



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3468

Introduced 2/17/2023, by Rep. Tim Ozinga

SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-10	
35 ILCS 110/3-10	from Ch. 120, par. 439.33-10
35 ILCS 115/3-10	from Ch. 120, par. 439.103-10
35 ILCS 120/2-10	
35 ILCS 120/2d	from Ch. 120, par. 441d

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Provides that, beginning 30 days after the effective date of the amendatory Act, the cents per gallon rate established by the Department of Revenue for the prepayment of tax by motor fuel retailers may not exceed \$0.18 per gallon for motor fuel and 80% of that amount for gasohol and biodiesel blends. Provides that the rate of tax imposed under the Acts for motor fuel, gasohol, majority blended ethanol fuel, and biodiesel and biodiesel blends may not exceed that prepayment amount set by the Department of Revenue. Effective immediately.

LRB103 30522 HLH 56955 b

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 Use Tax Act is amended by changing Section
5 3-10 as follows:

6 (35 ILCS 105/3-10)

7 Sec. 3-10. Rate of tax. Unless otherwise provided in this
8 Section, the tax imposed by this Act is at the rate of 6.25% of
9 either the selling price or the fair market value, if any, of
10 the tangible personal property. In all cases where property
11 functionally used or consumed is the same as the property that
12 was purchased at retail, then the tax is imposed on the selling
13 price of the property. In all cases where property
14 functionally used or consumed is a by-product or waste product
15 that has been refined, manufactured, or produced from property
16 purchased at retail, then the tax is imposed on the lower of
17 the fair market value, if any, of the specific property so used
18 in this State or on the selling price of the property purchased
19 at retail. For purposes of this Section "fair market value"
20 means the price at which property would change hands between a
21 willing buyer and a willing seller, neither being under any
22 compulsion to buy or sell and both having reasonable knowledge
23 of the relevant facts. The fair market value shall be

1 established by Illinois sales by the taxpayer of the same
2 property as that functionally used or consumed, or if there
3 are no such sales by the taxpayer, then comparable sales or
4 purchases of property of like kind and character in Illinois.

5 Beginning on July 1, 2000 and through December 31, 2000,
6 with respect to motor fuel, as defined in Section 1.1 of the
7 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
8 the Use Tax Act, the tax is imposed at the rate of 1.25%.

9 Beginning 30 days after the effective date of this
10 amendatory Act of the 103rd General Assembly, with respect to:
11 motor fuel, as defined in Section 1.1 of the Motor Fuel Tax
12 Law; gasohol, as defined in Section 3-40 of this Act; majority
13 blended ethanol fuel; and biodiesel and biodiesel blends, the
14 tax imposed under this Act may not exceed the cents per gallon
15 rate established by the Department under subsection (e) of
16 Section 2d of the Retailers' Occupation Tax Act. With respect
17 to the tax imposed on biodiesel blends and gasohol, the
18 maximum cents per gallon rate shall include the reduction
19 allowed in subsection (e) of Section 2d of the Retailers'
20 Occupation Tax Act.

21 Beginning on August 6, 2010 through August 15, 2010, and
22 beginning again on August 5, 2022 through August 14, 2022,
23 with respect to sales tax holiday items as defined in Section
24 3-6 of this Act, the tax is imposed at the rate of 1.25%.

25 With respect to gasohol, the tax imposed by this Act
26 applies to (i) 70% of the proceeds of sales made on or after

1 January 1, 1990, and before July 1, 2003, (ii) 80% of the
2 proceeds of sales made on or after July 1, 2003 and on or
3 before July 1, 2017, and (iii) 100% of the proceeds of sales
4 made thereafter. If, at any time, however, the tax under this
5 Act on sales of gasohol is imposed at the rate of 1.25%, then
6 the tax imposed by this Act applies to 100% of the proceeds of
7 sales of gasohol made during that time.

8 With respect to majority blended ethanol fuel, the tax
9 imposed by this Act does not apply to the proceeds of sales
10 made on or after July 1, 2003 and on or before December 31,
11 2023 but applies to 100% of the proceeds of sales made
12 thereafter.

