

# IPT LOCAL LUNCHEON GROUP

## A State and Local Tax Update on Recent Illinois, Chicago and Cook County Developments

August 26, 2020

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# BUDGET LEGISLATION - FY 2020 & 2021

- **HB 62 – P.A. 101-0029** - capital bill appropriations bill
- **HB 142 – P.A. 101-0030** - bonding authorization bill
- **HB 64 – P.A. 101-0638 & SB 264 – P.A. 101-0637** – FY 2021 Budget with additional FY 2020 appropriations
- **SB 2099 – P.A. 101-0630** – Up to \$5 B in borrowing authorized



# BUDGET LEGISLATION – SB 689- P.A. 101-0009

- Addback for Foreign Derived Intangible Income (FDII income). This language was part of an Illinois Department of Revenue initiative last year, SB 3152, that passed the Senate but stalled in the House
- Sales tax - Marketplace seller and facilitator nexus language,
  - Effective 1/1/20
  - “Marketplace facilitator” – for example, Amazon, Walmart, Etsy, etc.
  - “Marketplace seller” – person that sells or offers to sell tangible personal property through a marketplace



# BUDGET LEGISLATION – SB 689- P.A. 101-0009

- Marketplace facilitators who meet the IDOR “Wayfair nexus” standards are required to charge Use Tax to customers of marketplace sellers
- Marketplace facilitators will be considered to be the retailer of all sales made through its marketplace and will be responsible for collecting and remitting Use Tax
- IDOR adopted emergency rules to implement the marketplace facilitators provisions at the end of December 2019.
- But, see SB 690 and SB 119, “Level the Playing Field for Illinois Retail” Act
  - some of the rules for marketplace sales change again 1/1/21



# BUDGET LEGISLATION – SB 689- P.A. 101-0009

- Tax amnesty - Illinois Department of Revenue
  - Ran from 10/1 – 11/15/19
  - Amnesty for periods after 6/30/11 and prior to 7/1/18
  - Abatement of all interest and penalties
  - No double penalties and interest for failure to pay taxes due during the amnesty
- Franchise tax amnesty - Illinois Secretary of State
  - Ran from 10/1 – 11/15/19
  - Applies to periods ending after 3/15/08 and on or before 6/30/19
  - Abatement of all interest and penalties



# BUDGET LEGISLATION – SB 689- P.A. 101-0009

- Managed care organization provider assessment
  - Managed care organization – “an entity operating under a certificate of authority issued pursuant to the Health Maintenance Organization Act or as a Managed Care Community Network pursuant to Section 5-11 of the Public Aid Code”
  - For State FY 2020 through FY 2025 an assessment is imposed on managed care “member months”
- Managed care organization provider assessment
  - Assessment is due and payable in monthly installments on the first business day of each month
  - Department of Healthcare and Family Services will notify each managed care organization of its annual fiscal year 2020 assessment and installment due dates no later than 30 days prior to the first installment due date – a federal waiver needed to implement the program



# BUDGET LEGISLATION – SB 689- P.A. 101-0009

- Blue Collar Jobs Act (total credits capped at \$20 million per fiscal year)
  - effective for tax years beginning on or after January 1, 2021
    - High Impact Business construction jobs income tax credit
      - 50% of incremental income tax from construction jobs
      - 75% of incremental income tax from construction jobs in underserved areas (same definition of underserved as EDGE)



# BUDGET LEGISLATION – SB 689- P.A. 101-0009

- Blue Collar Jobs Act
  - Enterprise Zone construction jobs income tax credit
    - 50% of incremental income tax from construction jobs
    - 75% of incremental income tax from construction jobs in underserved areas (same definition of underserved as EDGE)
  - Amends EDGE provisions to add “New Construction EDGE Agreement”
  - River Edge Income Tax Credit – capital investment of at least \$1 million in a qualified rehabilitation plan
  - Amends EDGE provisions to authorize “New Construction EDGE credits” – requires capital investment of at least \$10 million





