



City of Chicago



SO2015-7403

Office of the City Clerk

Document Tracking Sheet

Meeting Date:

10/14/2015

Sponsor(s):

Emanuel (Mayor)
Sawyer (6)
Hairston (5)
Tunney (44)
Munoz (22)
Laurino (39)
Mitts (37)
Solis (25)
Zalewski (23)
O'Connor (40)
Reilly (42)
Sposato (38)
Beale (9)
Quinn (13)
Moore (49)
Cochran (20)
Burke (14)
Austin (34)
Burnett (27)
Harris (8)
O'Shea (19)
Burns (4)
Reboyas (30)
Thompson (11)
Foulkes (16)

Type:

Ordinance

Title:

Amendment of Municipal Code Titles 3, 4, 7, 9, 11 and 13 concerning various fines and fees (2016 Revenue Ordinance)

Committee(s) Assignment:

Committee on Finance

SUBSTITUTE
REVENUE
ORDINANCE
AS
AMENDED

WHEREAS, The City of Chicago is a home rule unit of government as defined in Article VII, Section 6 (a) of the Illinois Constitution; and

WHEREAS, As a home rule unit of government, the City of Chicago may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, The management of its finances is a matter pertaining to the government and affairs of the City of Chicago; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

This ordinance is organized into fourteen Articles, as follows:

Article I	Personal Property Lease Transaction Tax
Article II	Chicago Liquid Nicotine Product Tax
Article III	Property Tax Limitation Ordinance
Article IV	Amusement Tax
Article V	Parking Tax
Article VI	Overweight Truck Permit Fees
Article VII	Uninsured Motorist Regulation
Article VIII	Building Permit Fees
Article IX	Refuse Collection
Article X	Capital Improvement Tax Levy
Article XI	Taxi Rate and TNP Airport Surcharge
Article XII	Miscellaneous Ordinances
Article XIII	Severability and Repealer
Article XIV	Effective Date

Article I
Personal Property Lease Transaction Tax

SECTION 1. Chapter 3-32 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

3-32-020 Definitions.

When any of the following words or terms are used in this chapter, whether or not capitalized and whether or not used in a conjunctive or connective form, they shall have the meaning or construction ascribed to them in this section:

(Omitted text is unaffected by this ordinance)

I. "Lease" or "rental" means any transfer of the possession or use of personal property, but not title or ownership, to a user for consideration, whether or not designated as a lease, rental, license or by some other term, and includes a "nonpossessory lease".

The term "nonpossessory lease" means a lease or rental wherein use but not possession of the personal property is transferred and includes, but is not limited to, leased time on or use of any and all personal property not otherwise itself rented, such as leased time on or for the use of addressing machines, billboards, calculators, computers, computer software, copying equipment or data processing equipment, whether the time is fully or partially utilized, and specifically includes a "nonpossessory computer lease".

The term "nonpossessory computer lease" means a nonpossessory lease in which the customer obtains access to the provider's computer and uses the computer and its software to input, modify or retrieve data or information, in each case without the intervention (other than de minimis intervention) of personnel acting on behalf of the provider. The term "nonpossessory computer lease" includes, but is not limited to, time sharing or time or other use of a computer with other users. In the case of a nonpossessory computer lease, the location of the terminal or other device by which a user accesses the computer shall be deemed to be the place of lease or rental and the place of use of the computer for purposes of the tax imposed by this chapter.

In the case of a nonpossessory computer lease where the user accesses the provider's computer from a mobile device, the rules set forth in the Illinois Mobile Telecommunications Sourcing Conformity Act ("Act"), 35 ILCS 638, as amended, may be utilized for the purpose of determining which customers and charges are subject to the tax imposed by this chapter. If those rules indicate that the tax applies, it shall be presumed that the tax does apply unless the contrary is established by books, records or other documentary evidence.

The words "lease" or "rental" shall not be construed to include an agreement which constitutes a bona fide conditional sale of personal property. The primary consideration in determining whether an agreement is a conditional sale rather than a lease or rental is whether the lessee under the agreement both is required to make payments the sum of which is at least equal to the lessor's cost of the personal property and, under the terms of the agreement, has the option of taking title to or ownership of the personal property for nominal or no consideration after all payments required under the agreement have been made.

The words "lease" or "rental" shall not be construed to include an agreement which grants certain rights to a person, or the person's agent, to install, remove, operate, improve and maintain, and collect fees from, certain designated parking meters pursuant to a concession agreement.

