

HINSHAW

& CULBERTSON LLP

ATTORNEYS AT LAW

400 South Ninth Street
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Springfield, IL 62701-1908

217-528-7375
217-528-0075 (fax)
www.hinshawlaw.com

December 16, 2014

Mr. William McCarty
Director of Office of Budget and Management
City of Springfield
Municipal Center West
300 South 7th Street
Springfield, IL 62701

Dear Mr. McCarty:

Pursuant to the Federal Aviation Administration's amended *Policy and Procedures Concerning the Use of Airport Revenue; Proceeds From Taxes on Aviation Fuel*, as published in the Federal Register Volume 79, No. 216 on November 7, 2014, the Springfield Airport Authority is informing taxing authorities of the Federal requirements for use of aviation fuel tax revenues.

In accordance with the Policy, the City of Springfield is obligated to transfer any sales taxes collected from the sale of aviation fuel to the Airport Authority to be spent for permitted purposes as described in Section IV.A of the Policy; specifically, *the revenues generated by a public airport will be expended for the capital or operating costs of the airport.*

While some airports are owned and operated as a department under the jurisdiction and responsibility of a county or city municipal corporation, such tax receipts may be used to offset capital and operating expenses via some sort of interfund transfer to an airport account within the organization; however, the circumstances are different when an airport is independently owned and operated by an airport authority, for example. As such, it appears that the City of Springfield is required to return sales tax revenues derived from aviation fuel sales to the Springfield Airport Authority.

Currently the City of Springfield collects home rule sales tax on aviation fuel sales at the rate of 2.25%. In addition, the City receives 1.00% of aviation fuel sales from the 6.25% of taxes collected by the State of Illinois. While the Policy does not provide details as to the frequency of such refunds, we would suggest returning such funds no less than 30 days after the conclusion of each calendar quarter, starting on January 1, 2015.

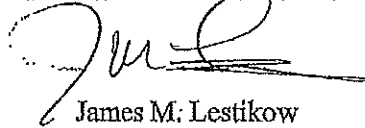
Mr. William McCarty
Page Two
December 16, 2014

We understand that you may not know exactly how much in taxes each retailer pays to the State of Illinois and they, in turn, reimburse to you. As such, the Authority will provide the City with a monthly affidavit certifying the gross sales of fuel at Abraham Lincoln Capital Airport and our calculation of the applicable taxes for reimbursement to the Airport Authority.

We respectfully request that the City of Springfield conform to this Federal Policy. Please contact me should you have questions regarding this Federal Policy.

Sincerely,

HINSHAW & CULBERTSON LLP



James M. Lestikow
Springfield Airport Authority Board of Commissioners
jlestikow@hinshawlaw.com

JML/gh

cc: Jim Keefer, Manager - FAA Chicago Airports District Office
Mark Hanna, Executive Director, Springfield Airport Authority

Enclosures: Federal Register 11/07/2014, 66282-66288
Federal Register 02/16/1999, 7696-7723

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December 19, 2014

Mr. Brian McFadden
County Administrator
Sangamon County Complex
200 South Ninth Street
Springfield, IL 62701

Dear Mr. McFadden:

Pursuant to the Federal Aviation Administration's amended *Policy and Procedures Concerning the Use of Airport Revenue; Proceeds From Taxes on Aviation Fuel*, as published in the Federal Register Volume 79, No. 216 on November 7, 2014, the Springfield Airport Authority is informing taxing authorities of the Federal requirements for use of aviation fuel tax revenues.

In accordance with the Policy, the City of Springfield is obligated to transfer any sales taxes collected from the sale of aviation fuel to the Airport Authority to be spent for permitted purposes as described in Section IV.A of the Policy; specifically, *the revenues generated by a public airport will be expended for the capital or operating costs of the airport.*

While some airports are owned and operated as a department under the jurisdiction and responsibility of a county or city municipal corporation, such tax receipts may be used to offset capital and operating expenses via some sort of interfund transfer to an airport account within the organization; however, the circumstances are different when an airport is independently owned and operated by an airport authority, for example. As such, it appears that Sangamon County is required to return sales tax revenues derived from aviation fuel sales to the Springfield Airport Authority.

Currently Sangamon County receives 0.25% of aviation fuel sales from the 6.25% of taxes collected by the State of Illinois. While the Policy does not provide details as to the frequency of such refunds, we would suggest returning such funds no less than 30 days after the conclusion of each calendar quarter, starting on January 1, 2015.

Mr. Brian McFadden
Page Two
December 16, 2014

We understand that you may not know exactly how much in taxes each retailer pays to the State of Illinois and they, in turn, reimburse to you. As such, the Authority will provide the County with a monthly affidavit certifying the gross sales of fuel at Abraham Lincoln Capital Airport and our calculation of the applicable taxes for reimbursement to the Airport Authority.

We respectfully request that Sangamon County conform to this Federal Policy. Please contact me should you have questions regarding this Federal Policy.

Sincerely,

HINSHAW & CULBERTSON LLP



James M. Lestikow

Springfield Airport Authority Board of Commissioners
jlestikow@hinshawlaw.com

JML/gh

cc: Jim Keefer, Manager - FAA Chicago Airports District Office
Mark Hanna, Executive Director, Springfield Airport Authority

Enclosures: Federal Register 11/07/2014, 66282-66288
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March 30, 2015

Mr. Mark Hanna
Executive Director
Springfield Airport Authority
1200 Capital Airport Drive
Springfield, IL 62707

Re: Aviation Fuel Sales Tax

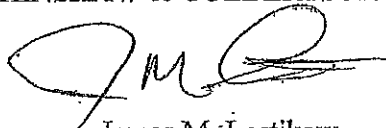
Dear Mark:

Please find enclosed the letter I received from the Sangamon County State's Attorney's Office regarding my letter to Brian McFadden. He is correct that taxes in effect on December 30, 1987 are grandfathered and not covered under the statute 49 USC §47107(b). We all apparently missed that, as it was stated in the last line on Page 7696 of the Federal Register, a copy of which we sent to the City and County.

I am also enclosing a follow-up letter I am sending to William McCarty who I have not heard from, clarifying that if the tax was enacted prior to December 30, 1987, they can disregard the letter I sent on December 16, 2014. A copy of that letter is enclosed.

Sincerely,

HINSHAW & CULBERTSON LLP



James M. Lestikow

jlestikow@hinshawlaw.com

JML/gh

Enclosures

cc: Jim Keefer, Manager -- FAA Chicago Airports District Office



JOHN MILHISER
SANGAMON COUNTY
STATE'S ATTORNEY

Room 402 County Complex
200 South Ninth Street
Springfield, IL 62701

Telephone: 217/753-6690
Facsimile: 217/535-3179

James M. Lestikow
Hinshaw and Culbertson, LLP
400 South Ninth St. Suite 200
Springfield, IL 62701

March 11, 2015

RE: Aviation Fuel Taxes

Mr. Lestikow,

Our office is in receipt of your December 19th letter to Mr. McFadden regarding the amended policy and procedures regarding taxes on aviation control. After a thorough review of the amended rules and procedures it is the County's position that we are not obligated to transfer the sales tax proceeds collected from the sale of aviation fuel to the Airport Authority. The rules and statute clearly states that taxes that were in effect on December 30, 1987 are grandfathered in and not subject to the Federal Regulations. The Illinois Use Tax was in effect prior to December 30, 1987.

Sincerely,

JOHN MILHISER
SANGAMON COUNTY STATE'S ATTORNEY

BY:


Andrew Affrunti
Assistant State's Attorney

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& CULBERTSON LLP

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400 South Ninth Street
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March 30, 2015

Mr. William McCarty
Director of Office of Budget and Management
City of Springfield
Municipal Center West
300 South 7th Street
Springfield, IL 62701

Re: Aviation Fuel Tax

Dear Mr. McCarty:

I wrote to you back on December 16, 2014, with a follow-up on February 18, 2015 regarding the policy of the Federal Aviation Administration's procedures concerning the use of airport revenue; and proceeds from taxes on aviation fuel. I failed to note at the time that local sales taxes on aviation fuel enacted before December 30, 1987 are exempt from rule. If you can confirm the enactment was prior to that date, you may disregard our request. If not, please let me know what action has been or will be initiated to comply with the FAA policy.

Thank you for your cooperation.

Sincerely,

HINSHAW & CULBERTSON LLP

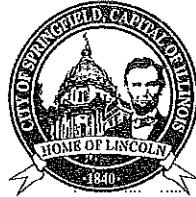


James M. Lestikow

Springfield Airport Authority Board of Commissioners
jlestikow@hinshawlaw.com

JML/gh

cc: Jim Keefer, Manager - FAA Chicago Airports District Office
Mark Hanna, Executive Director, Springfield Airport Authority



OFFICE OF BUDGET AND MANAGEMENT
CITY OF SPRINGFIELD, ILLINOIS

WILLIAM D. McCARTY II
DIRECTOR

April 1, 2015

Mr. James M. Lestikow
Springfield Airport Authority Board of Commissioners
c/o Hinshaw & Culbertson LLP
400 S. Ninth Street Suite 200
Springfield, IL 62701-1908

Re: Aviation Fuel Tax

Dear Mr. Lestikow:

In regards to your letter of March 30, 2015, I can confirm that our local sales tax was enacted prior to December 30, 1987. Ordinance Number 798-7-84 was passed on July 31, 1984.

The effective date of the tax, per Section 3 of the ordinance, was October 1, 1984. We can provide of copy of the ordinance upon request.

We will disregard your request for payment to the Springfield Airport Authority from local tax proceeds on aviation fuel.

Thank you,

William D. McCarty II
Director
Office of Budget & Management
City of Springfield

WDM/dw

Cc: Todd Greenburg, Corporation Counsel-City of Springfield

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& CULBERTSON LLP

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April 8, 2015

Mr. William McCarty
Director of Office of Budget and Management
City of Springfield
Municipal Center West
300 South 7th Street
Springfield, IL 62701

Re: Springfield Airport Authority – Sales Tax on Fuel

Dear Mr. McCarty:

I did have one follow-up question regarding the sales tax levy issue. Have there been any additional incremental taxes levied through home rule powers or otherwise since the original 1984 tax levy? If so, we believe the FAA rules regarding use for airport purposes for those funds would be applicable. Please advise.

Sincerely,

HINSHAW & CULBERTSON LLP



James M. Lestikow

Springfield Airport Authority Board of Commissioners
jlestikow@hinshawlaw.com

JML/gh

cc: Mark Hanna, Executive Director, Springfield Airport Authority

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& CULBERTSON LLP

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www.hinshawlaw.com

May 14, 2015

Mr. William McCarty
Director of Office of Budget and Management
City of Springfield
Municipal Center West
300 South 7th Street
Springfield, IL 62701

Re: Springfield Airport Authority – Sales Tax on Fuel

Dear Mr. McCarty:

When you responded to the Springfield Airport Authority's request for compliance with the Federal Aviation Administration's amended *Policy and Procedures Concerning the Use of Airport Revenue; Proceeds From Taxes on Aviation Fuel*, as published in the Federal Register Volume 79, No. 216 on November 7, 2014, regarding remitting to the Authority sales tax on aviation fuel revenues, you indicated, properly so, that the sales tax on aviation fuel was enacted before the effective date of the Federal Regulations and hence grandfathered as provided in the Regulations.

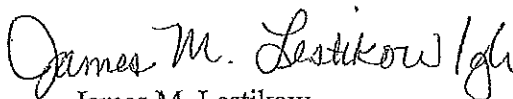
Pursuant to a FOIA request by the Springfield Airport Authority, they received the enclosed documentation clearly indicating that the City's home rule supplement to the sales tax, currently at the rate of 2.25%, went into effect in 1990 and is therefore not grandfathered by the Regulations as is the base sales tax. The Authority is mandated by its governing body, the FAA, to seek compliance with the Regulations. Therefore, the Authority requests that arrangements be made to comply with the Regulations to determine the remittance to be made to the Airport Authority for the tax on aviation fuel sales since the applicable date established by the Regulations, and to establish a protocol for compliance with future tax revenues. Your contact with regard to same is Michael Olinger, the Airport Authority's Financial Officer. His telephone number is 217-788-9213, and his email is molinger@flyspi.com.

May 15, 2015
Page 2

If you have any questions regarding this request, please direct them to me. I would also appreciate being copied in on the communications with Mr. Olinger pertaining to the compliance requested.

Sincerely,

HINSHAW & CULBERTSON LLP

Handwritten signature of James M. Lestikow in cursive script.

James M. Lestikow

Springfield Airport Authority Board of Commissioners
jlestikow@hinshawlaw.com

JML/gh

Enclosure

cc: Mark Hanna, Executive Director, Springfield Airport Authority
Jim Keefer, Manager - FAA Chicago Airports District Office



OFFICE OF BUDGET AND MANAGEMENT
CITY OF SPRINGFIELD, ILLINOIS

JAMES O. LANGFELDER, MAYOR
WILLIAM D. MCCARTY II
DIRECTOR

May 26, 2015

James M Lestikow
Hinshaw & Culbertson LLP
400 South Ninth Street
Suite 200
Springfield, IL 62701

RE: Springfield Airport Authority – Sales Tax on Fuel

Mr. Lestikow,

I am in receipt of your letter dated May 14, 2015, regarding the Springfield Airport Authority. In that letter, you state that the city's home rule tax was not implemented until 1990. That is incorrect.

The city's home rule tax was implemented in 1984 (see enclosure). Prior to 1990, the city collected the tax on its own. That changed in 1990 when city ordinance 461-5-90 authorized collection of the tax to be administered by the Illinois Department of Revenue. I've enclosed documentation for reference.

Given this information, we continue to believe that our tax is grandfathered per the Federal Regulations you reference in your letter. Should you wish to discuss this issue any further, please direct your correspondence to James Zerkle, Corporation Council for the City of Springfield with a carbon copy to me.

Best Regards,



William D. McCarty II

Enclosure

Cc: James Zerkle, Corporation Counsel – City of Springfield

ORDINANCE AMENDING CHAPTER 41
OF THE CODE OF THE CITY OF
SPRINGFIELD, 1953, AS AMENDED, BY
AMENDING SECTION 41.41 THEREOF
WITH RESPECT TO HOTEL/MOTEL
ROOM TAX AND ADDING ARTICLE IX
THERETO WITH RESPECT TO SALES
TAX.

ORD.# 798-7-84

Be It Ordained By The City Council Of The City Of Springfield:

SECTION 1: Chapter 41 of the Code of the City of Springfield, 1953, as amended, is further amended by adding thereto Article IX to read as follows:

ARTICLE IX. SPRINGFIELD SALES TAX

Section 41.60 Title. This Article shall be known and may be cited as the Springfield Sales Tax. The tax herein imposed is in addition to all other taxes imposed by the City of Springfield, the State of Illinois, or any other municipal corporation or political subdivision thereof.

Section 41.61 Definitions. For the purposes of this Article, when any of the following words or terms are used herein they shall have the meaning or construction ascribed to them in this Section:

"Sale at Retail" means any transfer of the ownership of or title to tangible personal property to a purchaser, for the purpose of use or consumption, and not for the purpose of resale in any form as tangible personal property to the extent not first subjected to a use for which it was purchased, for a valuable consideration; provided that the property purchased is deemed to be purchased for the purpose of resale despite first being used, to the extent to which it is resold as an ingredient of an intentionally produced product or by-product of manufacturing. For this purpose, slag produced as an incident to manufacturing pig iron or steel and sold is considered to be an intentionally produced by-product of manufacturing. Transactions whereby the possession of the property is transferred but the seller retains the title as security for payment of the selling price shall be deemed to be sales. "Sale at Retail" shall be construed to include any transfer of the ownership of or title to tangible personal property to a purchaser, for use or consumption by any other person to whom such purchaser may transfer the tangible personal property without a valuable consideration, and to include any transfer, whether made for or without a valuable consideration, for resale in any form as tangible personal property unless made in compliance with Section 41.66 of this Chapter. Sales of tangible personal property which property, to the extent not first subjected to a use for which it was purchased, as an ingredient or constituent, goes into and forms a part of tangible personal property subsequently the subject of a "sale at retail", are not

ORD.# 798-7-84



Illinois Department of Revenue

101 West Jefferson Street
Springfield, Illinois 62794

May 23, 1990

Tax Administration Division
Office of City Comptroller
City of Springfield
Room 208 Municipal Building
Springfield, Illinois 62701

Attention: Dallas Whitford

Dear Mr. Whitford:

This is to acknowledge receipt of the City of Springfield's Ordinance No. 461-5-90, imposing the Home Rule Municipal Retailers' Occupation Tax and the Home Rule Municipal Service Occupation Tax at a rate of 1%, respectively. The Illinois Department of Revenue shall collect, administer, and enforce such Home Rule Municipal Retailers' Occupation Tax and Home Rule Municipal Service Occupation Tax effective September 1, 1990, in accordance with Sections 8-11-1 and 8-11-5 of the "Illinois Municipal Code" (ch. 24, pars. 8-11-1 and 8-11-5 of Ill. Rev. Stat. (1987), as amended). The "Home Rule Municipal Retailers' Occupation Tax" and the "Home Rule Municipal Service Occupation Tax" contained herein do not apply on the sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food which has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics.

If you have any questions regarding this matter, contact me at the number shown below.

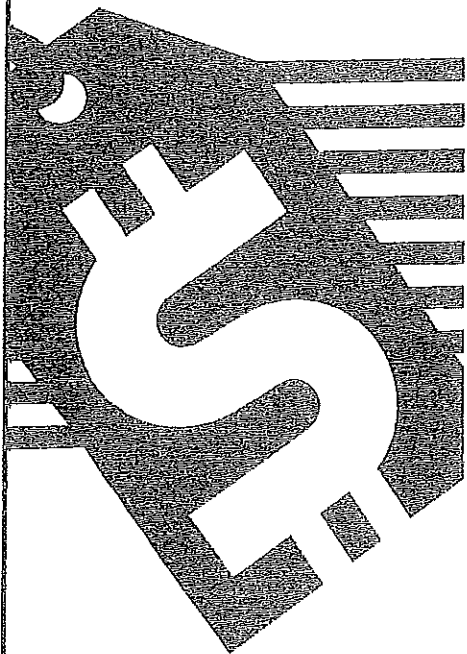
Very truly yours,

Archie Lawrence
Staff Attorney
Legal Services Bureau
Springfield Office
Phone: (217) 782-7054

AL:ph

Home Rule Sales Taxes

The Transition to Collections
By the Illinois Department of Revenue



Local governments in Illinois are required to collect and remit sales taxes to the State of Illinois. This is a new requirement for many local governments, and it is important that they understand the requirements and the process of collection and remittance.

The State of Illinois has a sales tax rate of 6.25 percent. This rate is composed of a 4.75 percent state sales tax and a 1.5 percent local sales tax. The local sales tax rate is determined by the local government, and it can vary from 0 percent to 1.5 percent. The total sales tax rate for a local government is the sum of the state sales tax rate and the local sales tax rate.

About the Home Rule Sales Taxes

The state's new sales tax reform laws authorize home rule municipalities and counties to impose a sales tax (in 1/4 percent increments) to be collected by the Department of Revenue. Ordinances were to be filed with the Department by June 1 to authorize the Department to begin those collections, starting with the September 1990 tax liability.

A total of 31 home rule municipalities have filed such ordinances. Of these, 22 currently impose and collect such taxes themselves, and nine have newly imposed taxes, all of which will be collected by the state.

The tax is imposed in 1/4 percent increments, with no maximum rate, no caps and no ceilings. Currently, the municipalities have rates that range from 0.25 to 1.0 percent.