# BUDGET LEGISLATION – SB 689- P.A. 101-0009

- Manufacturing machinery and equipment exemption expanded to include items formerly covered by the Manufacturers’ Purchase Credit
  - Provides a full sales tax exemption for “production-related tangible personal property” without the reporting and tracking requirements of the former MPC
  - Applies to graphic arts production – per telephone conversation with IDOR
  - Applies to stand-alone research and development facilities – per telephone conversation with IDOR



# BUDGET LEGISLATION – SB 689- P.A. 101-0009

- "Production related tangible personal property" means all tangible personal property that is used or consumed by the purchaser in a manufacturing facility in which a manufacturing process takes place and includes, without limitation, tangible personal property that is purchased for incorporation into real estate within a manufacturing facility, supplies and consumables used in a manufacturing facility including fuels, coolants, solvents, oils, lubricants, and adhesives, hand tools, protective apparel, and fire and safety equipment used or consumed within a manufacturing facility, and tangible personal property that is used or consumed in activities such as research and development, preproduction material handling, receiving, quality control, inventory control, storage, staging, and packaging for shipping and transportation purposes



# BUDGET LEGISLATION – SB 689- P.A. 101-0009

- "Production related tangible personal property" does not include (i) tangible personal property that is used, within or without a manufacturing facility, in sales, purchasing, accounting, fiscal management, marketing, personnel recruitment or selection, or landscaping or (ii) tangible personal property that is required to be titled or registered with a department, agency, or unit of federal, State, or local government
- IDOR filed emergency rules and then permanent rules filed 11/15/19



# BUDGET LEGISLATION – SB 689- P.A. 101-0009

- Gradual repeal of the Corporate Franchise Tax – 2020 through 2024
  - 1/1/20 – 12/31/20 – first \$30 in liability exempted
  - 1/1/21 – 12/31/21 – first \$1,000 in liability exempted
  - 1/1/22 – 12/31/22 – first \$10,000 in liability exempted,
  - 1/1/23 – 12/31/23 – first \$100,000 in liability exempted
  - 1/1/24 and thereafter – no franchise tax



# BUDGET LEGISLATION – SB 690 – P.A. 101-0031

- Sales Tax - “Leveling the Playing Field for Illinois Retail Act”
  - Converts “remote retailers” from Use Tax collectors to retailers subject to state and locally-imposed retailers’ occupation taxes
  - Originally scheduled to be effective 7/1/20 – amended by SB 119 to start 1/1/21



# BUDGET LEGISLATION – SB 690 – P.A. 101-0031

- “remote retailer” means a retailer, as defined in Section 1 of the Retailers’ Occupation Tax Act, that has an obligation to collect State and local retailers’ occupation tax under subsection (b) of Section 2 of the Retailers’ Occupation Tax Act”
- “remote retailer” defined in ROT Section 1 as a retailer located outside of this State that doesn’t have any physical presence in the state in the form of offices, warehouses, etc., or agents or representatives



# BUDGET LEGISLATION – SB 690 – P.A. 101-0031

- IDOR to establish standards for certification of certified service providers
- IDOR required to provide and maintain electronic downloadable databases
  - Database of defined product categories that identifies the taxability of each category
  - Database of all ROT rates for the jurisdictions in this State that levy an ROT
  - Database that assigns delivery addresses in this State to the applicable taxing jurisdiction



# BUDGET LEGISLATION – SB 690 – P.A. 101-0031

- Remote sellers using a CSP or certified automated system are relieved from liability to the State for having charged and collected the incorrect amount of use or occupation tax relying on erroneous data provided by the state
- Sales of a “remote retailer” will be sourced to the location to which the tangible personal property is shipped or delivered, or at which possession is taken by the purchaser





# SB 119

- SB 119 surfaced in the veto session to deal with the problems associated with the sales and use tax legislation enacted during the spring session - SB 689 (P.A. 101-0009) and SB 690 (P.A. 101-0031).
- Added back Use Tax nexus language - all of the nexus provisions were eliminated from the Use Tax in SB 690
- Effective January 1, 2021, sellers on marketplace platforms are subject to state and local ROT based on destination sourcing unless the seller is also the marketplace platform operator or a related company