The words "lease" or "rental" shall include a transfer of the use of software within the meaning of this chapter only if, for purposes of the Illinois Retailers' Occupation Tax and Illinois Use Tax, the software is not "custom" software and the transfer is an exempt license of software.

(Omitted text is unaffected by this ordinance)

M. "Lessor" means any person, including the assignee of any lease or rental agreement, who leases or rents personal property to users or who, directly or indirectly, receives or collects the consideration for the lease or rental of personal property.

(Omitted text is unaffected by this ordinance)

3-32-030 Tax imposed.

(Omitted text is unaffected by this ordinance)

B. The rate of the tax shall be nine percent of the lease or rental price, unless subsection B.1 of this section provides for a lower rate. The tax shall be paid by the lessee at the time of each lease or rental payment, and each tax payment shall be determined by applying the tax rate to the lease or rental payment.

B.1 In the case of the nonpossessory lease of a computer primarily for the purpose of allowing the customer to use the provider's computer and software to input, modify or retrieve data or information that is supplied by the customer, the rate of the tax imposed by this chapter shall be 5.25 percent of the lease or rental price.

(Omitted text is unaffected by this ordinance)

3-32-050 Exempt leases, rentals or uses.

A. Notwithstanding any other provision of this chapter, the following leases, rentals or uses shall be exempt from the tax imposed by this chapter:

(Omitted text is unaffected by this ordinance)

(13) In accordance with the terms of this subsection, and pursuant to procedures to be established by the comptroller, the nonpossessory lease of a computer, where the lessor or lessee is a small new business, as the term "small new business" is defined in this subsection.

(a) For purposes of this subsection, the term "small new business" shall mean a business that (i) holds a valid and current business license issued by the City or another jurisdiction, (ii) during the most recent full calendar year prior to the annual tax year for which the exemption provided by this subsection is sought had under \$25 million in gross receipts or sales, as the term "gross receipts or sales" is defined for federal income tax purposes, and (iii) has been in operation for fewer than 60 months. For the purpose of calculating the \$25 million limit, gross receipts or sales will be combined if they are received by members of a single unitary business group. For purposes of this subsection, the term "unitary business group" is as defined for Illinois income tax purposes. For the purpose of

calculating the 60 month limit, time in operation will be deemed to have begun during the first calendar month in which the business seeking the exemption first received any gross receipts or sales. Also for the purpose of calculating the 60 month limit, time in operation will include any earlier time during which any of the following businesses were in operation (i) another existing business, if that business is a member of the same unitary business group as the business seeking the exemption, (ii) a business that is no longer in operation, but that would be a member of the same unitary business group as the business seeking the exemption, if it were still in operation; (iii) a business whose liabilities would be liabilities of the business seeking the exemption, pursuant to Illinois law concerning successor liability; or (iv) any other business that is reasonably determined by the Comptroller to be substantially similar or a predecessor to the one seeking the exemption, based on factors including, but not limited to, common ownership, management, employees, assets, line of business and location.

(b) A small new business that is the lessor of a nonpossessory computer lease shall not be required to collect tax on its charges for such nonpossessory computer lease.

(c) A small new business that is the lessee of a nonpossessory computer lease shall not be required to pay tax on its charges for such nonpossessory computer lease. To document this exemption, the lessor must obtain from the lessee and retain in its business records a copy of the lessee's lease tax exemption certificate, in a form to be provided by the Comptroller.

(Omitted text is unaffected by this ordinance)

SECTION 2. With regard to the amendments in Section 1 of the Personal Property Lease Transaction Tax portion of this ordinance that amends Section 3-32-020(I) of the Municipal Code, the purpose of said amendment is to eliminate ambiguity and clarify rather than change the law.

Article II Chicago Liquid Nicotine Product Tax

SECTION 1. Section 3-4-186 of the Municipal Code of Chicago is hereby amended by adding the language underscored, as follows:

3-4-186 Annual returns.

(Omitted text is not affected by this ordinance)

Hotel Accommodation Tax

3-24

(Omitted text is unaffected by this ordinance)

Article IV Amusement Tax

SECTION 1. Section 4-156-020 of the Municipal Code of Chicago is hereby amended by adding the language underscored, as follows:

4-156-020 Tax imposed.

(Omitted text is unaffected by this ordinance)

G. It shall be presumed that all amusements are subject to tax under this article until the contrary is established by books, records or other documentary evidence.

