89-O-19
AN ORDINANCE
Amending the Municipal Retailers Occupation Tax and Municipal Service Occupation Tax to Increase the Rate Assessed from 1.0% to 1.25% and Deleting Duplicative Sections and the Municipal Use Tax

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL

OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

SECTION 1: Section 3-2-5 "Municipal Retailers Occupation Tax" of the City of Evanston City Code of 2012 (the "City Code") is hereby deleted and the section number is reserved for potential future use.

3-2-5. – RESERVED.

3-2-5.—MUNICIPAL RETAILERS OCCUPATION TAX

(A) In accordance with the Home Rule Municipal Retailers' Occupation Tax Act, 65 ILCS 5/8-11-1, a tax is hereby imposed upon all persons engaged in the business of selling tangible personal property at retail in the City at the rate of one percent (1%) of the gross receipts from such sales made in the course of such business while this Section is in effect.

(B) Every such person engaged in such business in the City shall file on or before the last day of each calendar month, the report to the state department of revenue required by Section 3 of the Retailers' Occupation Tax Act, 35 ILCS 420/3.

(C) At the time such report is filed, there shall be paid to the state department of revenue the amount of tax hereby imposed on account of the receipts from sales of tangible personal property during the preceding month.
SECTION 2: Section 3-2-6 "Municipal Service Occupation Tax" of the City Code is hereby deleted and the section number is reserved for potential future use.

3-2-6. – RESERVED.

3-2-6. MUNICIPAL SERVICE OCCUPATION TAX.
(A) A tax is hereby imposed upon all persons engaged in the business of making sales of service at the rate of one percent (1%) of the cost price of all tangible personal property transferred by said servicemen, either in the form of tangible personal property or in the form of real estate as an incident to a sales of service, in accordance with the Illinois Home Rule Municipal Service Occupation Tax Act (the "Act"). 65 ILCS 5/8-11-5. 
(B) Every supplier or serviceman required to account for municipal service occupation tax for the benefit of the City shall file, on or before the last day of each calendar month, the report to the state department of revenue required by the Act.
(C) At the time such report is filed, there shall be paid to the state department of revenue the amount of tax hereby imposed.
(D) There shall be no exclusion for farm machinery and equipment to anyone otherwise eligible for the Service Occupation Tax.

SECTION 3: Section 3-2-7 "Home Rule Municipal Retailers’ and Service Occupation Tax Exempting Certain Food and Drugs" of the City Code is amended to read as follows:

3-2-7. - HOME RULE MUNICIPAL RETAILERS’ AND SERVICE OCCUPATION TAX EXEMPTING CERTAIN FOOD AND DRUGS.
(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 a rate of one and quarter percent (1.25%) of the gross receipts from such sales made in the course of such business while this Section 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 one and a quarter percent (1.25%) of the selling price of all tangible personal property transferred by such serviceman as an incident to a sale of service. Such "Home Rule Municipal Retailers’ Occupation Tax" and the "Home Rule Municipal
Service Occupation Tax" 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 has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics. The "Home Rule Municipal Retailers' Occupation Tax" and this "Home Rule Municipal Service Occupation Tax" may not be imposed on tangible personal property taxed at the rate of 1.0% under the Retailers' Occupation Tax Act and the Service Occupation Tax Act.

The imposition of these home rule taxes is in accordance with the provisions of 65 ILCS 5/8-11-1 and 5/8-11-5, respectively, as amended.

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

SECTION 4: Section 3-2-8 "Municipal Use Tax" of the City Code is hereby deleted and the section number is reserved for potential future use.

3-2-8. - RESERVED.

3-2-8. MUNICIPAL USE TAX

(A) A tax is hereby levied and imposed upon the privilege of using within the City any item of personal property which is purchased outside the boundaries of the State at retail from a retailer, and which is titled or registered with an agency of the State to an address within the City. The tax shall be at a rate of one percent (1%) of the selling price of such tangible property. The phrase "selling price" shall have the meaning as defined in the Use Tax Act 35 ILCS 405/2.

(B) The tax imposed by Subsection (A) of this Section shall be collected by the Illinois Department of Revenue, and shall be paid by the person owning such item of tangible personal property prior to the issuance of a Title or certificate of registration for the property.

(C) The farm machinery and equipment exclusion contained in 35 ILCS 405/2, shall not apply to the privilege of using in the City any item of tangible personal property which is purchased outside Illinois at retail from a retailer and which is titled or registered with an agency of this State's government.
SECTION 5: The City Clerk is hereby directed to file a certified copy of this Ordinance with the Illinois Department of Revenue on or before October 1, 2019. The Ordinance will take effect on January 1, 2020, following filing of the Ordinance on or before October 1, 2020.

SECTION 6: The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

SECTION 7: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 8: If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.
Introduce: September 9, 2019
Adopted: September 23, 2019
Approved: September 24, 2019

Attest: [Signature]
Eduardo Gomez, Deputy City Clerk

Approved as to form:
Michelle L. Masoncup
Corporation Counsel

Stephen H. Hagerty, Mayor