# SB 119

- When the sale is not by the operator of the marketplace platform or one of its “related companies,” the sale is by a marketplace seller.
  - The transaction will be subject to the Retailers’ Occupation Tax (“ROT”), without regard to whether the marketplace seller has a brick and mortar location in Illinois.
  - The local ROT rate will be based on the delivery location of the buyer



# SB 119

- When the sale is by the operator of the marketplace or any of its “related companies:”
  - If it is delivered to the buyer from a location in Illinois (shipped from either the related company’s Illinois location or from an Illinois-based fulfillment center) the local ROT rate is based on the origin of the sale



# SB 119

- The tax rate charged a customer when identical products are purchased through a marketplace platform may vary based on who makes the sale and, in the case of marketplace platform operators and related companies, whether the sale is fulfilled from an Illinois warehouse or an out-of-state warehouse



# BUDGET LEGISLATION – SB 690 – P.A. 101-0031

- Parking Excise Tax
  - Effective 1/1/20 – IDOR proposed rules on 11/15/19
  - 6% on an hourly, daily, or weekly basis and,
  - 9% if paid for monthly or annually
  - Valet services – tax on the valet charge



# BUDGET LEGISLATION – SB 690 – P.A. 101-0031

- Taxable charges exclude amounts retained by or paid to a booking intermediary – Example: SpotHero
  - Returns are due on the last day of the month for the preceding month – due date is different from sales taxes which are due on the 20th
  - “Operator” – any person who engages in the business of operating a parking area or garage – the term “person” as defined does not include governmental units



# BUDGET LEGISLATION – SB 690 – P.A. 101-0031

- Parking tax exemptions include
  - Federal government
  - Residential off-street parking for home or apartment tenants or condo occupants
  - Parking by hospital employees in a parking space owned and operated by the hospital – (question about a hospital with multiple legal entities)
  - Parking in an area or garage where 3 or fewer motor vehicles are parked



# BUDGET LEGISLATION – SB 690 – P.A. 101-0031

- Data center legislation – effective immediately – IDOR proposed rules on 11/15/19
  - Data center sales tax exemptions -
    - exemption applies to qualifying purchases by data centers, their construction contractors and tenants of data centers
    - The exemption includes building materials and data center equipment – servers, software, racking etc.
  - Data center construction employment tax credit – income tax credit 20% of the wages to employees of contractors employed by a certified data center in an underserved area (the definition of “underserved area” is the same definition used in the EDGE credit)





# BUDGET LEGISLATION – SB 690 – P.A. 101-0031

- Data center legislation – requirements for the sales tax credit
  - Investment of \$250 million over 5 years and employment of 20 full time equivalent employees
  - Credit may be claimed by new data centers or existing data centers that have made the required investment and level of employment over the past 5 years



# BUDGET LEGISLATION – SB 690 – P.A. 101-0031

- Application for the data center sales tax credit is made to the Department of Commerce and Economic Opportunity
- DCEO and the data center enter into an agreement for the credit
- The credit can be for up to 20 years



# SB 119 – DATA CENTERS

- Veto session amendments to data center legislation:
  - Grants the Department of Commerce and Economic Opportunity specific rulemaking authority,
  - Deleted an incorrect reference in the exemption section to the Electricity Excise Tax
  - Clarified the investment requirement applies to new and existing data centers for investments made on or after 1/1/20
  - Established a 90 day reporting provision for compliance with the carbon neutral or green building certification
  - Makes technical changes to the definition of “underserved area” in the income tax credit



# BUDGET LEGISLATION – SB 690 – P.A. 101-0031

- Trade-in credit for cars limited to the first \$10,000 – effective 1/1/20
- Cigarette tax raised from 99 mills to 149 mills
  - Effective 7/1/19
  - Included a modified floor stock tax
- E-cigarettes included in Tobacco Products Tax
  - Tobacco Products Tax rate not increased
  - E-cigarettes taxed at a separate rate of 15% of the wholesale price



