



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB1294

Introduced 02/09/05, by Rep. Jim Sacia

SYNOPSIS AS INTRODUCED:

35 ILCS 173/5-60 new

35 ILCS 615/1

35 ILCS 615/2

from Ch. 120, par. 467.16

from Ch. 120, par. 467.17

Amends the Gas Use Tax Law. Provides that, on or after July 1, 2005, no tax shall be imposed or collected under the Act. Amends the Gas Revenue Tax Act. Reinstates, beginning July 1, 2005, an exemption from the definition of "gross receipts" any charge for gas or gas services to a customer who acquired contractual rights for the direct purchase of certain gas or gas services originating from an out-of-state supplier or source on or before March 1, 1995. Ends the tax exemption for transactions with customers who incur a tax liability under the Gas Use Tax Law for bills issued to customers on or after July 1, 2005. Effective immediately.

LRB094 08806 BDD 39023 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Gas Use Tax Law is amended by adding Section
5 5-60 as follows:

6 (35 ILCS 173/5-60 new)

7 Sec. 5-60. No tax imposed beginning July 1, 2005. On and
8 after July 1, 2005, no tax shall be imposed or collected under
9 this Act.

10 Section 10. The Gas Revenue Tax Act is amended by changing
11 Sections 1 and 2 as follows:

12 (35 ILCS 615/1) (from Ch. 120, par. 467.16)

13 Sec. 1. For the purposes of this Act: "Gross receipts"
14 means the consideration received for gas distributed,
15 supplied, furnished or sold to persons for use or consumption
16 and not for resale, and for all services (including the
17 transportation or storage of gas for an end-user) rendered in
18 connection therewith, and shall include cash, services and
19 property of every kind or nature, and shall be determined
20 without any deduction on account of the cost of the service,
21 product or commodity supplied, the cost of materials used,
22 labor or service costs, or any other expense whatsoever.
23 However, "gross receipts" shall not include receipts from:

24 (i) any minimum or other charge for gas or gas service
25 where the customer has taken no terms of gas;

26 (ii) any charge for a dishonored check;

27 (iii) any finance or credit charge, penalty or charge
28 for delayed payment, or discount for prompt payment;

29 (iv) any charge for reconnection of service or for
30 replacement or relocation of facilities;

- 1 (v) any advance or contribution in aid of construction;
- 2 (vi) repair, inspection or servicing of equipment
3 located on customer premises;
- 4 (vii) leasing or rental of equipment, the leasing or
5 rental of which is not necessary to distributing,
6 furnishing, supplying, selling, transporting or storing
7 gas;
- 8 (viii) any sale to a customer if the taxpayer is
9 prohibited by federal or State constitution, treaty,
10 convention, statute or court decision from recovering the
11 related tax liability from such customer;
- 12 (ix) any charges added to customers' bills pursuant to
13 the provisions of Section 9-221 or Section 9-222 of the
14 Public Utilities Act, as amended, or any charges added to
15 customers' bills by taxpayers who are not subject to rate
16 regulation by the Illinois Commerce Commission for the
17 purpose of recovering any of the tax liabilities or other
18 amounts specified in such provisions of such Act; and
- 19 (x) prior to October 1, 2003 and beginning again on
20 July 1, 2005, any charge for gas or gas services to a
21 customer who acquired contractual rights for the direct
22 purchase of gas or gas services originating from an
23 out-of-state supplier or source on or before March 1, 1995,
24 except for those charges solely related to the local
25 distribution of gas by a public utility. This exemption
26 includes any charge for gas or gas service, except for
27 those charges solely related to the local distribution of
28 gas by a public utility, to a customer who maintained an
29 account with a public utility (as defined in Section 3-105
30 of the Public Utilities Act) for the transportation of
31 customer-owned gas on or before March 1, 1995. The
32 provisions of this amendatory Act of 1997 are intended to
33 clarify, rather than change, existing law as to the meaning
34 and scope of this exemption. This exemption (x) does not
35 apply for the period beginning ~~expires~~ on September 30,
36 2003 and through June 30, 2005.