This tax has the same tax base as the state tax. This means that the same exemptions apply to the local tax as apply to the state tax -- WITH TWO IMPORTANT EXCEPTIONS: (1) vehicles registered and titled with the state, and (2) the one-year phase out allowed for food and drugs.

Payments

Timing of the first check

The first checks for home rule taxes collected by the state will be issued in December 1990. This will represent tax collections on sales made in September.

Monthly notification of payments

The Department of Revenue will send a letter each month notifying the municipality's financial officer that the check has been authorized and confirming the amount to be sent to that specific municipality.

How to identify these payments

All state checks have identifying numbers in the middle of the warrant. We will let you know what the code number on the warrant will be for home rule taxes as soon as the Comptroller's Office assigns that number. (Note: The code number for the regular sales tax is 189-49230-4491-00-99-91.)

HINSHAW

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June 9, 2015

Via Email

Mr. Mark Hanna
Executive Director
Springfield Airport Authority
1200 Capital Airport Drive
Springfield, IL 62707

Mr. Michael Olinger
Director of Administration and Finance
Springfield Airport Authority
1200 Capital Airport Drive
Springfield, IL 62707

Re: Use of Sales Tax

Gentlemen:

Following the receipt of the letter from William McCarty dated May 26, 2015, you have asked me to resubmit the request for remittance of home rule sales taxes in the amount that they have been increased since the tax in effect on December 30, 1987. However, the specific language of the statute at 49 U.S.C. §47101(b) is as follows:

"(1) . The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the secretary receives written assurances, satisfactory to the Secretary, that local taxes on aviation fuel (except taxes in effect on December 30, 1987) and the revenues generated by a public airport will be expended for the capital or operating costs of..."

The annotated statutes do not show any reported court decisions interpreting the words "taxes in effect on December 30, 1987." Clearly, from the City's response, the home rule sales tax was in effect on December 30, 1987. Thus, under the plain meaning of the words used, a tax, already imposed, in and of itself, is totally exempt. I believe the statutory language would need to have additional words if the grandfathering provision was limited to only the tax at the rate in effect at the time of the deadline by saying something like, "except taxes, at the rate imposed by the taxing body, in effect on December 30, 1987." From a practical perspective, it would be very difficult to monitor partially exempt sales taxes to discover each rate increase after 12/30/1987, and attempt to obtain compliance by the taxing entity.

I have not found any support for the theory that the approval of the rate change effectively creates a new tax replacing the tax at its prior rate. By analogy, the Federal Estate

Building on the Barger Tradition

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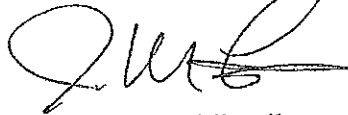
Arizona California Florida Illinois Indiana Massachusetts Minnesota Missouri New York Rhode Island Wisconsin ♦ London

Mr. Mark Hanna
Mr. Michael Olinger
June 9, 2015
Page 2

Tax has been continuously in effect since it was imposed in 1916, and the multitude of tax rate changes has never been found to have repealed the earlier tax and immediately imposing a new tax at the higher rate. Therefore, I believe that SAA can provide the assurances to the Secretary of Transportation at such time as project grant applications are filed, that it has made due and diligent inquiry and has determined that all county and city sales taxes imposed on aviation fuel were enacted prior to December 30, 1987, and hence not subject to being utilized for airport purposes.

Sincerely,

HINSHAW & CULBERTSON LLP

A handwritten signature in dark ink, appearing to read 'JML', with a horizontal line extending from the end of the signature.

James M. Lestikow

jlestikow@hinshawlaw.com

JML/gh

cc: Mr. Frank J. Vala, Chairman

HINSHAW

& CULBERTSON LLP

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400 South Ninth Street
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June 17, 2015

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Via Email: randall.fiertz@faa.gov

Randall Fiertz
Director, Airport Compliance and Management Analysis
Federal Aviation Administration

Re: City of Springfield Home Rule Sales Tax Ordinances /
Springfield Airport Authority

Dear Mr. Fiertz:

This firm represents the Springfield Airport Authority. Pursuant to 49 U.S.C. 47107(b), we have made a request to the City of Springfield regarding the potential for the recovery of sales tax on aviation fuel collected since the effective date of the Act. The City's initial response was that the sales tax was enacted prior to the effective date of the law, December 30, 1987, and therefore, was exempt. We then followed up with a letter on May 14, 2015 based upon a FOIA request for information regarding the City's Home Rule Sales Tax, suggesting that those increases, taking effect after the effective date of the law, would not be grandfathered as was the initial sales tax.

Their response was to again assert that the original Home Rule Sales Tax ordinance predated the law in a letter dated May 26, 2015.

The Authority then followed up with a second FOIA request asking for the actual ordinances, copies of which are enclosed. Pursuant to the response to questions from NASAO members published on February 25, 2015, the documents are submitted to the FAA for review in order to confirm that the City of Springfield's assertion that they are in compliance with the federal requirements. Our question is, "Are the ordinances beginning with the one signed on March 5, 2004 increasing the tax rate by amending Section 100.52 of the 1988 City of Springfield Code of Ordinances merely rate increases or do they in fact impose a new tax?" Upon receipt of your response, the Springfield Airport Authority will consider whether further action is needed. Thank you for your consideration of this matter.

Sincerely,

HINSHAW & CULBERTSON LLP



James M. Lestikow
217-467-4913
jlestikow@hinshawlaw.com

JML/gh

cc: Mark Hanna
Frank Vala

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Building on the Barger Tradition

CITY OF SPRINGFIELD

ORDINANCE NO. 798-7-84

ORDINANCE AMENDING CHAPTER 41
OF THE CODE OF THE CITY OF
SPRINGFIELD, 1953, AS AMENDED, BY
AMENDING SECTION 41.41 THEREOF
WITH RESPECT TO HOTEL/MOTEL
ROOM TAX AND ADDING ARTICLE IX
THERE TO WITH RESPECT TO SALES
TAX.

PASSED BY THE CITY COUNCIL OF
THE CITY OF SPRINGFIELD, ILLINOIS
ON JULY 31, 1984.

Published in pamphlet form
by authority of the City
Council of the City of
Springfield, Illinois, this 14th
day of August, 1984.

ORDINANCE AMENDING CHAPTER 41
OF THE CODE OF THE CITY OF
SPRINGFIELD, 1953, AS AMENDED, BY
AMENDING SECTION 41.41 THEREOF
WITH RESPECT TO HOTEL/MOTEL
ROOM TAX AND ADDING ARTICLE IX
THERETO WITH RESPECT TO SALES
TAX.

ORD.# 798-7-84

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Section 41.60 Title. This Article shall be known and may be cited as the Springfield Sales Tax. The tax herein imposed is in addition to all other taxes imposed by the City of Springfield, the State of Illinois, or any other municipal corporation or political subdivision thereof.

Section 41.61 Definitions. For the purposes of this Article, when any of the following words or terms are used herein they shall have the meaning or construction ascribed to them in this Section:

"Sale at Retail" means any transfer of the ownership of or title to tangible personal property to a purchaser, for the purpose of use or consumption, and not for the purpose of resale in any form as tangible personal property to the extent not first subjected to a use for which it was purchased, for a valuable consideration; provided that the property purchased is deemed to be purchased for the purpose of resale despite first being used, to the extent to which it is resold as an ingredient of an intentionally produced product or by-product of manufacturing. For this purpose, slag produced as an incident to manufacturing pig iron or steel and sold is considered to be an intentionally produced by-product of manufacturing. Transactions whereby the possession of the property is transferred but the seller retains the title as security for payment of the selling price shall be deemed to be sales. "Sale at Retail" shall be construed to include any transfer of the ownership of or title to tangible personal property to a purchaser, for use or consumption by any other person to whom such purchaser may transfer the tangible personal property without a valuable consideration, and to include any transfer, whether made for or without a valuable consideration, for resale in any form as tangible personal property unless made in compliance with Section 41.66 of this Chapter. Sales of tangible personal property which property, to the extent not first subjected to a use for which it was purchased, as an ingredient or constituent, goes into and forms a part of tangible personal property subsequently the subject of a "sale at retail", are not

ORD.# 798-7-84

ORD.# 798-7-84

sales at retail as defined in this Article. "Sale at Retail" includes any transfer of ownership of or title to tangible personal property for use or consumption incidental to a sale of a service. "Sale at retail" shall also be construed to include any City florist's sales transaction in which a purchase order is received in the City by a florist and the sale is for use or consumption, but the City florist has a florist outside of the City deliver the property to the purchaser or the purchaser's donee outside the City.

"Purchase at retail" means the acquisition of the ownership of or title to tangible personal property through a sale at retail.

"Purchaser" means any person who, through a sale at retail, acquires the ownership of or title to tangible personal property for a valuable consideration.

"Use" means the exercise by any person of any right to or power over tangible personal property incident to the ownership of that property, except that it does not include the sale of such property in any form as tangible personal property in the regular course of business to the extent that such property is not first subjected to a use for which it was purchased, and does not include the use of such property by its owner for sales demonstration purposes; provided that the property purchased is deemed to be purchased for the purpose of resale, despite first being used, to the extent to which it is resold as an ingredient of an intentionally produced product or by-product of manufacturing. "Use" does not mean the interim use of tangible personal property by a retailer before he sells such tangible personal property and does not mean the physical incorporation of tangible personal property, to the extent not first subjected to a use for which it was purchased, as an ingredient or constituent into other tangible personal property (a) which is sold in the regular course of business or (b) which the person incorporating such ingredient or constituent therein has undertaken at the time of such purchase to cause to be transported (i) in interstate commerce to destinations outside the State of Illinois or (ii) to destinations outside the City and within the State of Illinois.

"Selling price" means the consideration for a sale by retail valued in money whether received in money or otherwise, including cash, credits, property, other than as hereinafter provided, and services, but not including the value of or credit given for traded-in tangible personal property where the item that is traded-in is of like kind and character as that which is being sold, and shall be determined without any deduction on account of the cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever, but shall not include (a) interest or finance charges which appear as separate items on the bill of sale or sales contract, (b) the proceeds of any mandatory service charge which is separately stated on customers' bills for purchase and consumption of food and beverages, if all of the proceeds of the service charge are in fact turned over to the employees who would normally have received tips had the service charge policy not been introduced or (c) charges that are added to the price by the seller on account of the seller's duty to

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collect, from the purchaser the tax imposed upon the purchaser under this Article or on account of a tax liability imposed upon the seller or the purchaser under any other ordinance of the City or of any other unit of local government or under any law of the State of Illinois upon or in connection with such sale purchase or use. "Selling price" shall include consideration for a sale at retail incidental to a sale of service to the extent such consideration constitutes cost price as defined in the State of Illinois Service Use Tax. The phrase "like kind and character" shall be liberally construed (including but not limited to any form of motor vehicle for any form of motor vehicle, or any kind of farm or agricultural implement for any other kind of farm or agricultural implement), while not including a kind of item which, if sold at retail by that retailer, would be exempt from tax hereunder as an isolated or occasional sale.

"Receipts" from sales of tangible personal property at retail with respect to any period of time means the aggregate selling price, as hereinbefore defined, received by a seller during such period of time. In the case of charge and time sales, receipts include compensation only as and when payments are received by the seller.

"Retailer" means every person engaged in the business of making sales at retail as defined in this Section.

"Tax Collector" means a "retailer" maintaining a place of business in the City or a retailer authorized by the Department to collect the tax herein imposed pursuant to Sections 41.64 and 41.65 hereof.

"Retailer maintaining a place of business in the City", or any like term shall mean and include any retailer having or maintaining within the City, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business or any agent or other representative operating within the City under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in the City.

"City" means the City of Springfield, Illinois.

"Department" means the Department of Accounts and Finances of the City.

"Director" means the City Comptroller.

"Person" means any natural individual, firm, society, foundation, institution, partnership, association, joint stock company, joint adventure, public or private corporation, or a receiver, executor, trustee, conservator, or other representative appointed by order of any court.

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"Bulk vending machine" means a non-electrically operated vending machine, containing unsorted confections, nuts or other merchandise which, when a coin of a denomination not larger than one cent is inserted, are dispensed in equal portions, at random and without selection by the customer.

"Pollution control facilities" means any system, method, construction, device or appliance appurtenant thereto sold or used or intended for the primary purpose of eliminating, preventing, or reducing air or water pollution, as the term "air pollution" or "water pollution" is defined in the "Environmental Protection Act", enacted by the 76th Illinois General Assembly, as amended, or for the primary purpose of treating, pretreating, modifying or disposing of any potential solid, liquid or gaseous pollutant which if released without such treatment, pretreatment, modification or disposal might be harmful, detrimental or offensive to human, plant or animal life, or to property.

"Low sulphur dioxide emission coal fueled device" means any device sold or used or intended for the purpose of burning, combusting or converting locally available coal in a manner which eliminates or significantly reduces the need for additional sulphur dioxide abatement that would otherwise be required under State or Federal air emission standards.

"Corporation, society, association, foundation or institution organized and operated exclusively for educational purposes" means: all tax-supported public schools; private schools which offer systematic instruction in useful branches of learning by methods common to public schools and which compare favorably in their scope and intensity with the course of study presented in tax-supported schools; vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business or commercial occupation. However, ~~a corporation, society, association, foundation or institution organized and~~ operated for the purpose of offering professional, trade, or business seminars of short duration, self-improvement or personality development courses, courses pursued entirely by open circuit television or radio, correspondence courses, or courses which do not provide specialized training within a specific vocational or technical field shall not be considered to be organized and operated exclusively for educational purposes.

Section 41.62 Tax Imposed. Except as provided in Section 41.63 every purchaser of tangible personal property through a sale at retail in the City after September 30, 1984, shall be liable for a tax on the purchase at the rate of 1% of the selling price of such property. Except as provided in Section 41.63, every owner or user of tangible personal property purchased through a sale at retail outside the City after September 30, 1984, shall be liable for a tax on the privilege of using such property in the City at the rate of 1% of the selling price of such property. Evidence that tangible personal property was sold by any person for delivery to a person residing or engaged in business in the City shall

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be prima facie evidence that such tangible personal property was sold for use in the City.

For a purchase or use of tangible personal property to be taxable under this Chapter, the tangible personal property must have been purchased from a retailer.

If the property that is purchased at retail from a retailer is acquired outside the City and used outside the City before being brought to the City for use here, the use here is nevertheless taxable hereunder, however, the "selling price" on which the tax is computed shall be reduced by an amount which represents a reasonable allowance for depreciation for the period of such prior out-of-City use.

The tax imposed hereunder and the obligation to pay the same is upon the purchaser. The tax imposed hereunder shall be collected from the purchaser by the tax collector, as defined in Section 41.61 hereof, and remitted to the Department as provided herein. The tax collector shall be liable to the City for the amount of tax he is required to collect. Retailers shall collect the tax from the purchasers by adding the tax to the selling price of tangible personal property when sold for use, in the manner prescribed by the Department. Whenever possible the tax imposed by this Article, shall, when collected, be stated as a distinct item separate and apart from the selling price of the tangible personal property. The Department may adopt and promulgate reasonable rules and regulations for the adding of such tax by retailers to selling prices by prescribing bracket systems for the purpose of enabling such retailers to add and collect as far as practicable the amount of such tax. The tax hereby imposed and not paid to a retailer pursuant to this section shall be paid to the Department directly by any person purchasing or using such property within the City, pursuant to Section 41.69 hereof. If any seller collects an amount (however designated) which purports to constitute taxes measured by receipts which are not subject to such tax, or if any seller, in collecting an amount (however designated) which purports to constitute taxes measured by receipts which are subject to tax under this Article, collects more from the purchaser than the actual tax liability on the transaction, the purchaser shall have a legal right to claim a refund of such amount from such seller. However, if such amount is not refunded to the purchaser for any reason, the seller is liable to pay such amount to the Department. This paragraph does not apply to an amount collected by the seller on receipts which are subject to tax under this Article as long as such collection is made in compliance with the tax collection brackets prescribed by the Department in its rules and regulations.

Section 41.63 Transactions Not Subject To Tax. Purchases or uses of tangible personal property under the following circumstances shall not be subject to the tax imposed by this Article.

- (a) purchase or use of farm chemicals.

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(b) purchase or use of farm machinery and equipment costing \$1000 or more, both new and used, and including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture, including any individual replacement part for such machinery and equipment which part costs in excess of \$1,000, and including such machinery and equipment purchased for lease and excluding motor vehicles required to be registered pursuant to "The Illinois Vehicle Code". As used herein, "production agriculture" means the raising of or the propagation of: livestock; crops for sale for human consumption; crops for livestock consumption; the production seed stock grown for the propagation of feed grains and the husbandry of animals or, for the purpose of providing a food product, including the husbandry of blood stock as a main source of providing a food product. As used herein, "production agriculture" also means animal husbandry, floriculture, horticulture and viticulture.

(c) purchase or use of distillation machinery and equipment, sold as a unit or kit and assembled or installed by the retailer, which machinery and equipment is certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of such user and not subject to sale or resale.

(d) purchase or use of graphic arts machinery and equipment, both new and used, including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. As used herein, "graphic arts production" means printing by one or more of the common processes or graphic arts production services as those processes and services are defined in Major Group 27 of the U.S. Standard Industrial Classification Manual. Provided, this exception shall apply to the proceeds of such sales qualifying under this subdivision (d) according to the following schedule: (1) 81.25% of the proceeds of such sales made on or after the effective date of this Article and prior to January 1, 1985; and (2) 100% of the proceeds of such sales made on or after January 1, 1985.

(e) purchase or use of motor vehicles of the first division, as defined in Section 1-146 of the "Illinois Vehicle Code", which are used for automobile renting as defined in the "Automobile Renting Occupation and Use Tax Act".

(f) purchase or use of personal property by an Illinois county fair association for use in conducting, operating or promoting the county fair.

(g) motor vehicles subject to the Replacement Vehicle Tax.

(h) purchase or use of personal property by a teacher sponsored organization affiliated with an elementary or secondary school located in Illinois.

(i) purchase or use of such tangible personal property as newsprint and ink which was sold at retail for the primary purpose of conveying news (with or without other information).

(j) purchase or use of such tangible personal property as (i) pollution control facilities or (ii) low sulphur dioxide emission coal fueled devices.

(k) purchases or uses by any governmental body, or any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious or educational purposes, any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older.

(l) purchases or uses of tangible personal property by interstate carriers for-hire as rolling stock moving in interstate commerce or purchases or uses by lessors under leases of one year or longer executed or in effect at the time of purchase to interstate carriers for-hire for use as rolling stock moving in interstate commerce as long as so used by such interstate carriers for-hire.

(m) purchase or use by owners, lessors or shippers of tangible personal property which is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce.

(n) purchase or use of machinery and equipment which will be used by the purchaser, primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease, whether such sale or lease is made directly by the manufacturer or by some other person, or whether such sale or lease is made apart from or as an incident to the seller's engaging in the service occupation of producing machines, tools, dies, jigs, patterns, gauges, or other similar items of no commercial value on special order for a particular purchaser.

This exemption includes machinery and equipment which replaces machinery and equipment in an existing manufacturing facility as well as machinery and equipment which is for use in an expanded or new manufacturing facility.

This exemption also includes the sale of materials to a purchaser who produces exempted types of machinery or equipment or tools and who rents or leases such machinery or equipment or tools to a manufacturer of tangible personal property. This exemption also includes the sale of materials to a purchaser who manufactures such materials into an exempted type of machinery or equipment or tools which such purchaser uses himself in the manufacturing of tangible personal property.