# BUDGET LEGISLATION – SB 690 – P.A. 101-0031

- Illinois Works Jobs Program Act
  - Pre-apprenticeship program
  - Apprenticeship initiative
- Sports Wagering Act – Not Yet Implemented
- New casinos (Six)
- Gaming at the tracks
- Video gaming tax increase



# BUDGET LEGISLATION – SB 1814 – P.A. 101-0010

- Beginning December 1, 2019, implements federal requirements that a portion of the sales tax on aviation fuel must be used for “airport-related purposes”
  - Requires the filing of a separate sales tax return to report and pay sales tax on aviation fuel
  - Modifies the distribution of the proceeds of sales tax on aviation fuel, but 5% of the state sales tax rate grandfathered and distribution of proceeds not changed
  - Amended by SB 119 to make technical fixes



# HB 1438 – CANNABIS REGULATION AND TAX ACT – P.A. 101-0027

- The 7% tax is imposed on licensed cannabis cultivators and craft growers
- Cultivators may recover the tax by stating it as a separate charge on the bill to their customers
- Cultivators are required to file tax returns monthly
- Cultivators are also subject to specific requirements for invoices
- The next tier of the tax process applies to companies that infuse cannabis into other products, like edibles
- The next tax imposed is the Cannabis Purchaser Excise Tax



# HB 1438 – CANNABIS REGULATION AND TAX ACT – P.A. 101-0027

- All cannabis-infused products are taxed at 20 percent of the purchase price
- Other cannabis with a THC level of 35 percent or less is taxed at 10 percent of the purchase price
- Cannabis with a THC level of greater than 35 percent is taxed at 25 percent of the purchase price
- The Cannabis Purchaser Excise Tax is not a portion of the tax base used for calculation of the Retailers' Occupation Tax, aka sales tax, on cannabis purchases





# HB 1438 – CANNABIS REGULATION AND TAX ACT – P.A. 101-0027

- Sales to end users are subject to all state and local retailers' occupation taxes
  - the state tax rate is 6.25% of the selling price
  - local tax rates vary by location
- The Cannabis Purchaser Excise Tax must be electronically reported to the IDOR under requirements that mirror those for cultivators
- Bundling of cannabis sales with non-cannabis products is prohibited. For example, cannabis retailers cannot bundle sales of cannabis with smoking paraphernalia



# HB 1438 – CANNABIS REGULATION AND TAX ACT – P.A. 101-0027

- Two new local retailers' occupation taxes are imposed on sales to end users
- The first is the Cannabis County Retailers' Occupation Tax collected and enforced by IDOR
- The second authorized tax is a Municipal Cannabis Retailers' Occupational Tax



# BUDGET LEGISLATION – SB 1814 – P.A. 101-0010

- Amends Section 703A of the Illinois Income Tax Act to provide on or after January 1, 2020, at the same time and in the same manner as the foregoing reportable payment transactions are required to be reported to the Department, the person shall report to the Department and to any payee with an Illinois address any information required by Section 6050W of the Internal Revenue Code with respect to third-party network transactions related to that payee, but without regard to the de minimis limitations of subsection (e) of Section 6050W of the Internal Revenue Code, if, in that reporting period, the amount of those transactions exceeds \$1,000 and the aggregate number of those transactions exceeds 3.



# BUDGET LEGISLATION – SB 1939 – P.A. 101-0032

- Motor Fuel Tax increased from \$.19/gallon to \$.38/gallon effective July 1, 2019
- Diesel – the additional motor fuel tax for diesel raised from .025/gallon to .075/gallon
- Registration fees are increased effective 1/1/20 – passenger cars increased from \$98 to \$148, other registration fees are also increased



# BUDGET LEGISLATION – SB 1939 – P.A. 101-0032

- Municipalities in a county of more than 3 million can impose a local motor fuel tax at a rate up to \$.03/gallon County Motor Fuel Tax –
  - adds Lake and Will counties to DuPage, Kane and McHenry
  - increased to an \$.08/gallon maximum
  - annual inflation adjustment