G.1. In the case of amusements that are delivered electronically to mobile devices, as in the case of video streaming, audio streaming and on-line games, the rules set forth in the Illinois Mobile Telecommunications Sourcing Conformity Act, 35 ILCS 638, as amended, may be utilized for the purpose of determining which customers and charges are subject to the tax imposed by this chapter. If those rules indicate that the tax applies, it shall be presumed that the tax does apply unless the contrary is established by books, records or other documentary evidence.

(Omitted text is unaffected by this ordinance)

SECTION 2. With regard to the amendments in Section 1 of the Amusement Tax portion of this ordinance, the purpose of said amendment is to eliminate ambiguity and clarify rather than change the law.

Article V Parking Tax

SECTION 1. Chapter 4-236 of the Municipal Code of Chicago is hereby amended by adding the language underscored and by deleting the language struck through, as follows:

4-236-010 Definitions.

For the purpose of this chapter, whenever any of the following words, terms or definitions are used, they shall have the meaning ascribed to them in this section:

(Omitted text is unaffected by this ordinance)

Clerk is authorized to implement such CPI increases pursuant to a schedule that conforms to the operational and administrative needs of her office. At the latest, wheel tax licenses issued with a term commencing July 1, 2016 shall include the relevant CPI increase. The amendments in Section 15 of Article X are intended to clarify the process governing calculation and implementation of the CPI increase from 2016 onward, rather than change existing law.

**Article XIII
Severability and Repealer**

SECTION 1. The provisions of this ordinance are declared to be separate and severable. The invalidity of any provision of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

SECTION 2. All ordinances, resolutions, motions or orders inconsistent with this ordinance are hereby repealed to the extent of such conflict.

**Article XIV
Effective Date**

SECTION 1. Those provisions in Section 1 and Section 2 of Article I pertaining to the amendments to Section 3-32-020(I) of the Municipal Code shall be effective upon passage and publication.

Those provisions in Section 1 and Section 2 of Article IV pertaining to the Amusement Tax shall be effective upon passage and publication.

Those provisions in Section 2 of Article VIII amending section 13-12-300 of the Municipal Code shall be effective upon passage and publication.

Those provisions of Section 2 of Article XI of this ordinance that amends subsection (b-1) in Section 3-46-030 of the Municipal Code of Chicago and those provisions of Section 6 of Article XI that adds new Section 10-36-265 shall take effect upon passage and publication.

Following passage and publication, the remainder of this ordinance shall take effect on January 1, 2016

SUBSTITUTE

REVENUE

ORDINANCE

AS AMENDED

Article X

Capital Improvement Tax Levy

SECTION 1. Pursuant to 105 ILCS 5/34-53.5(e), the Chicago City Council hereby approves, by resolution, the capital improvement tax levy made by the Chicago Board of Education, by resolution # 15-0826-RS4, dated August 26, 2015, a certified copy of which was duly delivered to the City Clerk.

Such approval is conditioned upon periodic reporting to the Chicago City Council by suitable representatives of the Board of Education regarding expenditures planned using funds received pursuant to the above levy. Members of the City Council may, by resolution, file objections to any such proposed expenditures.

10/1/15

Justin Houston 5
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 Marquet Cavino 39
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[Signature] 13
 Joseph A. Moore 49
 [Signature] 20
 Edward L. Bauer
 Carrie M. Austin 34
 [Signature] 14
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 Michelle A. Darr 8th
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FIN.

(R)

OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

October 14, 2015

TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Budget Director, I transmit herewith the Revenue Ordinance for Fiscal Year 2016.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor

CHICAGO October 21, 2015

To the President and Members of the City Council:

Your Committee on Finance having had under consideration

A substitute ordinance authorizing amendments to various sections of the Municipal Code of Chicago, which relate to revenue derived from certain taxes, fines, and fees.

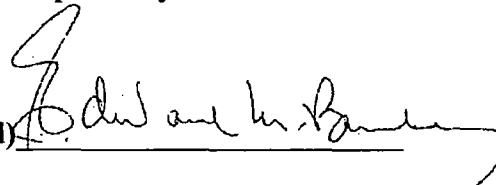
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Having had the same under advisement, begs leave to report and recommend that your Honorable Body pass the proposed Ordinance Transmitted Herewith

This recommendation was concurred in by _____ (a viva voce vote of members of the committee with 2 dissenting vote(s).

Aldermen Maldonado (26) and Arena (45) vote no.

Respectfully submitted

(signed) 

Chairman