For the purposes of this exemption, each of these terms shall have the following meanings: (1) "manufacturing process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some existing material or materials into a material with a different form, use or name. In relation to a recognized integrated business composed of a series of operations which collectively constitute manufacturing, or individually constitute manufacturing operations, the manufacturing process shall be deemed to commence with the first operation or stage of production in the series and shall not be deemed to end until the completion of the final product in the last operation or stage of production in the series; (2) "assembling process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by the combination of existing materials in a manner commonly regarded as assembling which results in a material of a different form, use or name; (3) "machinery" shall mean major mechanical machines or major components of such machines contributing to a manufacturing or assembling process; and (4) "equipment" shall include any independent device or tool separate from any machinery but essential to an integrated manufacturing or assembly process; or any subunit or assembly comprising a component of any machinery or auxiliary, adjunct or attachment parts of machinery, such as tools, dies, jigs, fixtures, patterns and molds; or any parts which require periodic replacement in the course of normal operation; but shall not include hand tools.

Provided that this exemption shall apply to the proceeds of such sales qualifying under this Section according to the following schedule: (1) 81.25% of the proceeds of such sales made on or after the effective date of this Article and prior to January 1, 1985; and (2) 100% of the proceeds of such sales made on or after January 1, 1985.

The purchaser of such machinery and equipment and tools shall furnish to the seller a certificate of exemption for each transaction stating facts establishing the exemption for that transaction, which certificate shall be available to the Department for inspection or audit.

(o) purchase or use of any petroleum products by a purchaser if the seller is prohibited by federal law from charging tax to such purchaser.

(p) purchase or use of tangible personal property by a common carrier by rail which receives the physical possession of such property in the City, and which transports such property, or shares with another common carrier in the transportation of such property, out of the City on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of such property to a destination outside the City, for use outside the City.

(q) the use, in this City, of tangible personal property acquired outside this City by a non-resident individual and brought into this City by such individual for his or her own use while temporarily within this City or while passing through this City.

(r) the temporary storage in this City, of tangible personal property which is acquired outside this City, and which, subsequent to being brought into this City and stored here temporarily, is used solely outside this City or physically attached to incorporated into other tangible personal property that is used solely outside this City or is altered by converting, fabricating, manufacturing, printing, processing, or shaping, and, as altered, is used solely outside this City.

(s) the temporary storage in this City of building materials and fixtures which are acquired either in this City or outside this City by an Illinois registered combination retailer and construction contractor, and which such purchaser thereafter uses outside this City by incorporating such property into real estate located outside this City.

(t) the use, in this City, of tangible personal property which is acquired outside this City by a non-resident individual who then brings the property to this City for use here and who has used the property, outside this City for at least 3 months before bringing the property to this City.

(u) purchase or use of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food which has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes, and needles used by diabetics, for human use. For the purpose of this exemption, the term "soft drinks" shall mean any complete, finished, ready-to-use, non-alcoholic drink, whether carbonated or not, including but not limited to soda water, cola, fruit juice, vegetable juice, carbonated water and all other preparations commonly known as soft drinks of whatever kind or description which are contained in any closed or sealed bottle, can, carton or container regardless of size. "Soft drinks" shall not include coffee, tea, non-carbonated water, infant formula, milk or milk products as defined in the Illinois "Grade A Pasturized Milk and Milk Products Act" as now or hereafter amended, or drinks containing fifty percent or more natural fruit or vegetable juice.

(v) where a business is not operated in the City, but which does operate elsewhere is moved to the City or opens up an office, plant or other business facility in the City, such business shall not be taxed on its use, in the City, of used tangible personal property, which such business bought outside the City and used outside the City in the operation of such business for at least 3 months before moving such used property to the City for use here.

(w) the use, in this City, of tangible personal property which is acquired outside this City and caused to be brought into this City by a person who has already paid a tax in another city in respect to such sale, purchase or use of such property, to the extent the amount of such tax paid in such other city exceeds an amount allowed as a credit against the State of Illinois Use Tax or any local use tax in this State. This exemption is not applicable to the taxes paid under the Municipal Retailers' Occupation Tax, Municipal Use Tax, Municipal Service Occupation Tax, or any other retailers' occupation tax or use tax in this State, except for taxes paid under sales or use taxes imposed solely under the home rule powers of a taxing unit in this State.

(x) purchase or use of tangible personal property where the purchase order is received by a florist who is located outside the City, but who has a florist located in Illinois deliver the property to the purchaser or the purchaser's donee in the City.

(y) purchase or use of tangible personal property which may not, under the constitution and statutes of the United States, be made subject of taxation by the City.

(z) purchase or use of building materials to be incorporated into real estate by remodeling, rehabilitation, or new construction, in the Enterprise Zone established by the City pursuant to the "Illinois Enterprise Zone Act".

"Acquired outside the City" whenever used in this Section, in addition to its usual and popular meaning, includes the delivery, outside the City, of tangible personal property that is purchased in the City and delivered from a point in the City to the point of delivery outside the City.

Section 41.64 Retailer Status In Particular Situations. The isolated or occasional sale of tangible personal property at retail by a person who does not hold himself out as being engaged (or who does not habitually engage) in selling such tangible personal property at retail or a sale through a bulk vending machine does not constitute such person a retailer within the meaning of this Article; provided that any person who is engaged in a business which is not subject to the tax collection obligation imposed by this Article because of involving the sale of or a contract to sell real estate or a construction contract to improve real estate, but who, in the course of conducting such business transfers tangible personal property to users or consumers in the finished form in which it was purchased, and which does not become real estate, under any provision of a construction contract or real estate sale or real estate sales agreement entered into with some other person arising out of or because of such business which is not subject to such collection obligation is a retailer to the extent of the value of the tangible personal property so transferred. If, in such a transaction, a separate charge is made for the tangible personal property so transferred, the value of such property for the purpose of this Article, shall be the amount so separately charged, but not less than the cost of such property to the transferor; if no separate charge is made, the value of such property, for the purposes of this Article, is the cost to the transferor of such tangible personal property.

A person who holds himself out as being engaged (or who habitually engages) in selling tangible personal property at retail is a retailer hereunder with respect to such sales notwithstanding the fact that such person is a serviceman engaging in sales of services for purposes of the City of Springfield Municipal Service Occupation Tax.

A person who holds himself or herself out as being engaged (or who habitually engages) in selling tangible personal property at retail is a person engaged in the business of selling tangible personal property at retail hereunder with respect to such sales (and not primarily in a service occupation) notwithstanding the fact that such person designs and produces such tangible personal property on special order for the purchaser and in such a way as to render the property of value only to such purchaser, if such tangible personal property so produced on special order serves substantially the same function as stock or standard items of tangible personal property that are sold at retail.

Persons who engage in the business of transferring tangible personal property upon the redemption of trading stamps are retailers hereunder and shall collect and pay the tax imposed by this Article on the basis of the retail value of the property transferred upon redemption of such stamps.

A person whose activities are organized and conducted primarily as a not-for-profit service enterprise, and who engages in selling tangible personal property at retail (whether to the public or merely to members and their guests) is a retailer with respect to such transactions, excepting only a person organized, and operated exclusively for charitable, religious or educational purposes either (1) to the extent of sales by such person to its members, students, patients or inmates of tangible personal property to be used primarily for the purposes of such person, or (2) to the extent of sales by such person of tangible personal property which is not sold or offered for sale by persons organized for profit. The selling of school books and school supplies by schools at retail to students is not "primarily for the purposes of" the school which does such selling. The provisions of this paragraph shall not apply to nor subject to taxation occasional dinners, social or similar activities of a person organized and operated exclusively for charitable, religious or educational purposes, whether or not such activities are open to the public.

A person who is the recipient of a grant or contract under Title VII of the Older Americans Act of 1965 (P.L. 92-258) and serves meals to participants in the Federal Nutrition Program for the Elderly in return for contributions established in amount by the individual participant pursuant to a schedule of suggested fees as provided for in the Federal Act is not a retailer hereunder with respect to such transactions.

A person who is engaged in the business of leasing or renting a motor vehicle to others and who in connection with such business sells any used motor vehicle to a purchaser for his use and not for the purpose of resale, is a retailer engaged in the business of selling tangible personal property at retail under this Article to the extent of the value of the vehicle sold. For the purpose of this Section, "motor vehicle" has the meaning prescribed in Section 1-157 of the Illinois Vehicle Code, as now or hereafter amended. (Nothing provided herein shall affect liability incurred under this Article because of the sale at retail of such motor vehicle to a lessor).

Section 41.65 Certificate Of Registration; Bond. Every retailer maintaining a place of business in the City shall obtain a certificate of registration as a tax collector from the Department no later than 30 days after commencing such business or 30 days after the effective date of this Article, whichever occurs later.

Application for a certificate of registration shall be made to the Department upon forms furnished by it. Each such application shall be signed and verified by the applicant or a properly accredited agent, which in the case of a corporation shall include the president, any vice-president, the secretary, or treasurer or some other properly accredited agent and shall state: (1) the name of the applicant; (2) his residence address and the address of his principal place of business; (3) the address of the principal place of business from which he engages in the business of selling tangible personal property at retail in the City and the addresses of all other places of business, if any (enumerating such addresses, if any, in a separate list attached to and made a part of the application) from which he engages in the business of selling tangible personal property at retail in the City; (4) the applicant's most recent gross receipts from the retail sale of tangible personal property whether or not incidental to the sale of service as reported to the Illinois Department of Revenue; (5) the applicant's estimated receipts from sales of tangible personal property at retail in the City for the current calendar year; and (6) such other information as the Department may reasonably require. If the applicant will sell tangible personal property at retail through vending machines, his application to register shall indicate the number of vending machines to be so operated, and thereafter, he shall notify the Department by January 31, of the number of vending machines which such person was using in his business of selling tangible personal property at retail on the preceding December 31.

Every applicant for a certificate of registration hereunder shall, within 30 days after he commences to engage in the business of selling tangible personal property at retail, furnish a bond from a surety company authorized to do business in the State of Illinois, or a bond secured by an assignment of a bank account or certificate of deposit, conditioned upon the applicant paying to the City all moneys becoming due under this Article. The Department shall fix the amount of such security in each case, taking into consideration the amount of money expected to become due from the applicant under this Article. The amount of security required by the Department shall be such as in its opinion, will protect the City against failure to pay the amount which may become due from the applicant under this Article, but the amount of the security required by the Department shall not exceed three times the amount of the applicant's average monthly tax collection and remission liability, or \$50,000.00 whichever amount is lower. No certificate of registration under this Chapter shall be issued by the Department until the applicant provides the Department with satisfactory security as herein provided for. The Department may waive the furnishing of a bond until March 1, 1985.

Any person who is registered under the Retailers' Occupation Tax Act or Service Occupation Tax of the State of Illinois during the 3 year period immediately prior to March 1, 1985, and has been so registered continuously and who is determined by the Department of Revenue of the State of Illinois not to have been either delinquent or deficient in payment of the tax liability to the State during that 3 year period, under such acts, shall be considered to be a Prior Continuous Compliance Tax Collector. Also, any Tax Collector who has, as verified by the Department of Accounts and Finances of the City of Springfield, faithfully and continuously complied with the conditions of his bond or other security under the provisions of this Article for a period of 3 consecutive years shall be considered to be a Prior Continuous Compliance Tax Collector. Every Prior Continuous Compliance Tax Collector shall be exempt from all requirements of furnishing a bond or other security as a condition precedent to his being authorized to register or act as a tax collector for the City of Springfield. This exemption shall continue until such time as he may be determined by the Department of Accounts and Finances of the City of Springfield to be delinquent in the filing of any return or to be delinquent or deficient in the paying of any tax under this Article, at which time that Tax Collector shall become subject to all the financial responsibility requirements of this Article, and, as a condition of being allowed to continue to engage in the business of selling tangible personal property at retail, shall be required to post bond or other security provided for in this Article with the Department covering liability which such Tax Collector may thereafter incur. Any Tax Collector who fails to pay an admitted or established liability under this Article may also be required to post bond or other security provided for in this Article, with this Department guaranteeing the payment of such admitted or established liability.

Upon receipt of the application for a certificate of registration in proper form, and upon approval by the Department of the security furnished by the applicant, the Department shall issue to such applicant a certificate of registration, provided that no certificate of registration shall be issued to any person who is in default to the City for moneys due under this Article.

If the person so registered states that he operates other places of business as a retailer in the City, the Department shall furnish him with a sub-certificate of registration for each such place of business. All sub-certificates of registration shall bear the same registration number as that appearing upon the certificate of registration to which such sub-certificates relate.

Where the same person engages in 2 or more businesses as a retailer in the City, which businesses are substantially different in character or engaged in under different trade names or engaged in under other substantially dissimilar circumstances (so that it is more practicable, from an accounting, auditing or bookkeeping standpoint, for such businesses to be separately registered), the Department may require or permit such person (subject to the same requirements concerning the furnishing of security as those that are provided for hereinbefore in this Section as to each application for a certificate of

registration) to apply for and obtain a separate certificate of registration for each such business or for any of such businesses, under a single certificate of registration supplemented by related sub-certificates of registration.

The certificate of registration shall be conspicuously displayed at the place of business which the person so registered states in his application to be the principal place of business from which he engages in the business of selling tangible personal property at retail in this City. A sub-certificate of registration shall be similarly displayed at the place of business to which it relates.

With respect to security other than a bond from a surety company authorized to do business in Illinois (upon which the Department may sue in the event of a forfeiture), if the tax collector fails to pay, when due, any amount whose payment such security guarantees, the Department shall, after such liability is admitted by the tax collector or established by the Department through the issuance of a final assessment that has become final under the law, convert the security which that tax collector has furnished into money for the City after first giving the tax collector at least 10 days' written notice, by registered or certified mail, to pay the liability or forfeit such security to the Department. If the security consists of a bank certificate of deposit, the Department shall convert the security into money by demanding and collecting the amount of such bank certificate of deposit from the bank which issued such certificate. If the Department realizes more than the amount of such liability from the security, plus the expenses incurred by the Department in converting the security into money, the Department shall pay such excess to the tax collector who furnished such security and the balance shall be paid into the Corporate Fund of the City.

The Department shall discharge any surety and shall release and return any security deposited, assigned, pledged or otherwise provided to it by a Tax Collector under this Section within 30 days after:

1. Such Tax Collector becomes a Prior Continuous Compliance Tax Collector; or

2. Such Tax Collector has ceased to collect receipts on which he is required to remit tax to the Department, has filed a final tax return, and has paid to the Department an amount sufficient to discharge his remaining liability, as determined by the Department under this Article. The Department shall make a final determination of the Tax Collector's outstanding liability as expeditiously as possible after his final tax return has been filed; if the Department cannot make such final determination within 45 days after receiving the final tax return, within such period, it shall so notify the Tax Collector, stating its reasons therefor.

The Department may, in its discretion, upon application, authorize the collection of the tax herein imposed by any retailer not maintaining a place of

business within the City, who, to the satisfaction of the Department, furnishes adequate security to insure collection and payment of the tax. Such retailer shall be issued, without charge, a permit to collect such tax. When so authorized, it shall be the duty of such retailer to collect the tax upon all tangible personal property sold to his knowledge for use within the City, in the same manner and subject to the same requirements, including the furnishing of a receipt to the purchaser (if demanded by the purchaser), as a retailer maintaining a place of business within the City. The receipt given to the purchaser shall be sufficient to relieve him from further liability for the tax to which such receipt may refer. Such permit may be revoked by the Department as provided herein.

Section 41.66 Resellers. If the purchaser is not registered with the Department as a tax collector, but claims to be a reseller of the tangible personal property in such a way that the purchaser's purchase or use is not taxable under this Article or under some other tax law which the Department may administer, such purchaser (except in the case of an out-of-City purchaser who will always resell and deliver the property to his customers outside the City) shall apply to the Department for a resale number. Such applicant shall state facts which will show the Department why such applicant is not liable for tax under this Article or under some other tax law which the Department may administer and shall furnish such additional information as the Department may reasonably require.

Upon approval of the application, the Department shall assign a resale number to the applicant and shall certify such number to him. The Department may cancel any such number which is obtained through misrepresentation, or which is used to make a purchase or use tax-free when the purchase in fact is not a purchase for resale, or which no longer applies because of the purchaser's having discontinued the making of resales of the property. Except as provided hereinabove in this Section, no purchase or use shall be made tax-free on the ground of the retailer's sale being a sale for resale unless the purchaser has an active registration number or resale number from the Department and furnishes that number to the retailer in connection with certifying to the retailer that any purchase or use by such purchaser is non-taxable because of the retailer's sale being a sale for resale.

Section 41.67 Purchaser's Receipt. Except as to motor vehicles and other items of tangible personal property which must be titled or registered under an Illinois law but which cannot be so titled or registered without a use tax receipt or exemption determination from the Illinois Department of Revenue, every retailer maintaining a place of business in the City and making sales of tangible personal property for use in the City (whether such sales are made within or without the City) shall, when collecting the tax as provided in Section 41.62 of this Chapter from the purchaser, give to the purchaser (if demanded by the purchaser) a receipt therefor in the manner and form prescribed by the Department. Such receipt shall be sufficient to relieve the purchaser from

further liability for the tax to which such receipt may refer. Each such retailer shall list with the Department the names and addresses of all his agents operating in the City and the location of any and all of his distribution or sales houses, offices or other places of business in the City.

Section 41.68 Tax Returns; Filing. Except as provided in this Section, every retailer required or authorized to collect the tax imposed by this Article shall, on or before the last day of each calendar month, file a return for the preceding calendar month with the Department stating:

1. The name of the retailer;
 2. His residence and the address of his principal place of business and the address of the principal business (if that is a different address) from which he engages in the business of selling tangible personal property in the City;
 3. Total amount of receipts received by him during the preceding calendar month from the sales of tangible personal property in the City by him during the preceding calendar month;
 4. Total amount received by him during the preceding calendar month on charge and time sales of tangible personal property in the City by him prior to the month for which the return is filed;
 5. Deductions allowed by law;
 6. Receipts which were received by him during the preceding calendar month and upon the basis of which the tax upon purchasers from him is imposed;
-
7. The amount of tax due;
 8. The amount of penalty due, if any; and
 9. Such other reasonable information as the Department may require.

With said return, the Tax Collector shall also file a copy of the tax return filed by the Tax Collector with the Illinois Department of Revenue covering the same reporting period.

If the retailer's average monthly liability with the Department does not exceed \$20.00, the Department may authorize his returns to be filed on an annual basis with the return for a given year being due by January 31 of the following year.

Such annual returns, as to form and substance, shall be subject to the same requirements as monthly returns.

Notwithstanding any other provision in this Article concerning the time within which a retailer may file his return, in the case of any retailer who ceases to engage in a kind of business which makes him responsible for filing returns under this Article, such retailer shall file a final return under this Article with the Department not more than one month after discontinuing such business.

Where the same person has more than one business registered with the Department under separate registrations under this Article, such person may not file each return that is due as a single return covering all such registered businesses, but shall file separate returns for each such registered business.

Refunds to purchasers made by the retailer during the preceding return period shall be allowed as a deduction under subdivision 5, in case the retailer had theretofore included the receipts from such sale in a return filed by him and had remitted the tax imposed by this Article with respect to such receipts.

Where the retailer is a corporation, the return filed on behalf of such corporation shall be signed by the president, vice-president, secretary or treasurer, by the properly accredited agent of such corporation, the chief executive officer or highest ranking manager.

Except as provided in this Section, the retailer filing the return under this Section shall, at the time of filing such return, pay to the Department the amount of tax imposed by this Article less a discount of 2% or \$5 per calendar year, whichever is greater, which is allowed to reimburse the seller for the expenses incurred in collecting the tax, keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on request. However, the discount of 2% or \$5 shall not be allowed for any taxes not paid when due. In the case of Tax Collectors who report and pay the tax on a transaction by transaction basis, as provided in this Section, such discount shall be taken with each such tax remittance instead of when such Tax Collector files his periodic return.