# CONSTITUTIONAL AMENDMENT – GRADUATED INCOME TAX – SJRCA 0001

- On the ballot in November 2020
- Removes the requirement that a tax on income shall be measured at a non-graduated rate. Provides that the General Assembly shall provide by law for the rate or rates of any tax on or measured by income imposed by the State
- Provides that the highest rate imposed on corporations may not exceed the highest rate imposed on individuals by more than a ratio of 8 to 5



# CONSTITUTIONAL AMENDMENT – GRADUATED INCOME TAX – SJRCA 0001

- Article XIV of the Illinois Constitution provides in pertinent part "[a] proposed amendment shall become effective as the amendment provides if approved by either three-fifths of those voting on the question or a majority of those voting in the election"



# GRADUATED INCOME TAX LEGISLATION – SB 687 – P.A. 101-0008

- Imposes graduated income tax rates on individuals, effective January 2021, if the constitutional amendment authorizing graduated rates is approved by the voters

\$0 – \$10,000 – 4.75%

\$10,001 – \$100,000 – 4.9%

\$100,001 – \$250,000 – 4.95%

\$250,001 – \$350,000 – 7.75%

\$350,001 – \$1,000,000 – 7.85%

If income more than \$1,000,000, then 7.99% on all income

- Corporations will be taxed at a nongraduated rate of 7.99% (plus the 2.5% replacement tax)
- SB 687 does not establish graduated income tax rates on corporations, but if the amendment is adopted the General Assembly will have authority to impose graduated rates on corporations





# SB 1 – P.A. 101-0001 – MINIMUM WAGE INCREASE

- Provides for an increase in the minimum wage and for a credit against withholding payments in relation to the increase
- Increases the minimum wage to \$9.25 per hour beginning January 1, 2020
- Provides for additional increases in the minimum wage culminating in a minimum wage of \$15 per hour beginning on January 1, 2025



# SB 1 – P.A. 101-0001 – MINIMUM WAGE INCREASE TAX CREDIT

- Employers with 50 or fewer full-time equivalent employees receive a credit against tax withheld beginning January 1, 2020 equal to 25% for reporting periods beginning on or after January 1, 2020 and ending on or before December 31, 2020
- The percentage is the difference between the amount of compensation paid in Illinois to employees who are paid not more than the required minimum wage, reduced by the amount of compensation paid in Illinois to employees who were paid less than the current required minimum wage during the reporting period prior to each increase in the required minimum wage on January 1<sup>st</sup>



# SB 1 – P.A. 101-0001 – MINIMUM WAGE INCREASE TAX CREDIT

- If an employer pays an employee more than the required minimum wage and that employee previously earned less than the required minimum wage, the employer may include the portion that does not exceed the required minimum wage as compensation paid in Illinois to employees who are paid not more than the required minimum wage
- The credit is gradually reduced each year beginning January 1, 2021
- The credit ends on 12/31/26 ,except for employers with no more than 5 employees who may claim the credit through 12/31/27



# SB 1515 – P. A. 101-585 - FOREIGN TAX CREDIT FOR INDIVIDUALS

- Effective for tax years ending on or after 12/31/20
- Provides that non-residents who work in Illinois for more than 30 days in a year are subject to Illinois income tax withholding
- Illinois employees working out of state will be entitled to credit for taxes paid to the other state
- Employers are not required to track the location of employees – employers may rely on the employee’s information about work in other states



## SB 1591 – RESEARCH AND DEVELOPMENT CREDIT SUNSET DATE EXTENDED AND NEW APPRENTICESHIP INCOME TAX CREDIT – P.A. 101-0207

- The research and development credit applies for taxable years ending prior to January 1, 2027 (currently, January 1, 2022)
- Creates an income tax credit for qualified education expenses incurred by an employer on behalf of a qualifying apprentice, subject to certain limitations
- The credit equals 100% of the qualified education expenses to a single taxable year maximum of \$3,500 per qualifying apprentice with an additional \$1,500 income tax credit if available if
  - (i) the qualifying apprentice resides in an "underserved area" as that term is defined in the EDGE Credit Act during the school year for which a credit is sought by an employer or
  - ii) the employer's principal place of business is located in an underserved area



