Retailers' Occupation Tax Law.

(a) This Section may be referred to as the County Cannabis Retailers' Occupation Tax Law. On and after January 1, 2020, the corporate authorities of any county may, by ordinance, impose a tax upon all persons engaged in the business of selling cannabis, other than cannabis purchased under the Compassionate Use of Medical Cannabis Pilot Program Act, at retail in the county on the gross receipts from these sales made in the course of that business. If imposed, the tax shall be imposed only in 0.25% increments. The tax rate may not exceed: (i) 3.75% of the gross receipts of sales made in unincorporated areas of the county; and (ii) 3% of the gross receipts of sales made in a municipality located in the county. The tax imposed under this Section and all civil penalties that may be assessed as an incident of the tax shall be collected and enforced by the Department of Revenue. The Department of Revenue shall have full power to administer and enforce this Section; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties so collected in the manner hereinafter provided; and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty under this Section. In the administration of and compliance with this Section, the Department of Revenue and persons who are subject to this Section shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties, and definitions of terms, and employ the same modes of procedure, as are described in Sections 1, 1a, 1d, 1e, 1f, 1i, 1j, 1k, 1m, 1n, 2 through 2-65 (in respect to all provisions therein other than the State rate of tax), 2c, 3 (except as to the disposition of taxes and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6bb, 6c, 6d, 8, 8, 9, 10, 11, 12, and 13 of the Retailers' Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act as fully as if those provisions were set forth in this Section.

(b) Persons subject to any tax imposed under the authority granted in this Section may reimburse themselves for their seller's tax liability hereunder by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with any State tax that sellers are required to collect.

(c) Whenever the Department of Revenue determines that a refund should be made under this Section to a claimant instead of issuing a credit memorandum, the Department of Revenue shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified and to the person named in the notification from the Department of Revenue.

(d) The Department of Revenue shall immediately pay over to the State Treasurer, ex officio, as trustee, all taxes and penalties collected hereunder for deposit into the Local Cannabis Consumer Excise Tax Trust Fund.

(e) On or before the 25th day of each calendar month, the Department of Revenue shall prepare and certify to the Comptroller the amount of money to be disbursed from the Local Cannabis Consumer Excise Tax Trust Fund to counties from which retailers have paid taxes or penalties under this Section during the second preceding calendar month. The amount to be paid to each county shall be the amount (not including credit memoranda) collected under this Section from sales made in the county during the second preceding calendar month, plus an amount the Department of Revenue determines is necessary to offset any amounts that were erroneously paid to a different taxing body, and not including an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of such county, and not including any amount that the Department determines is necessary to offset any amounts that were payable to a different taxing body but were erroneously paid to the county, less 1.5% of the remainder, which the Department shall transfer into the Tax Compliance and Administration Fund. The Department, at the time of each monthly disbursement to the counties, shall prepare and certify the State Comptroller the amount to be transferred into the Tax Compliance and Administration Fund under this Section. Within 10 days after receipt by the Comptroller of the disbursement certification to the counties and the Tax Compliance and Administration Fund provided for in this Section to be given to the Comptroller by the Department, the Comptroller shall cause the orders to be drawn for the respective amounts in accordance with the directions contained in the certification.

(f) An ordinance or resolution imposing or discontinuing a tax under this Section or effecting a change in the rate thereof shall be adopted and a certified copy thereof filed with the Department on or before the first day of June, whereupon the Department shall proceed to administer and enforce this Section as of the first day of September next following the adoption and filing.

Credits

P.A. 86-962, Art. 5, § 5-1006.8, added by P.A. 101-27, § 900-25, eff. June 25, 2019. Amended by P.A. 101-363, § 33, eff. Aug. 9, 2019.

55 I.L.C.S. 5/5-1006.8, IL ST CH 55 § 5/5-1006.8

Current through P.A. 101-66. Some statute sections may be more current, see credits for details.