All such deposits shall be credited against the tax collector's liabilities under this Article.

If the tax collector's average monthly liability to the Department under this Article was \$4,000 or more during the preceding 4 complete calendar quarters, he shall file a return with the Department each month by the end of the month next following the month during which such liability is incurred and shall make payments to the Department on or before the 7th, 15th 22nd and the last day of the month during which such liability is incurred in an amount equal to $\frac{1}{4}$ of the tax collector's actual liability for the month or an amount set by the Department not to exceed $\frac{1}{4}$ of the average monthly liability of the tax collector

to the Department for the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability in such 4 quarter period). The amount of such quarter monthly payments shall be credited against the final tax liability on the tax collector's return for that month. Once applicable, the requirement of the making of quarter monthly payments to the Department shall continue until such tax collector's average monthly liability to the Department during the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability) is less than \$2,250 or until such tax collector's average monthly liability to the Department as computed for each calendar quarter of the preceding 4 complete calendar quarter period is less than \$2,500. If any such quarter monthly payment is not paid at the time or in the amount required by this Section, then the 2% tax collector's discount shall be reduced by 2% of the difference between the minimum amount due as a payment and the amount of such quarter monthly payment actually and timely paid, except insofar as the tax collector has previously made payments for that month to the Department in excess of the minimum payments previously due as provided in the Section. The Department shall make reasonable rules and regulations to govern the quarter monthly payment amount and quarter monthly payment dates for tax collectors who file on other than a calendar monthly basis.

Notwithstanding the foregoing provisions of this Section, for the first 12 month period this tax is in effect the Department may estimate what the amount of liability from any tax collector would have been for prior periods if the tax hereunder had been in effect for such periods and direct the frequency of remittance of the tax and filing of returns in accordance with the provisions of this Section on the basis of such estimates.

If any such payment or deposit provided for in this Section exceeds the tax collector's present and probable future liabilities under this Article, the Department shall issue to the taxpayer no later than 60 days after date of payment a credit memorandum, which may be submitted by the tax collector to the Department in payment of liability subsequently to be remitted by the tax collector to the Department or be assigned by the tax collector to a similar tax collector under this Article, in accordance with reasonable rules and regulations to be prescribed by the Department.

Any deposit previously made by a tax collector who is required to make quarter monthly payments under this Article shall be applied against the tax collector's liability to the Department under this Article for the month preceding the first month in which the tax collector is required to make such quarter monthly payments. If the deposit exceeds that liability, the Department may issue the tax collector a credit memorandum for the excess.

The money received by the Department under the provisions of this Article shall be deposited in the Corporate Fund of the City.

The Department may request the tax collector to prepare and file with the Department on a form prescribed by the Department within 15 days after filing the State income tax return for the fiscal year an annual information return for such fiscal year. Such annual return to the Department shall include a statement of receipts as shown by the retailer's last State income tax return. If the total receipts of the business as reported in the State income tax return do not agree with the receipts reported to the Department for the same period, the retailer shall attach to his annual return a schedule showing a reconciliation of the two amounts and the reasons for the difference. The retailer's annual return to the Department shall also disclose any additional reasonable information which the Department deems would be helpful in determining the accuracy of the quarterly, monthly, monthly or annual returns filed by such seller as provided for in this Section. The provisions of this Section concerning the filing of an annual information return do not apply to a retailer who is not required to file an income tax return with the United States Government.

If the annual information return required by this Section is not filed when and as required, the tax collector shall be liable for a penalty equal to 1/6 of 1% of the amount due from such tax collector under this Article during the period to be covered by the annual return for each month or fraction of a month until such return is filed as required, the penalty to be assessed and collected in the same manner as any other penalty provided for in this Article.

The president, vice-president, secretary, treasurer, chief executive officer, proprietor, owner or highest ranking manager shall sign any return required to be filed under this Section to certify the accuracy of the information contained therein. Any person who willfully signs any such return containing false or inaccurate information shall be guilty of a violation of this Article and punished accordingly. The return forms prescribed by the Department shall include a warning that the person signing such return may be liable for a penalty as provided by this Article.

Any person engaged in the business of selling tangible personal property at retail as a concessionaire or other type of seller at art shows, flea markets and similar exhibitions or events, may be required to make a daily report of the amount of such sales to the Department and to make a daily payment of the full amount of tax due. The Department shall impose this requirement when it finds that there is a significant risk of loss of revenue to the City at such an exhibition or event. Such a finding shall be based on evidence that a substantial number of concessionaires or other sellers who are not residents of the City will be engaging in the business of selling tangible personal property at retail at the exhibition or event, or other evidence of a significant risk of loss to the City. The Department shall notify concessionaires and other sellers affected by the imposition of this requirement. In the absence of notification by the Department, the concessionaires and other sellers shall file their returns as otherwise required in this Section.

With respect to motor vehicles and aircraft, every retailer selling this kind of tangible personal property shall file, with the Department, upon a form to be prescribed and supplied by the Department, a separate return for each such item of tangible personal property which the retailer sells, except that where, in the same transaction a retailer of motor vehicles transfers more than one motor vehicle to another motor vehicle retailer for the purpose of resale, such seller for resale may report the transfer of all the motor vehicles involved in that transaction to the Department on the same uniform invoice transaction reporting return form.

Such transaction reporting return in the case of motor vehicles shall be the same document as the Uniform Invoice referred to in Section 5-402 of the Illinois Vehicle Code and must show the name and address of the seller; the name and address of the purchaser; the amount of the selling price, including the amount allowed by the retailer for traded-in property, if any; the amount allowed by the retailer for the traded-in tangible personal property, if any, to the extent to which Section 41.61 of this Chapter allows an exemption for the value of traded-in property; the balance payable after deducting such trade-in allowance from the total selling price; the amount of tax due from the retailer with respect to such transaction; the amount of tax collected from the purchaser by the retailer on such transaction (or satisfactory evidence that such tax is not due in that particular instance, if that is claimed to be the fact); the place and date of the sale; a sufficient identification of the property sold; such other information as is required in Section 5-402 of the Illinois Vehicle Code, and such other information as the Department may reasonably require.

Such transaction reporting return in the case of aircraft must show the name and address of the retailer; the name and address of the purchaser; the amount of the selling price including the amount allowed by the retailer for traded-in property, if any; the amount allowed by the retailer for the traded-in tangible personal property, if any, to the extent to which Section 41.61 of this Chapter allows an exemption for the value of traded-in property; the balance payable after deducting such trade-in allowance from the total selling price; the amount of tax due from the retailer with respect to such transaction; the amount of tax collected from the purchaser by the retailer on such transaction (or satisfactory evidence that such tax is not due in that particular instance, if that is claimed to be the fact); the place and date of the sale, a sufficient identification of the property sold, and such other information as the Department may reasonably require.

Such transaction reporting return shall be filed not later than 30 days after the date of delivery of the item that is being sold, but may be filed by the retailer at any time sooner than that if he chooses to do so. With each such transaction reporting return, the retailer shall remit the proper amount of tax due (or shall submit satisfactory evidence that the sale is not taxable if that is the case), to the Department or its agents, whereupon the Department shall issue in the purchaser's name, a tax receipt (or a certificate of exemption if the

Department is satisfied that the particular sale is tax exempt). If the purchaser or user who would otherwise pay tax to the retailer wants the transaction reporting return filed and the payment of tax or proof of exemption made to the Department before the retailer is willing to take these actions and such purchaser or user has not paid the tax to the retailer, such purchaser or user may certify to the fact of such delay by the retailer, and may (upon the Department being satisfied of the truth of such certification) transmit the information required by the transaction reporting return and the remittance for tax or proof of exemption directly to the Department and obtain his tax receipt or exemption determination, in which event the transaction reporting return and tax remittance (if a tax payment was required) shall be credited by the Department to the proper retailer's account with the Department, but without the 2% discount provided for in this Section being allowed. When the purchaser or user pays the tax due on such transaction directly to the Department, he shall pay the tax in the same amount and in the same form in which it would be remitted if the tax had been remitted to the Department by the retailer but without the 2% or \$5 discount.

Any retailer filing a return under this Section shall also include (for the purpose of paying tax thereon) the total tax, if any, imposed upon him hereunder for the purchase or use of tangible personal property purchased by him at retail from a retailer, but as to which the tax imposed by this Article was not collected from the retailer filing such return, and such retailer shall remit the amount of such tax to the Department when filing such return. The retailer will be entitled to the 2% or \$5 discount provided in this Section, on such remittance, unless the retailer could have paid the tax to the seller of the property who was a registered tax collector for the City, instead of remitting the tax due directly to the Department.

Section 41.69 Purchaser's Direct Payment Of Tax To Department. Except ~~as to motor vehicles and aircraft, when tangible personal property is purchased~~ from a retailer in the City or for use in the City by a purchaser who did not pay the tax imposed by this Article to the retailer, and who does not file returns with the Department as a retailer under Sections 41.64 and 41.65 of this Chapter, such purchaser (by the last day of the month following the calendar month in which such purchaser makes any payment upon the selling price of such property) shall, except as provided in this Section, file a return with the Department and pay the tax upon that portion of the selling price so paid by the purchaser during the preceding calendar month. When tangible personal property is purchased by a lessor, under a lease for one year or longer, executed or in effect at the time of purchase to an interstate carrier for hire, who did not pay the tax imposed by this Article to the retailer, such lessor (by the last day of the month following the calendar month in which such property reverts to the use of such lessor) shall file a return with the Department and pay the tax upon extent that may be necessary in order to secure title to a motor vehicle or the certificate of registration for an aircraft.

ORD. # 798-7-84

When a purchaser pays a tax imposed by this Article directly to the Department, the Department (upon request therefor from such purchaser) shall issue an appropriate receipt to such purchaser showing that he had paid such tax to the Department. Such receipt shall be sufficient to relieve the purchaser from further liability for the tax to which such receipt may refer. A purchaser or user who is liable to pay tax directly to the Department only occasionally and not on a frequently recurring basis, and who is not required to file returns with the Department as a retailer under Section 41.68 of this Chapter need not register with the Department. However, if such a purchaser or user has a frequently recurring direct tax liability to pay to the Department, such purchaser or user shall be required to register with the Department on forms prescribed by the Department and to obtain and display a certificate of registration from the Department. In that event, all of the provisions of Section 41.68 of this Chapter concerning the filing of regular monthly or annual tax returns and all of the provisions of this Chapter concerning the requirements for registrants to post bond or other security with the Department, as provisions now exist or may hereafter be amended shall apply to such purchasers or users; except that such a purchaser or user shall not be entitled to the 2% or \$5 discount provided in Section 41.68 on any remittance, when he could have paid the tax to the seller of the property who was a registered tax collector for the City, instead of remitting the tax due directly to the Department.

Section 41.70 Confidential Information. All information received by the Department from returns filed under this Article, or from any investigation conducted under this Article, shall be confidential, except for official purposes, and any person who divulges any such information in any manner, except in accordance with a proper judicial order or as otherwise provided by law, shall be punished by a jail sentence not to exceed six months or a fine not to exceed \$500.00 or both.

Nothing in this Article prevents the Director from publishing or making available to the public the names and addresses of persons filing returns under this Article, or reasonable statistics concerning the operation of the tax by grouping the contents of returns so the information in any individual return is not disclosed.

Nothing in this Article prevents the Director from divulging to the United States Government or the government in any state, or any officer or agency thereon, for exclusively official purposes, information received by the Department in administering this Article, provided that such other governmental agency agrees to divulge requested tax information to the Department.

The Department's furnishing of information derived from a tax collector's return or from an investigation conducted under this Article to the surety on a tax collector's bond that has been furnished to the Department under this Article, in order to support the Department's demand for payment from such surety under the bond is an official purpose within the meaning of this Section.

ORD. # 798-7-84

The furnishing upon request of information obtained by the Department from returns filed under this Article or investigations conducted under this Article to the Liquor Control Commissioner for official use is deemed to be an official purpose within the meaning of this Section.

The furnishing, upon request, to the City's auditor or his authorized agents, for official use, of returns filed and information related thereto under this Article is deemed to be an official purpose within the meaning of this Section.

Where an appeal or a protest has been filed on behalf of a Tax Collector, the furnishing upon request of the attorney for the Tax Collector of returns filed by the Tax Collector and information related thereto under this Article is deemed to be an official purpose within the meaning of this Section.

Section 41.71 Department To Collect Tax. It shall be the duty of the Department to collect and receive the tax imposed by this Article. The Department shall keep an accurate and separate account of all such tax payments received by it showing the name and address of the person remitting the tax and the date of each payment. The Director is hereby empowered to adopt and promulgate, and to enforce, rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this Article including provisions for re-examination, correction and amendment of all returns. The Director or any agent or employee designated in writing by him, is hereby authorized to examine the books, papers and records of any tax collector during regular business hours, in order to verify the accuracy of any return made, or if no return was made, to ascertain the tax imposed by this Article.

Section 41.72 Demand For Payment Of Tax; Period of Limitations; Suit. If it shall appear to the Director that any person has violated any provision of this Article or any rule or regulation promulgated hereunder, or if the amount of any tax payment is incorrect in that it does not include all taxes payable for such calendar period, or if the Director shall find that the collection of any taxes which have accrued but are not yet due will be jeopardized by delay, declares said taxes to be immediately due and payable, or if it shall appear to the Director that he has made any final assessment which did not include taxes payable for the periods involved, or if it appears to the Director that any person has, by reason of any act or omission or by operation of law, become liable for the payment of any taxes, interest or penalties not originally incurred by him, the Director may in any of the above events determine and assess the amount of such taxes or deficiency, as the case may be, together with the interest and penalties due and unpaid, and immediately serve notice upon such person of such determination and assessment and make a demand for payment of the tax together with interest and penalties thereon. If the person incurring any such liability has died, such assessment may at the discretion of the Director be made against his personal representative. Such determination and assessment by the Director shall be final at the expiration of 20 days from the date of the service

of such written notice thereof and demand for payment, unless such person shall have filed with the Director a written protest pursuant to Section 41.77 of this Chapter, specifying its objections thereto. The Director may amend his determination and assessment at any time before it becomes final. In the event of such amendment the person affected shall be given notice and an opportunity to be heard in connection therewith. At any hearing held as herein provided, the determination and assessment that has been made by the Director shall be prima facie correct and the burden shall be upon the protesting person to prove that it is incorrect. Upon the conclusion of such hearing a decision shall be made by the Director either cancelling, increasing, modifying or affirming such determination or assessment and notice thereof given to the petitioner. Such notice shall contain a statement by the Director of the cost of the certification of the record computed at the rate of 5 cents per 100 words, which cost shall be charged to the petitioner if the determination or assessment is affirmed. The record shall consist of the notices and demands caused to be served by the Director, the original determination and assessment of the Director, the written protest and petition for hearing, the testimony introduced at such hearing, the exhibits produced at such hearing or certified copies thereof, the decisions of the Director and such other documents in the nature of pleadings filed in the proceedings.

Except in the case of a fraudulent return or in the case of a wilful failure or refusal to file a return when due, or with the consent of the person to whom the notice of the tax liability, assessment or other determination is to be issued, or in the case of any amended return (which a notice of tax liability or assessment may be issued on or after each January 1 and July 1 for an amended return filed not more than 3 years prior to such January 1 or July 1 respectively), no notice of tax liability, assessment or other determination shall be issued on and after each January 1 and July 1 covering the amount of tax due for any month or period of time more than 3 years prior to such January 1 and July 1, respectively. ~~Provided, however, that the foregoing limitations upon the~~ issuance of a notice of tax liability, assessment or other determination shall not apply to the issuance of a notice of tax liability, assessment or other determination with respect to any period of time prior thereto in cases where the Department has, within the period of limitations then provided, notified the person of the amount of tax computed even though the Department has not determined the amount of tax due from such person in the manner required herein prior to the issuance of such notice, but in no case shall the amount of any such notice of tax liability, assessment or other determination for any period otherwise barred by this Article exceed for such period the amount shown in the notice theretofore issued.

Whenever any person shall fail to pay any tax as herein provided, the City's Corporation Counsel shall, upon the request of the Department, bring or cause to be brought an action to enforce the payment of said tax on behalf of the City in any court of competent jurisdiction.

If the Mayor or Commissioner responsible for the issuance of a City license, after hearing held by or for him, shall find that any person has wilfully evaded payment or collection and remittance of the tax imposed by this Article, he may suspend or revoke such City license held by such tax evader. Said person shall have an opportunity to be heard at such hearing to be held not less than 7 days after notice is given to him of the time and place of the hearing to be held, addressed to him at his last known place of business. Pending notice, hearing and finding, any license issued by the City possessed by said person may be temporarily suspended. Any suspension or revocation of any license shall not release or discharge said person from his civil liability for the payment or collection and remittance of the tax, nor from prosecution for such offense.

Section 41.73 Records To Be Kept. Every person engaged in the business of selling tangible personal property at retail in the City shall keep records and books of all such sales, together with invoices, sales records, copies of bills of sales, inventories prepared as of December 31 of each year or otherwise annually as has been the custom in the specific trade and other pertinent papers and documents. Every person who is engaged in the business of selling tangible personal property at retail in the City, and who, in connection with such business, also engages in other activities (including, but not limited to, engaging in a sales of goods occupation) shall keep such additional records and books of all such activities as will accurately reflect the character and scope of such activities and the amount of receipts realized therefrom.

All books and records and other papers and documents which are required by this Article to be kept shall be kept in the English language and shall, at all times during business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees.

To support deductions made on the tax return form, or authorized under this Article, on account of receipts from isolated or occasional sales, on account of receipts from sales of tangible personal property for resale, on account of receipts from sales to governmental bodies or other exempted types of purchasers, on account of receipts from sale in interstate commerce, and on account of receipts from any other kind of transaction that is not taxable under this Article, entries in any books, records, or other pertinent papers or documents of the tax collector in relation thereto shall be in detail sufficient to show the name and address of the tax collector's customer in each such transaction, the character of every such transaction, the date of every such transaction, the amount of receipts realized from every such transaction and such other information as may be necessary to establish the nontaxable character of such transaction under this Article. This paragraph does not apply to the food and drug exemption.

Except in the case of a sale to a purchaser who will always resell and deliver the property to his customers outside the City, anyone claiming that he has made a nontaxable sale for resale in some form as tangible personal property

shall also keep a record of the purchaser's registration number or resale number with the Department.

It shall be presumed that all purchases or uses of tangible personal property purchased at retail are subject to tax under this Article until the contrary is established, and the burden of proving that a transaction is not taxable hereunder shall be upon the person who would be required to pay the tax or remit the tax to the Department if such transaction is taxable. In the course of any audit or investigation or hearing by the Department with reference to a given tax collector or purchaser, if the Department finds that such person lacks documentary evidence needed to support the claim that no tax is due hereunder, the Department is authorized to notify such person in writing to produce such evidence, and such person shall have 60 days subject to the right in the Department to extend this period either on request for good cause shown or on its own motion from the date when such notice is sent by certified or registered mail (or delivered if the notice is served personally) in which to obtain and produce such evidence for the Department's inspection, failing which the matter shall be closed and the transaction shall be conclusively presumed to be taxable hereunder.

Books and records and other papers reflecting receipts received during any period with respect to which the Department is authorized to issue notices of tax liability as provided by Sections 41.72 and 41.76 of this Chapter shall be preserved until the expiration of such period unless the Department, in writing, shall authorize their destruction or disposal prior to such expiration.