# SB 1595 –FILM PRODUCTION SERVICES TAX CREDIT – P.A. 101-0178

- Extends the sunset date for the credit to provide that a taxpayer may not take a credit awarded under that Act for tax years beginning on or after January 1, 2027



# SB 1800 – ESTIMATED INCOME TAX PAYMENTS – P.A. 101-0355

- Individuals required to make estimated payments if the amount payment can reasonably be expected to be more than \$1,000 (currently \$500)
- The estimated income tax threshold for corporations remains at \$400



# MOST RECENT TAX LAW ENACTED – DURING 2020

- SB 685 (P.A. 101-0635) – Property Tax First Installment Payment Penalty and Interest Abatement, Tax Sales Stayed, Homestead Exemption Reapplication
- SB 1857 (P.A. 101-645) – Student Assistance Tax Credit Extension
- HB 357 (P.A. 101-636 – Budget Implementation Bill, Slight decrease in tax refund fund rates (.5% to 9% individuals; .25% to 14% corporate)
- SB 2052 (P.A. 101-0647) - Extends TIFs





# SURVEY QUESTION NO. 1

- Why are you watching this session on Illinois, Cook County and City of Chicago tax updates?
  - A. Illinois is a material tax state to my company or client(s);
  - B. I am currently involved in or have recently been involved in an Illinois audit or Illinois litigation;
  - C. For the CPE or CLE;
  - D. I am working from home and just need a break.



# ILLINOIS REGULATIONS – INCOME TAX

- Non-combination rule repeal – 100.3600
- 80/20 and non-combination – 100.2430
- Exempt income – 100.2470
- Business/nonbusiness – 100.3010
- Taxable years – 100.4100



# ILLINOIS REGULATIONS – INCOME TAX

- Nonresident “Service Days”) – 100.2197
- Addback Provisions Addressing 163(j) – 100.2430
- Gambling Winnings – 100.7036



# ILLINOIS REGULATIONS – SALES TAX

- Nontaxable Transactions – 130.120
- Gasohol – 130.320
- MM&E - 130.330 (graphic arts, emergency)
- Electronic Filing Monthly Returns – 130.501
- Registration Renewals – 130.701
- Books and Records – 130.801
- Nexus Wayfair – 150.803
- Marketplace Facilitators–150.804 (emergency)



# ILLINOIS REGULATIONS – SALES TAX

- Cannabis-Infused High Rate – 130.310 (Final 6/10)
- Motor Vehicle Trade-In Cap – 130.425
- Marketplace Facilitators–150.804 (1<sup>st</sup> Notice 5/8, IDOR Revisions)



# ILLINOIS REGULATIONS - OTHER

- Amnesty - 520.101
- UPIA – 700.100
- Procedural (Tax Lien Database) – 720.100
- Administrative Hearings – 200.115
- Voluntary Disclosure – 210.126
- Settlement Bureau – 216.100
- Unclaimed Property



# IDOR COVID-19 ITEMS

- IDOR REOPENED JUNE 22, 2020
- EXTENDED 2019 INCOME TAX FILINGS (Partnerships?)
- EXTENDED CERTAIN SALES TAX PAYMENTS & FILINGS
- 2020 INCOME TAX ESTIMATES NOT EXTENDED
- NUMEROUS INFORMATION BULLETINS
- IDOR INTERNALLY GENERATED DUE DATES EXTENDED
- STATUTORY DUE DATES ONLY EXTENDED BY LAW CHANGE



# SOME RECENT ILLINOIS COURT CASES

- Global Mail v. IL Sec of State, 2019 IL App (1<sup>st</sup>) 181778 (December 6, 2019) – Foreign Corporation Must File Articles Of Merger With ILSOS, Corporation That Ceases To Exist Does Not Accrue Additional Franchise Tax, Rule 23 case.
- Safety-Kleen v. IDOR, 2020 IL App (1<sup>st</sup>) 191078(4/28/20) – Use Tax Temporary Storage Exemption Does Not Apply When Returned To IL
- Best Buy v. IDOR, 2020 IL App (1<sup>st</sup>) 191680 (August 14, 2020) - Appliances Installed By Retailer Subject To Illinois ROT