1 In case credit is extended, the amount thereof shall be
2 included only as and when payments are received.

3 "Gross receipts" shall not include consideration received
4 from business enterprises certified under Section 9-222.1 of
5 the Public Utilities Act, as amended, to the extent of such
6 exemption and during the period of time specified by the
7 Department of Commerce and Economic Opportunity ~~Community~~
8 ~~Affairs~~.

9 "Department" means the Department of Revenue of the State
10 of Illinois.

11 "Director" means the Director of Revenue for the Department
12 of Revenue of the State of Illinois.

13 "Taxpayer" means a person engaged in the business of
14 distributing, supplying, furnishing or selling gas for use or
15 consumption and not for resale.

16 "Person" means any natural individual, firm, trust,
17 estate, partnership, association, joint stock company, joint
18 adventure, corporation, limited liability company, or a
19 receiver, trustee, guardian or other representative appointed
20 by order of any court, or any city, town, county or other
21 political subdivision of this State.

22 "Invested capital" means that amount equal to (i) the
23 average of the balances at the beginning and end of each
24 taxable period of the taxpayer's total stockholder's equity and
25 total long-term debt, less investments in and advances to all
26 corporations, as set forth on the balance sheets included in
27 the taxpayer's annual report to the Illinois Commerce
28 Commission for the taxable period; (ii) multiplied by a
29 fraction determined under Sections 301 and 304(a) of the
30 "Illinois Income Tax Act" and reported on the Illinois income
31 tax return for the taxable period ending in or with the taxable
32 period in question. However, notwithstanding the income tax
33 return reporting requirement stated above, beginning July 1,
34 1979, no taxpayer's denominators used to compute the sales,
35 property or payroll factors under subsection (a) of Section 304
36 of the Illinois Income Tax Act shall include payroll, property

1 or sales of any corporate entity other than the taxpayer for
2 the purposes of determining an allocation for the invested
3 capital tax. This amendatory Act of 1982, Public Act 82-1024,
4 is not intended to and does not make any change in the meaning
5 of any provision of this Act, it having been the intent of the
6 General Assembly in initially enacting the definition of
7 "invested capital" to provide for apportionment of the invested
8 capital of each company, based solely upon the sales, property
9 and payroll of that company.

10 "Taxable period" means each period which ends after the
11 effective date of this Act and which is covered by an annual
12 report filed by the taxpayer with the Illinois Commerce
13 Commission.

14 (Source: P.A. 93-31, eff. 10-1-03; revised 12-6-03.)

15 (35 ILCS 615/2) (from Ch. 120, par. 467.17)

16 Sec. 2. A tax is imposed upon persons engaged in the
17 business of distributing, supplying, furnishing or selling gas
18 to persons for use or consumption and not for resale at the
19 rate of 2.4 cents per therm of all gas which is so distributed,
20 supplied, furnished, sold or transported to or for each
21 customer in the course of such business, or 5% of the gross
22 receipts received from each customer from such business,
23 whichever is the lower rate as applied to each customer for
24 that customer's billing period, provided that any change in
25 rate imposed by this amendatory Act of 1985 shall become
26 effective only with bills having a meter reading date on or
27 after January 1, 1986. However, such taxes are not imposed with
28 respect to any business in interstate commerce, or otherwise to
29 the extent to which such business may not, under the
30 Constitution and statutes of the United States, be made the
31 subject of taxation by this State.

32 Nothing in this amendatory Act of 1985 shall impose a tax
33 with respect to any transaction with respect to which no tax
34 was imposed immediately preceding the effective date of this
35 amendatory Act of 1985.

1 For ~~Beginning with~~ bills issued to customers on and after
2 October 1, 2003 and on or before June 30, 2005, no tax shall be
3 imposed under this Act on transactions with customers who incur
4 a tax liability under the Gas Use Tax Law.

5 (Source: P.A. 93-31, eff. 10-1-03.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.