Section 41.74 Credits And Refunds. Whenever it appears to a person remitting the tax to the Department or paying the tax directly to the Department, as distinguished from paying the tax to a retailer, that an amount of tax, interest or penalty has been paid in error to the Department by him, whether such amount be paid through a mistake of fact or an error of law other than an error in payment resulting from the tax, any of its provisions or its application being declared invalid or unconstitutional, not later than three (3) years from the date upon which such payment was made, such person may file a claim for credit or refund with the Department on forms provided by said Department for that purpose. However, no claim may be allowed for any amount paid to the Department, whether paid voluntarily, or involuntarily, if paid in total or partial liquidation of an assessment which has become final before the claim for credit or refund to recover the amount so paid is filed with the Department, or if paid in total or partial liquidation of a judgment, order or decree of court. In addition, no credit may be allowed or refund made for any amount paid by or collected from any claimant unless it appears (a) that the claimant bore the burden of such amount and was not relieved thereof nor reimbursed therefor, and has not shifted such burden directly or indirectly through inclusion of such amount in the price of the tangible personal property sold by him or in any manner whatsoever, or (b) that he or his legal representative has repaid unconditionally, before filing his claim, such amount to

his purchaser or vendee (1) who bore the burden thereof and has not shifted such burden directly or indirectly, in any manner whatsoever, (2) who, if he has shifted such burden, has repaid unconditionally such amount to his own vendee; and (3) who is not entitled to receive any reimbursement therefor from any other source than from his vendor, nor to be relieved of such burden in any manner whatsoever.

Any credit or refund that is allowed under this Section shall bear interest at the rate of one half of one percent ($\frac{1}{2}\%$) per month, or any fraction thereof, from the date when the erroneous payment for which credit or refund is being allowed was made to the Department, until a credit memorandum is issued or a refund is paid.

A claim for credit or refund shall be considered to have been filed with the Department on the date upon which it is received by the Department, and receipt of any claim for credit filed under this Section shall be acknowledged by the Director or any designated person on his behalf, said receipt to describe the claim in sufficient detail as to identify it, and to state the date upon which the claim was received by the Department.

As soon as practicable after a claim for credit or refund is filed, the Director, or his designate, shall examine the same and determine the amount of credit or refund due, if any, and shall issue a Notice of Tentative Determination of Claim and notify the claimant of such determination. If the claimant disagrees with the determination, he shall file a protest and challenge thereto pursuant to Section 41.77. At the hearing thereon, proof of such determination may be made by a reproduced copy of the Department's record relating thereto, in the name of the Department under the certificate of the Director. Such reproduced copy shall, without further proof, be admitted into evidence, and shall be prima facie proof of the correctness of the Department's determination, as shown therein, and the burden shall be upon the claimant to prove that it is incorrect. Upon the conclusion of the hearing, a decision shall be made by the Director and notice thereof given to the claimant.

The Director may in his discretion may issue a letter of credit to a claimant who may be able to use said credit in the foreseeable future, or a refund certificate in lieu of a credit memorandum on application by a person who cannot use said credit, or sell or assign the same. Refund certificates shall be numbered serially as they are issued and shall be paid in the order of their issuance from funds that are appropriated to the Department for that purpose.

Section 41.75 City Clerk As Agent. Any non-resident of the City who accepts the privilege extended by the laws of the City to non-residents or acting as a retailer maintaining a place of business in the City within the meaning of Section 41.61 of this Chapter, and any resident of the City who incurs liability under this Article and who subsequently removes from the City or conceals his whereabouts, and any person (resident or non-resident) who incurs tax liability

under this Article as a purchaser or user in the City and who removes from the City or conceals his whereabouts, shall be deemed thereby to appoint the City Clerk his agent for the service of process or notice in any judicial or administrative proceedings under this Article. Such process or notice shall be served by the Department on the City Clerk by leaving, at the office of the City Clerk, at least 15 days before the return day of such process or notice, a true and certified copy thereof, and by sending to the taxpayer or tax collector or by registered or certified mail, postage prepaid, a like and true certified copy, with an endorsement thereon of the service upon said City Clerk, addressed to such taxpayer or tax collector at his last known address.

Service of process or notice in the manner provided for in this Section, under the circumstances specified in this Section, shall be of the same force and validity as if served upon the taxpayer or tax collector personally within the City. Proof of service upon the taxpayer or tax collector through the City Clerk as his agent and by mailing to the last known address of the taxpayer or tax collector may be made in such judicial or administrative proceeding by the affidavit of the Director, or by his duly authorized representative who made such service, with a copy of the process or notice that was so served attached to such affidavit.

Whenever any retailer not maintaining a place of business in the City, to whom a permit to collect the tax hereby imposed has been issued pursuant to Section 41.65 hereof, fails to comply with any of the provisions hereof or any orders, rules, or regulations of the Department prescribed and adopted hereunder, or when the Department considers the security furnished by such retailer to be inadequate or considers that the tax can be collected more effectively from persons using such property in the City, the Department may, upon notice and hearing as provided in Section 41.77, by order revoke the permit issued to such retailer. The Department shall have the power in its discretion to issue a new permit pursuant to Section 41.65 hereof after such revocation.

Section 41.76 Notices of Tax Liability; Penalties. In case any person engaged in the business of selling tangible personal property at retail fails to file a return when and as herein required, but thereafter, prior to the Department's issuance of a notice of tax liability under this Section, files a return and pays the tax, he shall also pay a penalty of 5% of the amount of the tax.

In case any person engaged in the business of selling tangible personal property at retail files the return at the time required by this Article but fails to pay the tax, or any part thereof, when due, a penalty of 5% of the amount of the tax unpaid when due shall be added thereto.

In case any person engaged in the business of selling tangible personal property at retail fails to file a return when and as herein required, but thereafter, prior to the Department's issuance of a notice of tax liability under

this Section, files a return but fails to pay the entire tax, a penalty of 5% of the full amount of tax shown by such return shall be added thereto.

In case any person engaged in the business of selling tangible personal property at retail fails to file a return, the Department shall determine the amount of tax due from him according to its best judgment and information. In making any such determination of tax due, it shall be permissible for the Department to show a figure that represents the tax due for any given period of 6 months instead of showing the amount of tax due for each month separately. The Department shall issue the tax collector a notice of tax liability for the amount of tax claimed by the Department to be due, together with a penalty of 20% thereof.

Proof of determinations by the Department made under this Section may be made at any hearing before the Department or in any legal proceeding by a reproduced copy of the Department's record relating thereto in the name of the Department under the certificate of the Director. Such reproduced copy shall, without further proof, be admitted into evidence before the Department or in any legal proceeding and shall be prima facie proof of the correctness of the amount of tax due, as shown therein.

However, when the failure to file any tax return required under this Article on the date prescribed therefor (including any extensions thereof) is due to reasonable cause penalties imposed by this Article shall not apply.

In case of failure to pay the tax, or any portion thereof, or any penalty provided for in this Article, or interest, when due, the Department may bring suit against the tax collector or the purchaser or user to recover the amount of such tax or portion thereof, or penalty or interest; or if the tax collector or purchaser or user had died or become incompetent, may file a claim therefor against his estate.

If the Comptroller determines that a person required to remit or pay the tax imposed by this Article has wilfully or negligently failed to pay or remit any tax due under this Article, such person shall be liable to pay a penalty, in addition to any tax, interest or other penalty due, of 20% of the amount of such tax due. This penalty provision shall not apply if a person is already liable for and has been assessed a 20% penalty for failing to file a return and pay the tax due under this Article, as provided earlier in this Section.

The collection of tax or penalty or interest by any means provided for herein shall not be a bar to collection by any other means or to any prosecution under this Article.

In addition to any penalty provided for in this Article any amount of tax which is not paid when due shall bear interest at the rate of 2% per month or

fraction thereof from the date when such tax becomes past due until such tax is paid or a judgment therefor is obtained by the Department; provided, however, that if the time for making or completing an audit of a tax collector's books and records is extended with the tax collector's consent, at the request of and for the convenience of the Department, beyond the date on which the statute of limitations upon the issuance of a notice of tax liability by the Department otherwise would run, no interest shall accrue during the period of such extension.

Section 41.77 Investigations And Hearings. For the purpose of administering and enforcing the provisions of this Article, the Department, or any officer or employee of the Department designated, in writing, by the Director thereof, may hold investigations and hearings concerning any matters covered by this Article and may examine any books, papers, records or memoranda bearing upon the sales or purchases of services of any such person, and may require the attendance of such person or any officer or employee of such person, or of any person having knowledge of such business, and may take testimony and require proof for its information.

Any person aggrieved by any decision of the Department under this Article, except that resulting from a hearing held by the Department, may, within 20 days after notice of such decision, protest and request a hearing, whereupon the Department shall give notice to such person of the time and place fixed for such hearing and shall hold a hearing in conformity with the provisions of this Article and then issue its final administrative decision in the matter to such person. In the absence of such a protest within 20 days, the Department's decision shall become final without any further determination being made or notice given.

In the conduct of any investigation or hearing, neither the Department nor any officer or employee thereof shall be bound by the technical rules of evidence, and no informality in any proceedings, or in the manner of taking testimony, shall invalidate any order, decision, rule or regulation made or approved or confirmed by the Department. The Director, or any officer or employee of the Department authorized by the Director thereof, shall have power to administer oaths to such persons. The books, papers, records and memoranda of the Department, or parts thereof, may be proved in any hearing, investigation or legal proceeding by a reproduced copy thereof under the certificate of the Director. Such reproduced copy shall, without further proof, be admitted into evidence before the Department or in any legal proceeding.

Section 41.78 Testimony At Investigations And Hearings. No person shall be excused from testifying or from producing any books, paper, records or memoranda in any investigation or upon any hearing, when ordered to do so by the Department or any officer or employee thereof, upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to a criminal penalty, but no person shall be prosecuted or subjected to any criminal penalty for, or on account of, any transaction made or thing concerning which he may testify or produce evidence, documentary or

otherwise, before the Department or any officer or employee thereof; provided, that such immunity shall extend only to a natural person who, in obedience to a subpoena, gives testimony under oath or produces evidence, documentary or otherwise, under oath. No person testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

Section 41.79 Subpoenas. The Department or any officer or employee of the Department designated in writing by the Director, shall at its or his own instance, or on the written request of any other party to the proceeding, issue subpoenas requiring the attendance of and the giving of testimony by witnesses, and subpoenas duces tecum requiring the production of books, papers, records, or memoranda. All subpoenas and subpoenas duces tecum issued under the terms of this Article may be served by any person of full age. The fees of witnesses for attendance and travel shall be the same as the fees of witnesses before the circuit court of this State; such fees to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the Department or any officer or employee thereof, such fees shall be paid in the same manner as other expenses of the Department, and when the witness is subpoenaed at the instance of any other party to any such proceeding the Department may require that the cost of service of the subpoena or subpoena duces tecum and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the Department, in its discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena or subpoena duces tecum issued as aforesaid shall be served in the same manner as a subpoena issued out of court.

Any circuit court of this State, or any judge thereof, upon the application of the Department or any officer or employee thereof, or upon the application of any other party to the proceeding, may, in its or his discretion, compel the attendance of witnesses, the production of books, papers, records or memoranda ~~and the giving of testimony before the Department or any officer or employee thereof~~ conducting an investigation or holding a hearing authorized by this Article, by an attachment for contempt or otherwise, in the same manner as production of evidence may be compelled before said court.

The Department or any officer or employee thereof, or any other party in an investigation or hearing before the Department, may cause the depositions of witnesses to be taken in the manner prescribed by law for like depositions in civil actions in courts of this State, and to that end compel the attendance of witnesses and the production of books, papers, records or memoranda.

Section 41.80 Notices; Contacts Through Attorney. Whenever notice is required by this Article, such notice may be given by United States registered or certified mail, addressed to the person concerned at his last known address, and proof of such mailing shall be sufficient for the purposes of this Article. Notice of any hearing provided for by this Article shall be so given not less than 7 days prior to the day fixed for the hearing. Following the initial contact of a person

represented by an attorney, the Department shall not contact the person concerned but shall only contact the attorney representing the person concerned.

All hearings provided for in this Article shall be at the Department's office.

Section 41.81 Liability Of Corporate Officer Or Employee. Any officer or employee of any corporation subject to the provisions of this Article who has the control, supervision or responsibility of filing returns and collecting and making payment of the amount of tax herein imposed and who wilfully fails to file such return or to collect and make such payment to the Department shall be personally liable for such amounts, including interest and penalties thereon, in the event that after proper proceedings for the collection of such amounts, as provided in this Article, such corporation is unable to pay such amounts to the Department; and the personal liability of such officer or employee as provided herein shall survive the dissolution of the corporation.

Section 41.82. Advertisement that retailer will absorb tax prohibited.

It is unlawful for any retailer to advertise or hold out or state to the public or to any purchaser, consumer or user, directly or indirectly, that the tax or any part thereof imposed by this Article will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold, or if added that it or any part thereof will be refunded other than when the retailer refunds the selling price and tax because of the merchandise's being returned to the retailer or other than when the retailer credits or refunds the tax to the purchaser to support a claim filed with the Department under this Article.

Section 41.83 Violations; Penalties. Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with, or resisting or opposing the enforcement of any of the provisions of this Article except when otherwise specifically provided, upon conviction thereof shall be punished by a fine of not less than \$50.00 nor more than \$10,000 for the first offense and not less than \$1,000 nor more than \$100,000 or 5 times the amount of tax imposed, if any, whichever is higher, for the second and each subsequent offense in any 180 day period; provided, however, that all actions seeking the imposition of fines only shall be filed as quasi-criminal actions subject to the provisions of the Illinois Code of Civil Procedure (Ill. Rev. Stat., 1983, ch. 110, pars. 1-101 et seq.). Repeated offenses in excess of three within any 180 day period may also be punishable as a misdemeanor by incarceration in the county jail for a term not to exceed six months under the procedures set forth in Section 1-2-1.1 of the Illinois Municipal Code (Ill. Rev. Stat., 1983, ch. 24, par. 1-2-1.1) and under the provisions of the Illinois Code of Criminal Procedure (Ill. Rev. Stat., 1983, ch. 38, pars. 100-1 et seq.) in a separate proceeding. A separate and distinct offense shall be

regarded as committed each day upon which said persons shall continue any such violation, or permit any such violation to exist after notification thereof.

Section 41.84 Severability. If any provision of this Article or application thereof to any person or circumstances is held unconstitutional or otherwise invalid, such invalidity does not affect other provisions or applications of this Article which can be given effect without the invalid application or provision, and to this end each such invalid provision or invalid application of this Article is severable, unless otherwise provided by this Article. In particular, but without limitation, each provision creating an exception to or an exemption or exclusion from the imposition of the tax is severable. It is hereby declared to be the legislative intent of the City Council that this Article would have been adopted had any such unconstitutional or otherwise invalid provision or application not been included.

SECTION 2: Section 41.41 of the Code of the City of Springfield, 1953, as amended, is further amended by adding the language underscored and deleting the language stricken as set forth below:

Section 41.41 Tax.

(a) There is hereby levied and imposed a tax of four (4) ~~three (3)~~ per cent of the rent charged for the privilege and use of renting a hotel or motel room within the City of Springfield for each twenty-four (24) hour period or any portion thereof for which a daily room charge is made; provided, however, that ~~the tax shall not be levied and imposed upon~~ any person who rents a hotel or motel room for more than thirty (30) consecutive days or to a person who works and lives in the same hotel or motel.

(b) The ultimate incidence of any liability for payment of said tax is to be borne by the person who seeks the privilege of occupying the hotel or motel room, said person hereinafter referred to as "renter".

(c) The tax herein levied shall be paid in addition to any and all other taxes and charges. It shall be the duty of the owner of every hotel or motel to secure said tax from the renter of the motel or hotel room and to

pay over to the city comptroller or any authorized representative of his office said tax under procedures prescribed by the city comptroller, or as otherwise provided in this article.

(d) Every person required to collect the tax levied by this article shall secure said tax from the renter at the time he collects the rental payment for the hotel or motel room.

SECTION 3: This ordinance takes effect on the October 1, 1984.

SECTION 4: The City Clerk is hereby directed to cause this ordinance to be published in pamphlet form as provided by law.

PASSED: July 31, 1984

SIGNED: July 31, 1984

RECORDED: July 31, 1984

Michael Houston
MAYOR

ATTEST: Candice A. Kees
CITY CLERK

*Ordinance Approving Publication of the
1988 "Code of Ordinances" for the
City of Springfield, Illinois*

Whereas, it is desirable to repeal the 1953 City Code, as amended, and adopt the 1988 City Code, as amended; and

Whereas, in accordance with the requirements of the Illinois Municipal Code of 1961, as amended, (Ill. Rev. Stat., 1987, Ch. 24, Par 1-2-4), the 1988 City Code shall be published in pamphlet form for a period of ten days and available for public inspection in the Office of the City Clerk.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SPRINGFIELD, ILLINOIS:

Section 1: The 1953 City Code of Ordinances, as amended, is hereby repealed.

Section 2: The 1988 City Code of Ordinances is hereby adopted in its entirety.

Section 3: The City Clerk is hereby directed to publish this ordinance and the 1988 City Code in pamphlet form for a period of ten days in the Office of the Clerk.

Section 4: This Ordinance shall become effective after said ten day publication.

PASSED: March 21, 1989

SIGNED: 3/23, 1989

RECORDED: March 23, 1989

/s/

Ossie Langfelder

MAYOR

ATTEST:

/s/

Norma J. Graves

CITY CLERK

Approved as to legal sufficiency:

/s/

James K. Zerkle

Office of the Corporation Counsel

Requested by: ALDERMAN VOSE

filing the return, pay to the office the amount of tax imposed by this article less a discount of 2% which is allowed to reimburse the seller for the expenses incurred in collecting the tax, keeping records, preparing and filing returns, remitting the tax, and supplying data to the office on request. However, the discount of 2% shall not be allowed for any taxes not paid when due.

(h) All deposits shall be credited against the tax collector's liabilities under this article.

(i) The money received by the office under the provisions of this article shall be deposited in the city treasury.

(j) The president, vice-president, secretary, treasurer, chief executive officer, proprietor, owner, or highest ranking manager shall sign any return required to be filed under this section to certify the accuracy of the information contained therein. Any person who willfully signs any return containing false or inaccurate information shall be guilty of a violation of this article and punished accordingly. The return forms prescribed by the officer shall include a warning that the person signing the return may be personally liable for a penalty as provided by this article.

ARTICLE VI. HOME RULE MUNICIPAL AND SERVICE OCCUPATION TAX

§ 100.50. Title.

This article shall be known and may be cited as the home rule municipal and service occupation tax. The tax herein imposed is in addition to all other taxes imposed by the city, the state, or any other municipal corporation or political subdivision thereof.

§ 100.51. Reserved.

§ 100.52. Tax imposed.

A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of this state's government, at retail in this municipality at the rate of 1% of the gross receipts from such sales made in the course of such business while this ordinance is in effect; and a tax is hereby imposed upon all persons engaged in this municipality in the business of making sales of service, at the rate of 1% of the selling price of all tangible personal property transferred by such serviceman as an incident to a sale of service.

The imposition of these home rule taxes are in accordance with the provisions of 65 ILCS 5/8-11-1 and 65 ILCS 5/8-11-5.

§ 100.53. Transactions not subject to tax.

The home rule municipal retailers' occupational tax and the home rule municipal service occupation tax im-

posed by section 100.52 above shall not be applicable on the sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food which have been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics.

§ 100.54. Department of revenue, State of Illinois to collect tax.