# SOME RECENT ILLINOIS COURT CASES

- Kishwaukee Auto Corral v. IDOR, 15 TT 234, IL Tax Tribunal (1/7/20) - Cash Basis Retailers Not Entitled To Sales Tax Bad Debt Deduction
- Dalisay Sulit v. IDOR, 15 TT 236, IL Tax Tribunal (5/20/20) - Responsible Party Withholding Tax



# ILLINOIS SECRETARY OF STATE – FRANCHISE TAX

- Emergency Rule 150.740 (Effective March 2020) – Provides additional time for filing franchise tax forms due on or after March 17, 2020
- Additional time starts when the ILSOS's offices re-opened
- Determine if filings subject to late payment penalties or interest



10/12/20

## SURVEY QUESTION NO. 2

- Who in your company prepares the Illinois income, sales or franchise tax returns?
  - A. I do
  - B. My staff does
  - C. We outsource
  - D. Currently not filing



# CHICAGO TAX CODE UPDATE

- **Chicago's Transaction (lease) Tax** (Chicago Mun. Code – Ch. 3-32, §3-32-30 and 50)
  - Effective 1/1/2020, tax will be increased for the cloud based use of software to manipulate a customers own data from 5.25% to 7.25%.
  - Effective 1/1/2020, the exemption from the tax to ground transportation vehicles subject to the ground transportation tax is expanded to transportation network subject providers, owners and drivers.
- **Chicago Restaurant Tax** ( Chicago Mun. Code , Ch. 3-30)
  - Effective 1/1/2020. the tax will increase to 0.50% of selling price.
- **Motor Vehicle Lessor Tax** (Chicago Mun. Code, Ch. 3-48)
  - Effective 1/1/2020, transportation network providers, owners and drivers are no longer exempt from this tax.



# CHICAGO TAX CODE UPDATE

- **Chicago Ground Transportation Tax** (Ch. 3-46, Chicago Mun. Code)
  - Effective January 6, 2020, the tax is increased for transportation network services provided by transportation network drivers to \$ 1.13 per single ride, and an additional \$1.75 per ride and \$5.00 per ride, or for shared rides \$0.53 per ride, and an additional \$0.63 per ride and \$5.00 per ride, depending on time of day, whether the ride is shared, or the pickup is at the airport. See Sec. 3-46-030 of the Mun. Code for details.
- **Chicago Cannabis Tax** (Ch. 3-51, Chicago Mun. Code)
  - Effective January 1, 2020, a 3% retail sale of cannabis tax is imposed by the City to be collected by the Illinois Department of Revenue.
- **Chicago RE Transfer Tax** ( Ch. 3-33, Chicago Mun. Code)
  - Effective January 1, 2020, a new exemption is added for “The transfer of title to or a beneficial interest in the primary residence of a legally recognized couple, from one member of the couple to the other, by order of court resulting from a legal separation or divorce proceeding”.



# CHICAGO TAX LITIGATION UPDATE

- **Other Tobacco Tax –**

Iwan Reis, et al. v. City of Chicago, 2019 IL 124469 – Illinois Supreme Court *reversed* Appellate Court and *affirmed* the Circuit Court and held that Section 8-11-6a of the Illinois Municipal Code preempted the City of Chicago from imposing its new non-cigarette Tobacco Products Tax. This provision prohibited taxes on cigarettes or tobacco products that were not passed prior to July 1, 1993. Since the City only imposed a cigarette tax before July 1, 1993 and did not impose a Tobacco Products Tax until 2016, the Court held it violated the prohibition. (December 19, 2019)



