How does this work? In a credit card transaction, there are different processing fields. (Mastercard calls them Data I, II, II and Visa calls them by "Level.") In general, these fields hold the following information:

Level I: These transactions hold the following basic data although there can be more: merchant name, total transaction amount, date and card number.
Level II: Among the items in this level are the sales tax identification and sales tax amount along with the merchant's tax ID.
Level III: Among the items in this level are line item details such as product codes and descriptions, and depending on the transaction, potentially more like duty amount, freight amount, etc.

It is clear that the retailer can separate out the sales tax via Level II data. **Any merchant that accepts credit cards already has the equipment to do this, whether it is a check stand pin pad reader or a mobile credit card reader.** To support this type of legislation, consumers would not need to swipe twice, since **banks require that merchants pass Level II data in the transaction which already has sales tax separated from the purchase amount. In fact, the card companies collect this data and try to sell it back to merchants.**

This bill also provides that if a merchant or seller does not capture and transmit tax or fee amounts relevant to the sale at the time of sale, but at an approved future date, then the payment card network must accept proof of tax or fee amounts collected on sales subject to an interchange fee upon the submission of sales data by the merchant or seller and promptly credit the merchant or seller's settlement account.

Visa and Mastercard mandate system updates twice per year, so any system changes can be implemented during these updates. As previously mentioned, this can also be implemented via a rebate at the end of the month requiring zero impact on point of sale (POS) systems.

To Reiterate the Point
Fact: Credit card companies and the business owners already have the technology to handle the change in this legislation.
Most states have laws that require state and local sales taxes be separately stated on a customer's invoice, receipt, or charge slip. Therefore, **nearly every POS system currently used by most operators contains the software to separately calculate the sales taxes, and of course tips.**

Fact: The legislation will not be a burden for credit card companies and other financial sector entities.
Credit card companies already provide corporate accounts with the ability to separately report and track "level 2" data, including taxes. In fact, Visa offers a service known as "Visa Spend Clarity" (formerly known as "IntelliLink") that sells this level 2 data back to merchants. Visa makes clear to merchants that "no special hardware or software is required" for their existing service. Additionally, Mastercard's interchange guide shows merchants qualify for LOWER interchange if the merchant sends in level 2 data.

No Swipe Fees on Sales Tax and Tips – Illinois Lawsuit

Key Points After First Injunction Ruling:

- [The lawsuit] is just a TRO. It can be withdrawn at any time and the actual merits were not scrutinized.

- While the Judge believes the banks are exempt, many a lower court interpretation, and many a TRO, have not withstood higher court scrutiny.

- The law continues to apply to credit card companies and processors. Since they are the ones that actually operate the system, the IL law is still in place for them. **Nothing changes.**

- The banks immediately stated that they would work to repeal on behalf of the credit card companies. This simple statement makes our case that the banks are enriching themselves at the expense of retailers of all types and sizes who are bearing the cost of sales tax administration on behalf of government.

Second Ruling – February 6, 2025
Judge Kendall decided the remaining issues in the Bankers preliminary injunction filing. After her decision, this is where things stand as it relates to the temporary injunction:

1. The IL law DOES apply to credit unions (including federal credit unions), in-state banks, processors, and credit card companies. As discussed, this is important as the processors are the ones who really run the system and dictate everything.

2. The IL law does NOT apply to national banks and out-of-state state chartered banks.

Everyone is anticipating the banks will file for an expedited motion for summary judgement in an effort to win what they lost in this round. That would seem to be straight up-hill for them given Judge Kendall's two rulings and order but we shall see. She would have to over-rule herself. Regardless, this opinion is another very positive step forward.