The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the department of revenue of the State of Illinois. The department of revenue shall have full power to administer and enforce the provisions of this article.

§ 100.55. Reserved.

ARTICLE VII. ENFORCEMENT

§ 100.61. Application for registration.

Every business required to file a return with the office, shall fully complete an "application for registration of Springfield tax" form. The application must be completed and on file with the office within 30 days of the business start date.

(Ord. No. 366-7-98, § 1(Exh.A), 7-21-98)

§ 100.62. Notices of tax liability; penalties.

(a) In case any person required to remit any tax determined as due and payable under this chapter fails to file a return when and as herein required, but thereafter, prior to the office's issuance of a notice of tax liability under this section, files a return and pays the tax, he shall also pay a penalty of 5% of the amount of the tax.

(b) In case any person required to remit any tax determined as due and payable under this chapter files the return at the time required by this article but fails to pay the tax, or any part thereof, when due, a penalty of 5% of the amount of the tax unpaid when due shall be added thereto.

(c) In case any person required to remit any tax determined as due and payable under this chapter fails to file a return when and as herein required, but thereafter, prior to the office's issuance of a notice of tax liability under this section, files a return but fails to pay the entire tax, a penalty of 5% of the full amount of tax shown by the return shall be added thereto.

(d) In case any person required to remit any tax determined as due and payable under this chapter fails to file a return, the office shall determine the amount of tax due from him according to its best judgment and information. In making any determination of tax due, it shall be permissible for the office to show a figure that represents the tax due for any given period of six months instead of

111-03-04

AN ORDINANCE AMENDING ARTICLE VI, CHAPTER 100, SECTION 100.52 OF THE 1988 CITY OF SPRINGFIELD CODE OF ORDINANCES, AS AMENDED, BY INCREASING THE LOCAL SALES TAX FROM 1% TO 1.5%, BEGINNING JULY 1, 2004, AND ENDING JUNE 30, 2006, AS AMENDED.

WHEREAS, the City of Springfield is a home rule unit as defined in Article VII, Section 6(a) of the 1970 Illinois Constitution and has jurisdiction over matters pertaining to its government and affairs; and

WHEREAS, it is in the best interest of the City of Springfield to amend Article VI, Chapter 100, Section 100.52 of the 1988 City of Springfield Code of Ordinances, as amended, by increasing the local sales tax from 1% to 1.5%.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SPRINGFIELD, ILLINOIS:

Section 1: The City Council of the City of Springfield, Illinois, hereby amends Article VI, Chapter 100, Section 100.52 of the 1988 City of Springfield Code of Ordinances, as amended, regarding the local sales tax as follows:

ARTICLE VI. HOME RULE MUNICIPAL AND SERVICE OCCUPATION TAX

§ 100.52. Tax imposed.

A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of this state's government, at retail in this municipality at the rate of 1.5% of the gross receipts from such sales made in the course of such business while this ordinance is in effect; and a tax is hereby imposed upon all persons engaged in this municipality in the business of making sales of service, at the rate of 1% 1.5% of the selling price of all tangible personal property transferred by such serviceman as an incident to a sale of service. The 1.5% tax is effective beginning July 1, 2004, and will return to 1% effective July 1, 2006.

The imposition of these home rule taxes are in accordance with the provisions of 65 ILCS 5/8-11-1 and 65 ILCS 5/8-11-5.

Section 2: The City Clerk is hereby directed to publish this ordinance in pamphlet form.

Section 3: This ordinance shall become effective immediately upon its passage and publication in pamphlet form.

PASSED: March 2, 2004

SIGNED: March 5, 2004

RECORDED: March 5, 2004

Timothy J. Donlin
Mayor

ATTEST: Cecilia K. Kuntz
City Clerk

Approved as to legal sufficiency:

Requested by: Alderman McNeil

JJ 3-3-04
Office of Corporation Counsel / Date

STATE OF ILLINOIS)
)
SANGAMON COUNTY) SS

CERTIFICATION OF RECORDS

I, CECILIA K. TUMULTY, CITY CLERK OF THE CITY OF SPRINGFIELD, IN THE COUNTY OF SANGAMON AND STATE OF ILLINOIS, DO HEREBY CERTIFY THAT THE ATTACHED DOCUMENTS ARE A TRUE AND CORRECT COPY OF:

AN ORDINANCE AMENDING ARTICLE VI, CHAPTER 100, SECTION 100.52 OF THE 1988 CITY OF SPRINGFIELD CODE OF ORDINANCES, AS AMENDED, BY REMOVING THE DATE OF EXPIRATION FOR THE 1.5% LOCAL SALES TAX

AS RECORDED IN THE OFFICE OF THE CITY CLERK FOR THE CITY OF SPRINGFIELD, ILLINOIS.

(SEAL)



CECILIA K. TUMULTY
CITY CLERK

827-12-05

797

AN ORDINANCE AMENDING ARTICLE VI, CHAPTER 100, SECTION 100.52 OF THE 1988 CITY OF SPRINGFIELD CODE OF ORDINANCES, AS AMENDED, BY REMOVING THE DATE OF EXPIRATION FOR THE 1.5% LOCAL SALES TAX

WHEREAS, the City of Springfield is a home rule unit as defined in Article VII, Section 6(a) of the 1970 Illinois Constitution and has jurisdiction over matters pertaining to its government and affairs; and

WHEREAS, the City Council previously passed Ord. No. 111-03-04 to amend Article VI, Chapter 100, Section 100.52 of the 1988 City of Springfield Code of Ordinances, as amended, to increase the local sales tax from 1% to 1.5%; and

WHEREAS, Ord. No. 111-03-04 also contained an expiration date whereby the 1.5% tax would return to 1% effective July 1, 2006; and

WHEREAS, due to anticipated budget shortfalls and rising economic trends, it is in the best interest of the City of Springfield to continue the 1.5% tax for local sales.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SPRINGFIELD, ILLINOIS:

Section 1: That the City Council of the City of Springfield, Illinois, hereby amends Article VI, Chapter 100, Section 100.52 of the 1988 City of Springfield Code of Ordinances, as amended, regarding the local sales tax as follows:

ARTICLE VI. HOME RULE MUNICIPAL AND SERVICE OCCUPATION TAX

§ 100.52. Tax imposed.

A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of this state's government, at retail in this municipality at the rate of 1.5% of the gross receipts from such sales made in the course of such business while this ordinance is in effect; and a tax is hereby imposed upon all persons engaged in this municipality in the business of making sales of service, at the rate of 1.5% of the selling price of all tangible personal property transferred by such serviceman as an incident to a sale of service.

~~The 1.5% tax is effective beginning July 1, 2004, and will return to 1% effective July 1, 2006.~~

The imposition of these home rule taxes are in accordance with the provisions of 65 ILCS 5/8-11-1 and 65 ILCS 5/8-11-5.

(Ord. No. 111-03-04, 03-02-04)

Section 2: That the City Clerk is hereby directed to publish this ordinance in pamphlet form.

Section 3: That this ordinance shall become effective immediately upon its passage, recording and publication in pamphlet form.

PASSED: Dec. 6, 2005

SIGNED: Dec. 13, 2005

RECORDED: Dec. 13, 2005

ATTEST: [Signature]
City Clerk

[Signature]
Mayor

Approved as to legal sufficiency:

Requested by: Mayor Timothy J. Davlin

JJ 10-18-05
Office of Corporation Counsel / Date

310-05-09

AN ORDINANCE AMENDING ARTICLE VI, CHAPTER 100, SECTION 100.52 OF THE 1988 CITY OF SPRINGFIELD CODE OF ORDINANCES, AS AMENDED, BY INCREASING THE LOCAL SALES TAX FROM 1.5% TO 1.75%, AS AMENDED

WHEREAS, the City of Springfield is a home rule unit as defined in Article VII, Section 6(a) of the 1970 Illinois Constitution and has jurisdiction over matters pertaining to its government and affairs; and

WHEREAS, it is in the best interest of the City of Springfield to amend Article VI, Chapter 100, Section 100.52 of the 1988 City of Springfield Code of Ordinances, as amended, by increasing the local sales tax from 1.5% to 1.75% and designating the additional revenue for capital improvements.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SPRINGFIELD, ILLINOIS:

Section 1: That the City Council hereby amends Article VI, Chapter 100, Section 100.52 of the 1988 City of Springfield Code of Ordinances, as amended, regarding the local sales tax as follows:

ARTICLE VI. HOME RULE MUNICIPAL RETAILERS' OCCUPATION TAX AND SERVICE OCCUPATION TAX

§ 100.52. Tax imposed.

(a) A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of this state's government, at retail in this municipality at the rate of ~~1.5%~~ 1.75% of the gross receipts from such sales made in the course of such business while this ordinance is in effect; and a tax is hereby imposed upon all persons engaged in this municipality in the business of making sales of service, at the rate of ~~1.5%~~ 1.75% of the selling price of all tangible personal property transferred by such serviceman as an incident to a sale of service.

The imposition of these home rule taxes are in accordance with the provisions of 65 ILCS 5/8-11-1 and 65 ILCS 5/8-11-5.

(b) One-seventh of the revenue collected pursuant to section 100.52(a) shall be deposited into Fund 095.

(Ord. No. 111-03-04, § 1, 3-2-04; Ord. No. 827-12-05, § 1, 12-6-05)

Section 2: If the funds designated for Fund 095 pursuant to section 100.52(a) are not encumbered by the end of each fiscal year, the 1.75 % tax assessed in section 100.52(a) will be automatically reduced to 1.5% effective the beginning of the next fiscal year.

Section 3: That the City Clerk is hereby directed to publish this ordinance in pamphlet form.

Section 4: That after passage of this ordinance and prior to October 1, 2009, the Office of Budget and Management is hereby directed to send a certified copy of this ordinance to the Illinois Department of Revenue.

Section 5: That this ordinance shall become effective January 1, 2010.

PASSED: May 26, 2009

SIGNED: June 5, 2009

RECORDED: June 9, 2009

Timothy J. Davlin
Mayor Timothy J. Davlin

ATTEST: Cecilia K. Tumulty
City Clerk Cecilia K. Tumulty

Approved as to legal sufficiency:

Requested by: Alderman Mahoney

W, 5-27-09
Office of Corporation Counsel / Date

140-4-13

AN ORDINANCE AMENDING ARTICLE VI, CHAPTER 100, SECTION 100.52 OF THE 1988 CITY OF SPRINGFIELD CODE OF ORDINANCES, AS AMENDED, BY DESIGNATING A PORTION OF THE LOCAL RETAILERS' OCCUPATION TAX AND SERVICE OCCUPATION TAX FOR THE IMPROVEMENT OF ROADS, SIDEWALKS AND STORM SEWERS, AS AMENDED

WHEREAS, the City of Springfield is a home rule unit as defined in Article VII, Section 6(a) of the 1970 Illinois Constitution and has jurisdiction over matters pertaining to its government and affairs;

WHEREAS, it is in the best interest of the City of Springfield to provide for an appropriate revenue source for the repayment of bonds issued by the City which are dedicated to certain specified infrastructure improvements for roads, sidewalks and storm sewers;

WHEREAS, it is necessary for the City of Springfield to address the conditions of the roads, sidewalks, storm sewers and other related infrastructure needs based upon the needs for maintenance, modernization and expansion, and to address the infrastructure needs and additional demands for roads, sidewalks and storm sewers;

WHEREAS, the Mayor and the Office of Public Works has prepared a plan of improvements for the City of Springfield that has been estimated to total approximately \$86,600,000.00 for asphalt overlay, cape and microsurfacing, concrete patching, crack filling, oil and chip program, sidewalk installation and repair, brick street repairs, traffic signals and striping and storm sewer improvements;

WHEREAS, there is a savings that will inure to the benefit of the City of Springfield by engaging in this program of infrastructure improvements of approximately \$21,000,000.00 through 2018 and that additional savings will be achieved beyond that date by utilizing preventive maintenance and extending the life of our infrastructure;

WHEREAS, the sources of funding from the Motor Fuel Tax and other sources available to the City of Springfield continue to be reduced; and

WHEREAS, it is in the best interest of the City of Springfield to amend Article VI, Chapter 100, Section 100.52 of the 1988 City of Springfield Code of Ordinances, as amended, by increasing the local sales tax rate by an additional 0.5% and designating the additional revenue solely for infrastructure improvements associated with roads, sidewalks and storm sewers.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SPRINGFIELD, ILLINOIS:

Section 1: That the City Council hereby amends Article VI, Chapter 100, Section 100.52 of the 1988 City of Springfield Code of Ordinances, as amended, regarding the local sales tax as follows:

ARTICLE VI. HOME RULE MUNICIPAL RETAILERS' OCCUPATION TAX AND SERVICE OCCUPATION TAX

§ 100.52. Tax imposed.

(a) A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of this state's government, at retail in this municipality at the rate of ~~1.75%~~ 2.25% of the gross receipts from such

sales made in the course of such business while this ordinance is in effect; and a tax is hereby imposed upon all persons engaged in this municipality in the business of making sales of service, at the rate of ~~1.75%~~ 2.25% of the selling price of all tangible personal property transferred by such serviceman as an incident to a sale of service provided, however, that such rate shall be reduced by 0.25% as soon as is practicable after the date of full repayment of any bonds issued by the City of Springfield, or any refunding bonds issued for such bonds by the City of Springfield.

The imposition of these home rule taxes are in accordance with the provisions of 65 ILCS 5/8-11-1 and 65 ILCS 5/8-11-5.

(b) ~~One-seventh~~ 0.25% of the ~~revenue-gross receipts and the selling price~~ collected pursuant to section 100.52(a) shall be deposited into Fund 095.

(c) 0.5% of the gross receipts and the selling price collected pursuant to section 100.52(a) shall be dedicated to the repayment of indebtedness, bonds, loans or other obligation of the City of Springfield issued or associated with the capital improvements for the roads, sidewalks and storm sewers, for such time as any such indebtedness, bond, loan or other obligation remains due and owing.

(Ord. No. 111-03-04, § 1, 3-2-04; Ord. No. 827-12-05, § 1, 12-6-05)

Section 2: If any portion of the funds designated pursuant to section 100.52(c) are not encumbered by the end of each fiscal year, such portion shall be deposited into Fund 095.

Section 3: That the City Clerk is hereby directed to publish this ordinance in pamphlet form.

Section 4: That after passage of this ordinance and prior to April 1, 2013, the Office of Budget and Management is hereby directed to send a certified copy of this ordinance to the Illinois Department of Revenue.

Section 5: That this ordinance shall become effective upon passage, approval and publication as required by law.

PASSED: April 19, 2013

SIGNED: April 19, 2013

RECORDED: April 19, 2013

Michael Houston
Mayor J. Michael Houston

ATTEST: Cecilia K. Tumulty
City Clerk Cecilia K. Tumulty

Approved as to legal sufficiency:

Requested by: Mayor J. Michael Houston
and Alderman Kris Thellen

Mark K. Hall 4/17/13
Office of Corporation Counsel/Date

140 - 4 - 13

ORDINANCE FACT SHEET

REQUEST FORM NO:

DATE OF 1ST READING:

March 19, 2013

OFFICE REQUESTING: Mayor's Office

CONTACT PERSON: Willis Logan

PHONE NUMBER: 789-2236

EMERGENCY PASSAGE: No ☐ Yes ☒ If yes, explain justification.

TYPE OF ORDINANCE: Amend City Code

FISCAL IMPACT: + \$9m/year

(If amending a previous ordinance, please attach a copy of the previous ordinance)

SUGGESTED TITLE:

AN ORDINANCE AMENDING ARTICLE VI, CHAPTER 100, SECTION 100.52 OF THE 1988 CITY OF SPRINGFIELD CODE OF ORDINANCES, AS AMENDED, BY DESIGNATING A PORTION OF THE LOCAL RETAILERS' OCCUPATION TAX AND SERVICE OCCUPATION TAX FOR THE IMPROVEMENT OF ROADS, SIDEWALKS AND STORM SEWERS

Please list supporting documentation (i.e., contract, agreement, change order, bid book, etc.)

CONTRACTOR / VENDOR NAME:

VENDOR NO:

CONTRACT TERM:

CONTRACT #

Change in Scope Yes ☐ No ☐

CONTRACT AMOUNT:

(Original amount if change order)

Change Order #

Additional Amount

Method of Purchase (check one)

Previous Ord #'s

☐ Low Bid

☐ Other:

Is Purchasing Agent approval required? No ☐ Yes ☐

☐ Low Bid Meeting Specs

☐ Exception:

Is Purchasing Agent approval attached? No ☐ Yes ☐

☐ Low Evaluated Bid

Code Provision:

Accounting Information (If more than four accounts, please attach list)

REVENUE

	Fund	Agency	Org	Activity	Source	Amount
1						
2						
3						
4						

EXPENDITURE

	Fund	Agency	Org	Activity	Object	Amount
1						
2						
3						
4						

FUNDS CHECK BY:

Date:

DIRECTOR / SUPERVISOR SIGNATURE

Date:

CITY PURCHASING AGENT:

Date:

COMMENTS

Section 100.52 of the City Code currently provides for a local retailers' occupation tax and service occupation tax. This ordinance will increase the amount of tax by 0.5% and provide that the additional 0.5% be dedicated to the repayment of indebtedness, bonds, loans or other obligations issued or associated with capital improvements for roads, sidewalks and storm sewers.

SIGN OFF:

(Mayor's Signature)

(Director of OBM)

S:\Excel\Fact Sheet\Chapter 100 Sales Tax 0.6% roads.xls\Chapter 100 Sales Tax 0.6% roads.xls

The information supplied on this form is not confidential information.

8669
Revised 6/26/04

AN ORDINANCE AMENDING ARTICLE VI, CHAPTER 100, SECTION 100.52 OF THE 1988 CITY OF SPRINGFIELD CODE OF ORDINANCES, AS AMENDED, BY DESIGNATING A PORTION OF THE LOCAL RETAILERS' OCCUPATION TAX AND SERVICE OCCUPATION TAX FOR THE MAINTENANCE OF ROADS, SIDEWALKS AND STORM SEWERS

WHEREAS, the City of Springfield is a home rule unit as defined in Article VII, Section 6(a) of the 1970 Illinois Constitution and has jurisdiction over matters pertaining to its government and affairs;

WHEREAS, it is in the best interest of the City of Springfield to provide for an appropriate revenue source for the continuing maintenance obligations of the City for roads, sidewalks and storm sewers;

WHEREAS, it is necessary for the City of Springfield to provide for the annual maintenance of the roads, sidewalks, storm sewers and other related infrastructure needs;

WHEREAS, the Mayor and the Office of Public Works has prepared an annual maintenance plan for the City of Springfield that has been estimated to total approximately \$22,500,000.00 for asphalt overlay, sidewalk repair and maintenance, cape and microsurfacing, concrete patching and sealing, seal coating, crack filling, brick street repairs, traffic signals and striping and storm sewer maintenance;

WHEREAS, the sources of funding from the Motor Fuel Tax and other sources available to the City of Springfield continue to be reduced; and

WHEREAS, it is in the best interest of the City of Springfield to amend Article VI, Chapter 100, Section 100.52 of the 1988 City of Springfield Code of Ordinances, as amended, by increasing the local sales tax by an additional 0.25% and designating the additional revenue solely for annual maintenance plan for roads, sidewalks and storm sewers.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SPRINGFIELD, ILLINOIS:

Section 1: That the City Council hereby amends Article VI, Chapter 100, Section 100.52 of the 1988 City of Springfield Code of Ordinances, as amended, regarding the local sales tax as follows:

ARTICLE VI. HOME RULE MUNICIPAL RETAILERS' OCCUPATION TAX AND SERVICE OCCUPATION TAX

§ 100.52. Tax imposed.