# CHICAGO TAX LITIGATION UPDATE

- **Amusement Tax –**

Labell et al. v. City of Chicago et al, 2019 IL App (1<sup>st</sup>) 181379. This case challenged the City's application of the Amusement Tax to internet streaming video, audio and online games. The plaintiff argued the tax violated the uniformity clause as well as being extraterritorial in its scope and violated the Internet Tax Freedom Act. The appellate court affirmed the circuit court and held the tax did not violate the law. (Appealed)

City of Chicago v. Wendella, 2019 IL App (1<sup>st</sup>) 181428. The Appellate Court affirmed the Circuit Court and held for Plaintiff that the federal Maritime Transportation Security Act prohibits the City from taxing patrons of boat tours as an amusement. As a result, the City now says its alternative Boat Operators Tax applies. This is also being litigated.



# CHICAGO TAX LITIGATION UPDATE

- **Transfer Tax–**

Trilisky v. City of Chicago. 2019 IL App (1<sup>st</sup>) 182189. The appellate court held that the Chicago Transfer Tax was properly applied to transfers of real estate by Fannie Mae and Freddie Mac, since these federally established entities were not “governmental bodies” under the law.





# COOK COUNTY CODE UPDATE

- **3% Cook County Tax on recreational marijuana effective July 1, 2020.**
- **A number of proposed changes offered are in limbo.**
  - Proposed Taxpayer Bill of Rights
  - Proposed changes to parking tax for aggregators and clarification of exemptions.



# COOK COUNTY CODE ENFORCEMENT MEASURES

- **Parking Tax** (County Code, Article XI, Ch. 74-510)-
  - Different enforcement than City and State as to **residential parking**. New enforcement policy. Prospective changes verses audit position.
  - New enforcement measures against commercial office buildings for **free parking provided to their tenants**.
  - Continued enforcement measures to collect parking tax on private lot parking.
- **Cigarette tax** (County Code, Article XI, Ch. 74-430)
  - Enforcement of the tax on wholesales sales in Cook County **even when the ultimate retail sale occurs outside of Cook County**.



# COOK COUNTY LITIGATION UPDATE

- **Amusement Tax –**

Mercury Sightseeing Boats v. Cook County, 2019 IL App (1<sup>st</sup>) 180439 – Appellate Court held that Cook County violated Mercury’s procedural due process rights by incorrectly telling Mercury it could file its protest on the wrong date and not notifying mercury the actual date the protest was due. Case remanded to circuit court for ruling on the substantive issue.

County of Cook v. Mercury Sightseeing Boats, 2016 CH 10775. After remand by Appellate Court, the Circuit Court upheld the administrative decision that the Cook County Amusement Tax on boat rides was prohibited by the Federal Maritime Transportation Security Act. No appeal taken by County.



# COOK COUNTY LITIGATION UPDATE

- Cook County v. Palmer House, RA-160032 (Cook Admin Dec. 2019)  
Appeal file with Circuit Court but then dropped by County.
  - ALJ held that the County improperly assessed Amusement Tax on free cable TV provided to guests of the hotel. The County allocated a portion of the hotel room fee to the free cable TV and assessed tax on that allocated portion. The ALJ concluded that the Palmer house was not an operator of an amusement and that the County could not simply allocate a portion of the hotel fee to the cable TV in order to tax it.



# EVANSTON ENACTS NEW TAX ON STREAMING

- Evanston Ordinance 55-0-20 amends the Evanston Amusement Tax to include online streaming services to replace tax revenues lost from traditional amusement tax paid by individuals at in person performances and events
- Starting October 1, 2020, Evanston will impose the new 5% streaming tax on streaming service delivered electronically and provided to individuals with an Evanston billing zip code
- The Illinois Mobile Telecommunication Sourcing Conformity Act provides further guidance as to customs and charges
- A monthly form will be available on Evanston's website



10/12/20

## SURVEY QUESTION NO 3

- Do you think the Illinois voters will pass the proposed Illinois graduated income tax this November?
  - A. Yes, by a large margin
  - B. No, by a large margin
  - C. To close to call
  - D. Not enough votes will be placed to meet the required threshold due to the pandemic



# QUESTIONS ?

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