(a) A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of this state's government, at retail in this municipality at the rate of ~~1.75%~~2.50% of the gross receipts from such sales made in the course of such business while this ordinance is in effect; and a tax is hereby imposed upon all persons engaged in this municipality in the business of making sales of service, at the rate of ~~1.75%~~2.50% of the selling price of all tangible personal property transferred by such serviceman as an incident to a sale of service.

The imposition of these home rule taxes are in accordance with the provisions of 65 ILCS 5/8-11-1 and 65 ILCS 5/8-11-5.

(b) One-seventh 0.25% of the revenue gross receipts and the selling price collected pursuant to section 100.52(a) shall be deposited into Fund 095.

(c) 0.5% of the gross receipts and the selling price collected pursuant to section 100.52(a) shall be dedicated to the repayment of indebtedness, bonds, loans or other obligation of the City of Springfield issued or associated with the capital improvements for the roads, sidewalks and storm sewers, for such time as any such indebtedness, bond, loan or other obligation remains due and owing.

(d) 0.25% of the gross receipts and the selling price collected pursuant to section 100.52(a) shall be dedicated to the annual maintenance plan for the roads, sidewalks and storm sewers of the City of Springfield.

(Ord. No. 111-03-04, § 1, 3-2-04; Ord. No. 827-12-05, § 1, 12-6-05)

Section 2: If any portion of the funds designated pursuant to sections 100.52(c) and (d) are not encumbered by the end of each fiscal year, such portion shall be deposited into Fund 095.

Section 3: That the City Clerk is hereby directed to publish this ordinance in pamphlet form.

Section 4: That after passage of this ordinance and prior to April 1, 2013, the Office of Budget and Management is hereby directed to send a certified copy of this ordinance to the Illinois Department of Revenue.

Section 5: That this ordinance shall become effective upon passage, approval and publication as required by law.

PASSED: _____, 2013

SIGNED: _____, 2013

RECORDED: _____, 2013

Mayor J. Michael Houston

ATTEST:
City Clerk Cecilia K. Tumulty

Approved as to legal sufficiency:

Requested by: Mayor J. Michael Houston

Mark Houston 3/27/13
Office of Corporation Counsel/Date

2013-125

ORDINANCE FACT SHEET

REQUEST FORM NO:

DATE OF 1ST READING: March 19, 2013OFFICE REQUESTING: Mayor's OfficeCONTACT PERSON: Willis LoganPHONE NUMBER: 789-2235EMERGENCY PASSAGE: No ☐ Yes ☒ If yes, explain justification.TYPE OF ORDINANCE: Amend City CodeFISCAL IMPACT: + \$4.5 m/year

(If amending a previous ordinance, please attach a copy of the previous ordinance)

SUGGESTED TITLE:

AN ORDINANCE AMENDING ARTICLE VI, CHAPTER 100, SECTION 100.52 OF THE 1988 CITY OF SPRINGFIELD CODE OF ORDINANCES, AS AMENDED, BY DESIGNATING A PORTION OF THE LOCAL RETAILERS' OCCUPATION TAX AND SERVICE OCCUPATION TAX FOR THE IMPROVEMENT OF ROADS, SIDEWALKS AND STORM SEWERS

Please list supporting documentation (i.e., contract, agreement, change order, bid book, etc.)

CONTRACTOR / VENDOR NAME: _____

VENDOR NO: _____

CONTRACT TERM: _____

CONTRACT # _____

Change in Scope Yes ☐ No ☐

CONTRACT AMOUNT: _____

(Original amount if change order)

Change Order # _____

Additional Amount _____

Method of Purchase (check one)

☐ Low Bid☐ Other: _____

Previous Ord #'s _____

☐ Low Bid Meeting Specs☐ Exception: _____Is Purchasing Agent approval required? No ☐ Yes ☐☐ Low Evaluated Bid

Code Provision: _____

Is Purchasing Agent approval attached? No ☐ Yes ☐

Accounting information (if more than four accounts, please attach list)

REVENUE

Fund	Agency	Org	Activity	Source	Amount
1					
2					
3					
4					

EXPENDITURE

Fund	Agency	Org	Activity	Object	Amount
1					
2					
3					
4					

FUNDS CHECK BY: _____

Date: _____

DIRECTOR / SUPERVISOR SIGNATURE _____

Date: _____

CITY PURCHASING AGENT: _____

Date: _____

COMMENTS

Section 100.52 of the City Code currently provides for a local retailers' occupation tax and service occupation tax. This ordinance will increase the amount of tax by 0.25% and provide that the additional 0.25% be dedicated to the annual maintenance plan for roads, sidewalks and storm sewers.

SIGN OFF: _____

(Mayor's Signature)

(Director of OBM)



U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of Airport Compliance
and Management Analysis

800 Independence Ave., SW.
Washington, DC 20591

September 22, 2015

James M. Lestikow
Hinshaw & Culbertson LLP
400 South Ninth Street, Suite 200
Springfield, IL 62701-1908

Dear Mr. Lestikow:

Thank you for your question regarding the Federal Aviation Administration's (FAA) *Policy and Procedures Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel*, (79 Fed. Reg. 66282, November 7, 2014) (Amendment). The Springfield Airport Authority (Authority) received information from the City of Springfield, Illinois (City) via Freedom of Information Act (FOIA) requests regarding the City's Home Rule Sales Tax and City Ordinances. Based on the information it received, the Authority has asked FAA the following question:

Are the ordinances beginning with the one signed on March 5, 2004 increasing the tax rate by amending Section 100.52 of the 1988 City of Springfield Code of Ordinances merely a rate increase or do they in impose a new tax?

FAA Response:

Title 49 United States Code §§ 47107(b) and 47133 requires that local taxes on aviation fuel (except taxes in effect on December 30, 1987) be expended for the capital or operating costs of the airport; the local airport system; or other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property. The FAA confirmed in its Amendment that proceeds from taxes on the sales of aviation fuel (imposed by either an airport sponsor or a non-sponsor) are required to be used for airport-related purposes except for taxes that qualify for grandfathering from revenue use requirements. Taxes on aviation fuel that qualify for grandfathering are those state or local taxes on aviation fuel in effect on December 30, 1987. Any amendments of the grandfathered tax statutes that make substantive changes after December 30, 1987, may affect the grandfathered status of the tax or the increase to the tax.

The Authority provided the following scanned copies of the City's Ordinances:

- **Ordinance No. 798-7-84** – (passed on July 31, 1984) - Springfield's Sales Tax which took effect on October 1, 1984.

- **1988 City Code of Ordinances** –(passed on March 21, 1989) - repeal of 1953 City Ordinances, and the adoption of the 1988 City Ordinances.
- **Ordinance No. 111- 03-04** – (passed on March 2, 2004) - increase of the sales tax rate from 1.0% to 1.5% effective beginning July1, 2004 and ending June 30, 2006.
- **Ordinance No. 827-12-05** – (passed on December 6, 2005) - removal of expiration date for the 1.5% local sales tax.
- **Ordinance No. 310-05-09** – (passed on May 26, 2009) -increase of the local sales tax from 1.5% to 1.75%, designates additional revenue for capital improvements and requires one-seventh of the revenue collected to be deposited into Fund 095;
- **Ordinance No. 140-4-13** – (passed on April 6, 2013) - increase of the sales tax rate from 1.75% to 2.25%; and designates .25% of the gross receipts and the selling price collected shall be deposited into Fund 095 and designates 0.5% of the gross receipts and the selling price collected be dedicated for the improvement of roads, sidewalks and storm sewer, and requires the tax rate will be reduced by 0.25% after the date of full repayment of any bonds issued by the City
- **Ordinance Fact Sheet No. 2013-125** - (1st Reading March 19, 2013) proposal to increase tax rates from 2.25% to 2.50% with no amendments to the existing fund transfer or restrictions requirements¹.

The submitted documents reflect that Ordinance No. 798-7-84 was enacted by the City on July 31, 1984, and which would qualify the sales tax for grandfathering status. The tax rate imposed at that date was 1% and would be considered the grandfathered rate. Ordinances 111-03-04, 827-12-05, 310-05-09, and 140-4-13 amended the tax rate with increases and fund restrictions in periods subsequent to December 30, 1987. The 1% tax rate is the grandfathered rate; the tax proceeds collected via the tax rate amendment increases imposed after December 30, 1987 would not be grandfathered. Thus, the proceeds from the taxes on aviation fuel in excess of 1% would be subject to the revenue use requirements under the statutes and the Revenue Use Policy Amendment.

The FAA has posted guidance on the Aviation Fuel Tax Docket (Docket ID: FAA-2013-0988) to assist sponsors and nonsponsors on determining whether a tax would qualify for grandfathered status and on the development of an action plans for aviation fuel taxes that may or may not qualify for grandfathered status.

[See <http://www.regulations.gov/#!docketBrowser;rpp=25;po=25;D=FAA-2013-0988>] We recommend that you review “NASAO Fuel Tax Issue Questions 2015 02 24” and “Aviation Fuel Tax Grandfathering Action Plans” which are each posted on the Docket. For taxes imposed by non-sponsor state and local governments, the Authority is expected to inform taxing authorities of Federal requirements for use of aviation fuel tax revenues, and to take action reasonably within the Authority’s power to influence State and local tax laws to conform to the requirements of 49 United States Code §§ 47107(b) and 47133.

¹ The Director notes a newspaper article that states this proposed Ordinance was not adopted.
<https://wuisnews.wordpress.com/2013/04/16/spfld-city-council-approves-sales-tax-sewer-rate-hike/>

This letter provides only the present views of FAA based on the information provided by the Authority. It does not preclude or constrain the FAA's discretion or preclude any changes in our views. This letter also does not bind FAA to any particular resolution in the event that a complaint is filed regarding the issues addressed herein.

If you have further questions regarding the Amendment, please feel free to contact Mr. James Brown at (202) 267-5879.

Sincerely,

A handwritten signature in black ink, appearing to read "Randall S. Fiertz". The signature is written in a cursive, flowing style.

Randall S. Fiertz
Director of Airport Compliance
and Management Analysis

HINSHAW

& CULBERTSON LLP

ATTORNEYS AT LAW

400 South Ninth Street
Suite 200
Springfield, IL 62701-1908

September 28, 2015

217-528-7375
217-528-0075 (fax)
www.hinshawlaw.com

Mayor James O. Langfelder
Corporation Counsel James Zerkle
Director of Budget, William D. McCarty II
City of Springfield
Municipal Center West
800 East Monroe
Springfield, IL 62701

Re: Springfield Airport Authority – Sales Tax on Aviation Fuel

Dear Mayor Langfelder, Attorney Zerkle and Director McCarty,

As per our previous correspondence and enclosures, the Federal Aviation Administration, which is the Springfield Airport Authority's governing body, is enforcing the Federal Aviation Administration's amended *Policy and Procedures Concerning the Use of Airport Revenue; Proceeds From Taxes on Aviation Fuel*, as published in the Federal Register Volume 79, No. 216 on November 7, 2014, regarding remitting to the Authority sales tax previously collected on certain aviation fuel revenues, where the sales tax on aviation fuel was enacted after the effective date of the Airport and Airway Safety and Capacity Extension Act of 1987, 49 USC 47107(b), December 30, 1987.

Notwithstanding the responses from Mr. McCarty on May 26, 2015, the FAA has recently provided documentation of its interpretation of the City's home rule supplements to the sales tax, currently at the rate of 2.25%, which went into effect in 2004, increasing the rate to 1.5%, in 2010 making the rate 1.75% and finally increasing it to the current 2.25% in 2013. The FAA's position is that 1.25% of the sales tax is not grandfathered due to the effective dates of the said increases. Only the original 1.0% is grandfathered as being enacted before the December 30, 1987 date of the Act.

Section 112(e) which amended the Anti-Head Tax Act, 49 USC Section 40116(d)(2)(A), prohibits a State, political subdivision or an authority acting for a State or political subdivision, from collecting a new (after December 30, 1987) tax, fee or charge which is imposed exclusively upon any business located at a commercial service airport, or operating as a permittee of the airport, other than a tax, fee or charge utilized for airport or aeronautical purposes. Aviation fuel sales from the Airport facility are covered by the requirement.

The provision also applies to a State collecting the tax, therefore the 1990 city ordinance permitting the Illinois Department of Revenue to collect it does not excuse the remittance of the 1.25% to the Authority.

Mayor James O. Langfelder
Corporation Counsel James Zerkle
Director of Budget William D. McCarty II
September 28, 2015
Page Two

The Authority is required to use airport revenue generated by the airport for the capital or operating costs of the local airport or other non-airport facilities that are substantially, as well as directly, related to actual air transportation. Violations of the revenue retention provisions can subject the Authority to civil penalties up to \$50,000 and termination of discretionary grants by the FAA to the Authority. The Authority is mandated by its governing body, the FAA, to seek compliance with the Regulations. The Authority is open to discuss possible segregation and use of the remitted funds for airport purposes that would also be beneficial to the City.

We would like to arrange a meeting with you to discuss this situation. The guidelines imposed upon the Authority to pursue this matter are enclosed. The Authority believes it is under a duty to continue to request that arrangements be made to comply with the law and Regulations to facilitate the remittance to be made to the Airport Authority of 1.25% of the tax on aviation fuel sales. The complications due to the IDOR collection of the tax would also be on the agenda for the meeting.

The SAA will provide any required documentation to establish use of the revenue for its operating and capital expenditure as may be reasonably required by the City. I look forward to a response and going forward on a cooperative basis to rectify this situation.

Sincerely,

HINSHAW & CULBERTSON LLP



James M. Lestikow

Springfield Airport Authority Board of Commissioners

jlestikow@hinshawlaw.com

JML/gh

Enclosure

cc: Mark Hanna, Executive Director, Springfield Airport Authority
Jim Keefer, Manager - FAA Chicago Airports District Office

HINSHAW

& CULBERTSON LLP

ATTORNEYS AT LAW

400 South Ninth Street
Suite 200
Springfield, IL 62701-1908

October 15, 2015

217-528-7375
217-528-0075 (fax)
www.hinshawlaw.com

J. Michael Houston
3309 Quail Chase
Springfield, IL 62711-7850

Re: Springfield Airport Authority -- Sales Tax on Aviation Fuel

Dear Mike:

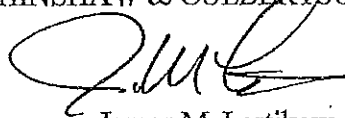
Pursuant to your request, I have enclosed the latest documents regarding our attempt to obtain compliance with remitting sales taxes, the effective date of imposition being after December 30, 1987, on aviation fuel, City of Springfield.

The documents enclosed are in reverse chronological order, starting with my latest letter dated September 28, 2015 requesting a meeting which enclosed the response from the FAA dated September 22, 2015 to my letter questioning the adequacy of the City's second response to our attempt to collect a portion of the sales tax, and a letter from William McCarty dated May 26, 2015. To date, there has been no response to that letter.

Thank you for your input on this matter during the finance committee meeting.

Sincerely,

HINSHAW & CULBERTSON LLP



James M. Lestikow
jlestikow@hinshawlaw.com

JML/gh
Enclosures

HINSHAW

& CULBERTSON LLP

ATTORNEYS AT LAW

400 South Ninth Street
Suite 200
Springfield, IL 62701-1908

March 25, 2016

217-528-7375
217-528-0075 (fax)
www.hinshawlaw.com

Mayor James O. Langfelder
Corporation Counsel James Zerkle
Director of Budget, William D. McCarty II
City of Springfield
Municipal Center West
800 East Monroe
Springfield, IL 62701

Re: Springfield Airport Authority – Sales Tax on Aviation Fuel

Gentlemen:

I sent a letter to each of you on September 28, 2015, and another on December 9, 2015, requesting that a meeting be arranged for purpose of discussing the home rule increases in sales tax on aviation fuel, the remittance of those amounts to the Springfield Airport Authority pursuant to the mandate from the Federal Aviation Administration, and potential voluntarily restricted uses for those funds. Mark Hanna has indicated that there was some discussion about potentially using those funds for construction and eventually for maintenance of a customs office.

The FAA representative has again inquired as to our progress on this issue. We would like to report that a meeting has been arranged / held on how to implement the remittance of the taxes which, as I understand it, are actually collected by the Illinois Department of Revenue. The SAA representatives will include the Executive Director, Mark Hanna, the Board Finance Committee Chairman, Mike Houston, Financial Officer, Mike Olinger and myself.

I look forward to a prompt response.

Sincerely,

HINSHAW & CULBERTSON LLP



James M. Lestikow
Springfield Airport Authority Board of Commissioners
jlestikow@hinshawlaw.com

JML/gh

cc: Frank Vala, Chair, Springfield Airport Authority
Mark Hanna, Executive Director, Springfield Airport Authority

HINSHAW

& CULBERTSON LLP

ATTORNEYS AT LAW

400 South Ninth Street
Suite 200
Springfield, IL 62701-1908

April 15, 2016

217-528-7375
217-528-0075 (fax)
www.hinshawlaw.com

Corporation Counsel James Zerkle
City of Springfield
Municipal Center West
800 East Monroe
Springfield, IL 62701

Re: Springfield Airport Authority – Aviation Fuel Sales Tax Revenue

Dear Mr. Zerkle:

According to my records, my correspondence regarding the policy and procedures concerning the Use of Airport Revenue Proceeds on Taxes on Aviation Fuel, as published in the Federal Register began on December 11, 2014. After an exchange of correspondence with Mr. William McCarty in September of 2015, I sent a letter to you, the Mayor and Mr. McCarty taking the position, as confirmed by the Federal Aviation Administration on September 22, 2015 that the City's home rule supplements to the sales tax enacted since the grandfathered original sales tax of 1%, are subject to the requirement that non-grandfathered sales tax be remitted to the Springfield Airport Authority to be used for Airport purposes. There has been no response to that September 28, 2015 letter nor to my more recent letter, so I am unclear as to whether the City accepts or rejects that analysis.

I would appreciate the opportunity to visit with you regarding the City's position so any arguments might be addressed. If you have persuasive authority regarding the home rule supplements being grandfathered, we can help submit that to the FAA.

Another potential area for discussion relates to the 1990 Springfield City Ordinance permitting the Illinois Department of Revenue to collect the tax, which is then remitted to the City, as an issue. Again, without a response, we are unable to tell whether this is perceived to be a problem. The Airport can supply periodic statements computing the reimbursement amount to be submitted to the State.

From our point of view, we do not view this as an adversarial matter as between the Airport Authority and the City. In fact, we believe that we have performed a service in pointing out the FAA imposed duty, buried in the many pages of the Federal Register, which would not be readily apparent to the City, and thereafter engaging in a cooperative effort to develop a strategy to allow compliance. We further believe that the Authority is exercising good faith in suggesting that it will work with the City to segregate those funds and apply them in a way that the City views as beneficial. One possible use of the funds which has been discussed is to apply them towards the construction and ultimately the operation and maintenance of a new customs facility to allow the Airport to qualify as an international airport. This would seem to be a very

worthwhile business development tool. If the City wants to propose other uses, my client would certainly be open to that conversation.

You should also be aware that the Authority cannot fail to obtain compliance if the home rule sales tax is not grandfathered. I have enclosed one page of a lengthy document regarding the FAA Policy. The sanctions would cripple the Airport's operations. Withholding grants would affect projects planned to increase safety and promote efficiency in Airport operations. The \$50,000 maximum civil penalty on Airport sponsors (the SAA is a "sponsor" – it applies for grants) must be avoided. The FAA is currently monitoring this situation. I enclosed a letter from Randall Fiertz, its Director of Airport Compliance, with my letter to the City dated September 28, 2015.

Because there are potential serious sanctions to the Authority involved in continued non-compliance, it is essential that we begin this process. I suggest that you and I meet to determine your position with regard to the issues I have raised, and if it is agreed that the 1.25% out of the 2.25% sales tax is subject to remittance, that we would then agree upon a second step and moving the project along. Perhaps that would be a meeting with Mayor Langfelder, yourself and any other officials for the City and Mr. Hanna, the Airport's Executive Director, Mike Houston, our finance committee chairman, and others for the Airport.

I look forward to hearing from you soon.

Sincerely,

HINSHAW & CULBERTSON LLP



James M. Lestikow

Springfield Airport Authority Board of Commissioners
jlestikow@hinshawlaw.com

JML/gh

cc: Frank Vala, Chair, Springfield Airport Authority
Mark Hanna, Executive Director, Springfield Airport Authority
Mike Houston

HINSHAW

& CULBERTSON LLP

ATTORNEYS AT LAW

400 South Ninth Street
Suite 200
Springfield, IL 62701-1908

217-528-7375
217-528-0075 (fax)
www.hinshawlaw.com

May 6, 2016

Mr. Randall Fiertz
Director of Airport Compliance and Management Analysis
U.S. Department of Transportation
Federal Aviation Administration
800 Independence Avenue S.W.
Washington, DC 20591

Re: Springfield Airport Authority – City of Springfield, Illinois
Sales Tax on Aviation Fuel

Dear Mr. Fiertz:

I am writing to follow-up on your September 22, 2015 letter and subsequent inquiries made to the staff of the Springfield Airport Authority, regarding our progress in complying with the Policy and Procedures Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel with the City of Springfield. For your file, I have enclosed my letter of September 28 to the various City officers regarding this issue and the enclosures which included your letter of September 22, 2015 in which you interpret the grandfathered sales tax revenue to be capped at 1% as being enacted prior to December 30, 1987, but the subsequent home rule tax increases amounting to an additional 1.25% not to be subject to the grandfather provision. Having received no response, I sent a letter dated December 9, 2015 to the same City officers requesting a response, a copy of which is also enclosed.

At some point in time, there was a conversation or conversations between the Mayor, James O. Langfelder, and the Airport Authority's Finance Committee Chair, former Springfield Mayor, Michael Huston. As I understand it, they discussed arranging a meeting of the parties to see if the revenue could be segregated and used exclusively for a purpose that the City would find beneficial, as opposed to just general airport revenue. However, there was never any formal request for such a meeting, and no meeting has occurred. I enclose follow-up letters I sent on March 25 and April 15, 2016 regarding this situation. Again, we have heard no response either to the premise that the 1.25% of the sales tax is subject to the reimbursement requirement, or to convening a meeting to discuss how compliance might be obtained and the eventual use of the funds remitted.

May 6, 2016
Page 2

Finally, I have enclosed a letter dated May 6, 2016 letting the City know that we are updating you with regard to our efforts to obtain compliance.

If you have any questions, please contact the undersigned.

Sincerely,
HINSHAW & CULBERTSON LLP

James M. Lestikow
jlestikow@hinshawlaw.com

JML/gh

cc: James Zerkle
Mark Hanna
Frank Vala
Mike Houston

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May 6, 2016

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Corporation Counsel James Zerkle
City of Springfield
Municipal Center West
800 East Monroe
Springfield, IL 62701

Re: Springfield Airport Authority -- Aviation Fuel Sales Tax Revenue

Dear Mr. Zerkle:

This is a follow-up to my April 15, 2016 letter regarding the lack of response from the City to our repeated requests to meet to discuss the City's position on the assertion that the non-grandfathered sales tax, over and above the original 1% grandfathered tax, which is generated pursuant to home rule ordinances, is subject to the Federal Aviation Administration regulations regarding remittance to the Airport Authority for airport purposes. Since there again has been no response, and since the FAA has made known its position on this issue since September 22, 2015 by correspondence from Randall Fiertz, the Director of Airport Compliance and Management Analysis, the Authority is communicating to the FAA to detail our efforts together with copies of all correspondence pertaining to this subject beginning with our assertion that the home rule sales tax increases are not grandfathered.

The Federal Register Volume 79, No. 216, Rules and Regulations, specifically states that the FAA may take several courses of action in the event of non-compliance, including termination of airport improvement project grants and "apply to a U.S. District Court for a compliance order." We believe it necessary to document to the FAA that such a District Court action directed to the Airport Authority would be misguided and wrongfully targeted. I enclose a copy of my letter to Mr. Fiertz regarding this issue. Prior to any response from him, we continue to anticipate cooperation from the City to move towards a resolution of this matter, and I again urge you to respond.

Sincerely,

HINSHAW & CULBERTSON LLP

James M. Lestikow
jlestikow@hinshawlaw.com

JML/gh

Enclosure

cc: Mark Hanna
Randall Fiertz
Frank Vala
Mike Houston

Building on the Barger Tradition

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Mark E. Hanna, A.A.E., Executive Director
Springfield Airport Authority

July 21, 2017

Via U.S. Certified Mail

Mr. James Zerkle
Corporation Counsel
City of Springfield
Municipal Center West
800 East Monroe
Springfield, IL 62701

Dear Mr. Zerkle:

I am writing to follow up on the attached letters sent to your attention on January 20, 2017 by our airport legal counsel, James Lestikow. As of the date of this letter, neither the Springfield Airport Authority nor Mr. Lestikow have received a response from your office or the City of Springfield regarding Mr. Lestikow's letter.

We would kindly request a formal response from your office or the City of Springfield as soon as possible, so that we may continue to move the issues forward for the benefit of all parties involved.

Sincerely,

Kenneth R. Boyle, Esq.
Director of Administration and Finance

Enclosures (2)



City would pay to reopen Lincoln-Herndon Law Offices

By Crystal Thomas

Staff Writer

Posted Apr 11, 2018 at 6:41 AM

Updated Apr 11, 2018 at 6:41 AM

Springfield aldermen Tuesday moved forward an ordinance that would have the city enter a five-year contract with the Illinois Department of Natural Resources to keep the Lincoln-Herndon Law Offices open as a visitors' center.

The offices at the southeast corner of the Old Capitol Plaza closed shortly after Labor Day 2014 in anticipation of an estimated \$1.1 million renovation of the building where Abraham Lincoln practiced law. The project seemed on track, including creation of a replica Seth M. Tinsley dry goods store on the first floor. Then came the state budget impasse and a halt to capital projects statewide.

The city would pay the state \$20,000 a year through the Springfield Convention and Visitors Bureau's budget, which is funded through a hotel-motel bed tax. Langfelder said the visitors' center would allow for the city to have a presence on the plaza, while keeping the historic site open.

"It allows that opportunity where Lincoln-Herndon (office) is open again," Langfelder said. "... It's disheartening when you go to a tourist area, like Springfield, and you see a closed historic site."

The law office drew 19,000 visitors in its last full year of operation in 2013.

Aldermen voted 5-4 to put the ordinance on the consent agenda, which is often passed without discussion. Redpath, Ward 6 Ald. Kristin DiCenso, Ward 9 Ald. Jim Donelan and Ward 10 Ald. Ralph Hanauer voted to keep the ordinance on the debate agenda. Ward 8 Ald. Kris Theilen was absent.

Aldermen also moved forward an ordinance that would allow the city spend no more than \$22,000 on a feasibility study to create a new tax-increment financing district along Lumber Lane, located near Interstate 55 and Sangamon Avenue. The TIF district was initially targeted to the 3400 block of Lumber Lane to entice LS Building Supplies, which is planning on opening a lumber yard at the old Boss Manufacturing Co. distribution facility. However, Langfelder said part of the study will look to see if more of the area would qualify for and could benefit from TIF dollars.

As a separate incentive, city officials are negotiating a sales tax rebate mechanism with the company, which would kick back a percentage of the sales tax it generates to the company.



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April 17, 2018

Mr. Kevin C. Willis, Director
Office of Airport Compliance and Management Analysis (ACO)
Federal Aviation Administration
800 Independence Ave SW
Washington DC 20591

Re: FAA Policy Concerning the Use of Airport Revenues; Proceeds from Taxes
on Aviation Fuel at 79 Federal Register 66228

Dear Mr. Willis:

The deadline for the three year transition period for state and local governments to come into compliance with the abovementioned policy via a submitted Action Plan has passed. We understand the State of Illinois has received an extension for compliance from your office until June 30, 2018. Aviation fuel sold at Abraham Lincoln Capital Airport (SPI), for which the Springfield Airport Authority is the official Airport Sponsor, is taxed by two non-sponsors, the State of Illinois and the City of Springfield. As such, in accordance with the amended policy, Airport Sponsors are expected to inform non-sponsor taxing authorities of these Federal requirements and to take reasonable action within their power to influence State and local tax laws to conform.

As noted, the State of Illinois is working to pass legislation to comply by the extended deadline. It is not certain at this time that any action taken by the State of Illinois will affect the City of Springfield's posture of compliance. No Action Plan or any sort of deadline extension appears to have been filed in Docket FAA-2013-0988 for the City of Springfield.

At the direction of the Authority's Board Chair, we write to inform you the Springfield Airport Authority, Airport Sponsor for SPI, has done all we can within our power to reasonably influence non-sponsor taxing authorities. Our participation and dialogue with state aviation trade associations, the Illinois Department of Transportation and local State Representatives demonstrates our good faith effort to influence the taxing actions of the State of Illinois. Currently, there is state legislation awaiting action at the Statehouse.

On a local level, we have written numerous letters beginning on December 16, 2014 to the Mayor and Corporation Counsel. The Sangamon County State's Attorney's response was to claim the tax was exempt since enacted in 1984. However, our FOIA request revealed that a 1.25% increase was passed under the City of Springfield's Home Rule power after the grandfather date so on May 14, 2015 I again wrote a letter to city officials to argue that the increases beginning in 1990 were not grandfathered. In response William McCarty replied that the city's Home Rule tax was implemented in 1984 and imposed a 1% sales tax and what

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happened in 1990 was a change in who collects the tax, from the city to the Illinois Department of Revenue.

We asked for confirmation from FAA that our conclusion, that the sales tax increases disclosed by a second FOIA request showing Home Rule increases in sales tax beginning on March 5, 2004 were subject to the Policy by a letter to Mr. Fiertz dated June 17, 2015, and the FAA's confirmation was forwarded to the City on September 22, 2015. Although that response was forwarded to the city On September 28th, the City has never replied, which could be assumed that they have not acquiesced in the FAA conclusion.

A member of the Airport Authority's Board of Commissioners, who is a former City Mayor, has met with City of Springfield officials and discussed this matter on at least two occasions. Our efforts to assist the City of Springfield to comply with the Policy have not resulted in any known actions for them to become compliant. In fact, the City of Springfield recently passed an ordinance *increasing* the local sales tax by an additional .25% while remaining silent on the issue of complying with the FAA's Policy, a copy of which is enclosed. So beginning on the date the Ordinance was enacted, the Home Rule portion of tax owed was increased to 1.5%. Everyone seems to agree that the original 1% tax is grandfathered.

Despite follow up letters I sent on December 9, 2015, March 25, 2016, and January 20, 2017, there has been no response from the City. It is unclear if they dispute the FAA interpretation of the Policy or just refuse to comply. If requested we can send the documents mentioned in this letter and all relevant correspondence. Please advise.

The Chair of the Springfield Airport Authority requests the following:

1. A determination letter from the FAA's Office of Airport Compliance to the Springfield Airport Authority confirming the Authority's compliant status with the amended airport revenue use policy and associated conditions of the FAA's grant assurances as they relate to the use of tax revenues imposed on aviation fuel sales and its adequate actions to obtain compliance by the State and city.
2. The FAA's proposed actions should the State of Illinois not meet the current extended compliance deadline and the FAA's proposed actions to address the City of Springfield's non-compliance with this federal policy.
3. Notification from the FAA as to when the Airport Authority can expect to receive the diverted revenues, those being the taxes imposed on aviation fuel collected by non-sponsors. Such information is critical for the Authority as it is currently compiling its operating and capital budgets for the upcoming fiscal year.

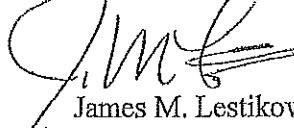
Please address the responses to: Mr. Frank J. Vala, Chair
Springfield Airport Authority
1200 Capital Airport Drive
Springfield, IL 62707

April 17, 2018
Page 3

We thank you in advance for your prompt response to these requests.

Sincerely,

HINSHAW & CULBERTSON LLP

A handwritten signature in black ink, appearing to read 'JML', with a horizontal line drawn through the middle of the letters.

James M. Lestikow

lestikow@hinshawlaw.com

JML/gh

Enclosure: City of Springfield Ordinance 066-02-18

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May 3, 2018

Mayor James O. Langfelder
Corporation Counsel James Zerkle
Director of Budget, William D. McCarty II
City of Springfield
Municipal Center West
800 East Monroe
Springfield, IL 62701

Re: Springfield Airport Authority – Sales Tax on Aviation Fuel

Gentlemen:

It is my understanding that Mayor Langfelder and Val Yazell met with Mark Hanna yesterday and the subject of the requests that the City address the issues regarding sales tax on aviation fuel, the remittance of a portion of the tax to the Springfield Airport Authority as is mandated by the FAA, and potential voluntarily restricted uses for those funds. The conversation seems to indicate that there have been some developments and that it is time to revisit the issues.

To refresh your recollection, the reply from Mr. McCarty argued that the home rule ordinances were just rate increases and not new taxes, which response was submitted to the FAA. I again enclose a copy of the letter from the FAA dated September 22, 2015 which identified the home rule tax increases as subject to the Policy while the original 1% sales tax was grandfathered.

The remitted tax would be considered to be "airport revenue" by the FAA. The Authority is required to use airport revenue for the capital or operating costs of the airport or other non-airport facilities that are substantially, as well as directly, related to actual air transportation. Violations of the revenue retention and use provisions can subject the Authority to civil penalties up to \$50,000 (or up to three times the amount of tax diverted) and termination of discretionary grants by the FAA to the Authority. This could include suspension of Airport Improvement Grants that the Authority depends upon for vital maintenance and improvements of the facilities, runways and other infrastructure. The Authority is mandated by its governing body, the FAA, to seek compliance with the Regulations.

One of the comments indicated that there has been a misapprehension of the extent of the remittance required. It was not our intent to imply, and I do not believe we did, that the remittance was retroactive to the date the FAA announced the Regulation. However, the final date for compliance, or for having an extension approved by the FAA, expired at the end of

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May 3, 2018
Page 2

2017, so the remittance will need to date back to January 1, which should not be a large amount of the home rule portion of the tax.

Another development is legislation currently pending in the Illinois House (HB4228) and Senate (SB482) regarding ending the use of aviation fuel sales tax by local units of government. It appears to us that both the City and the Airport Authority would be losers in that event since revenue would be lost by both, although it would arguably fix the compliance problem with the FAA. It may be prudent to discuss a strategy to respond to the two bills.

Yet another development was reported in the State J-R, regarding the economic development strategy being discussed, mainly giving a sales tax rebate to attract a business interested in relocating to Springfield. So if that is doable from a legal and logistical standpoint, it would also be doable to do a rebate as mandated by the FAA.

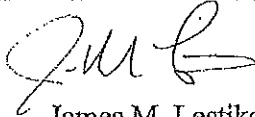
As we have suggested in past communications, the Authority is open to discuss possible segregation and use of the remitted funds for airport purposes that would also be beneficial to the City.

We would like to report to the Federal Aviation Administration representative that a meeting has been arranged on how to implement the remittance of the taxes.

I look forward to a prompt response.

Sincerely,

HINSHAW & CULBERTSON LLP



James M. Lestikow

jlestikow@hinshawlaw.com

JML/gh



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December 4, 2018

Mayor James O. Langfelder
Corporation Counsel James Zerkle
City of Springfield
Municipal Center West
800 East Monroe
Springfield, IL 62701

Re: Springfield Airport Authority – Sales Tax on Aviation Fuel

Gentlemen:

Beginning on December 16, 2014, in the letter to William McCarty, Director of Office of Budget and Management for the City of Springfield, we urged the City to become compliant with the initial Federal Aviation Administration's amended *Policy and Procedures Concerning the Use of Airport Revenue; Proceeds From Taxes on Aviation Fuel*, as published in the Federal Register Vol. 79, No. 216 on November 7, 2014. Notwithstanding Mr. McCarty's response claiming that the taxes were generated pursuant to the City's home rule, the FAA's position, based upon the timing of the ordinances assessing sales tax, is that only 1.0% is grandfathered due to enactment before the December 30, 1987 date of the Airport and Airway Safety and Capacity Extension Act of 1987. Therefore, 1.25% of the sales tax should have been paid to the Springfield Airport Authority ("SAA") for airport purposes beginning as early as 2015.

As I spelled out in my letter dated April 15, 2016, to James Zerkle, the SAA does not view this as an adversarial situation as between it and the City, but rather an opportunity to explore mutually beneficial uses for the money while complying with the FAA regulation. And, as I have also pointed out in previous correspondence, the FAA can force compliance in various ways including seeking a court order and/or imposing severe sanctions on the SAA. One such sanction could involve ceasing funding airport improvement projects, which meant \$6,625,171 in construction grants in calendar year 2018 alone. The economic effect on the local economy would be catastrophic.

We have often offered to collaboratively discuss ways that the Airport could use those funds which would be beneficial to the City of Springfield. One idea that was suggested included earmarking the funds to be used for constructing and operating customs facilities to enable the airport to qualify as an international airport which would open up the possibility of increased passenger traffic and hence revenue for the City and the SAA. Another use would be to earmark them for development of Commerce Park on the south side of the airport grounds, which will eventually generate significant sales tax and utilities revenue for the City and CWLP,

Mayor James O. Langfelder
Corporation Counsel James Zerkle
December 4, 2018
Page 2

as well as greater usage of the airport by its tenants. To my knowledge, there has been no response to those offers.

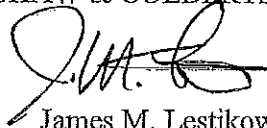
Recently, the Illinois Department of Revenue provided us a report for aviation fuel sales tax collected by the City in 2018. I have enclosed a spread sheet showing the results for the term January through August 2018 indicating that the unremitted portion due is \$20,764.01. That would amount to approximately \$27,700.00 in revenue for the calendar year at that rate. According to the FAA, the grace period it allowed for tax collectors to adopt the procedure for compliance has expired. The deadline for compliance was prior January 1, 2018, so there appears to be an enforceable claim for the taxes generated in 2018 and perhaps for prior taxes as well. However, the SAA, for our part, would welcome action involving the current year alone.

We have been keeping the FAA Chicago Airport's district office apprised of our enforcement efforts, as we will with a copy of this letter. Although the FAA issued the opinion that 1.25% of the sales tax is not grandfathered, if the City believes there is a defense to enforcement, we have not been so informed.

We, again, offer to meet with the appropriate city officials to discuss any problems you foresee with regard to compliance and possible uses of the funds on an ongoing basis. However, we believe we have exercised sufficient good faith through our efforts to obtain compliance beginning in 2014. If we do not receive a reply to this letter within a reasonable time, we intend to certify the non-compliant status to the FAA, and cease our efforts.

Sincerely,

HINSHAW & CULBERTSON LLP



James M. Lestikow

jlestikow@hinshawlaw.com

JML/mr

cc: Deb Bartell, Manager FAA Chicago Airport District Office
Michael Houston, Chair, SAA Budget and Finance Committee
Mark Hanna, Executive Director, Springfield Airport Authority