13 With respect to biodiesel blends with no less than 1% and
14 no more than 10% biodiesel, the tax imposed by this Act applies
15 to (i) 80% of the proceeds of sales made on or after July 1,
16 2003 and on or before December 31, 2018 and (ii) 100% of the
17 proceeds of sales made after December 31, 2018 and before
18 January 1, 2024. On and after January 1, 2024 and on or before
19 December 31, 2030, the taxation of biodiesel, renewable
20 diesel, and biodiesel blends shall be as provided in Section
21 3-5.1. If, at any time, however, the tax under this Act on
22 sales of biodiesel blends with no less than 1% and no more than
23 10% biodiesel is imposed at the rate of 1.25%, then the tax
24 imposed by this Act applies to 100% of the proceeds of sales of
25 biodiesel blends with no less than 1% and no more than 10%
26 biodiesel made during that time.

1 With respect to biodiesel and biodiesel blends with more
2 than 10% but no more than 99% biodiesel, the tax imposed by
3 this Act does not apply to the proceeds of sales made on or
4 after July 1, 2003 and on or before December 31, 2023. On and
5 after January 1, 2024 and on or before December 31, 2030, the
6 taxation of biodiesel, renewable diesel, and biodiesel blends
7 shall be as provided in Section 3-5.1.

8 Until July 1, 2022 and beginning again on July 1, 2023,
9 with respect to food for human consumption that is to be
10 consumed off the premises where it is sold (other than
11 alcoholic beverages, food consisting of or infused with adult
12 use cannabis, soft drinks, and food that has been prepared for
13 immediate consumption), the tax is imposed at the rate of 1%.
14 Beginning on July 1, 2022 and until July 1, 2023, with respect
15 to food for human consumption that is to be consumed off the
16 premises where it is sold (other than alcoholic beverages,
17 food consisting of or infused with adult use cannabis, soft
18 drinks, and food that has been prepared for immediate
19 consumption), the tax is imposed at the rate of 0%.

20 With respect to prescription and nonprescription
21 medicines, drugs, medical appliances, products classified as
22 Class III medical devices by the United States Food and Drug
23 Administration that are used for cancer treatment pursuant to
24 a prescription, as well as any accessories and components
25 related to those devices, modifications to a motor vehicle for
26 the purpose of rendering it usable by a person with a

1 disability, and insulin, blood sugar testing materials,
2 syringes, and needles used by human diabetics, the tax is
3 imposed at the rate of 1%. For the purposes of this Section,
4 until September 1, 2009: the term "soft drinks" means any
5 complete, finished, ready-to-use, non-alcoholic drink, whether
6 carbonated or not, including, but not limited to, soda water,
7 cola, fruit juice, vegetable juice, carbonated water, and all
8 other preparations commonly known as soft drinks of whatever
9 kind or description that are contained in any closed or sealed
10 bottle, can, carton, or container, regardless of size; but
11 "soft drinks" does not include coffee, tea, non-carbonated
12 water, infant formula, milk or milk products as defined in the
13 Grade A Pasteurized Milk and Milk Products Act, or drinks
14 containing 50% or more natural fruit or vegetable juice.

15 Notwithstanding any other provisions of this Act,
16 beginning September 1, 2009, "soft drinks" means non-alcoholic
17 beverages that contain natural or artificial sweeteners. "Soft
18 drinks" does ~~do~~ not include beverages that contain milk or
19 milk products, soy, rice or similar milk substitutes, or
20 greater than 50% of vegetable or fruit juice by volume.

21 Until August 1, 2009, and notwithstanding any other
22 provisions of this Act, "food for human consumption that is to
23 be consumed off the premises where it is sold" includes all
24 food sold through a vending machine, except soft drinks and
25 food products that are dispensed hot from a vending machine,
26 regardless of the location of the vending machine. Beginning

1 August 1, 2009, and notwithstanding any other provisions of
2 this Act, "food for human consumption that is to be consumed
3 off the premises where it is sold" includes all food sold
4 through a vending machine, except soft drinks, candy, and food
5 products that are dispensed hot from a vending machine,
6 regardless of the location of the vending machine.

7 Notwithstanding any other provisions of this Act,
8 beginning September 1, 2009, "food for human consumption that
9 is to be consumed off the premises where it is sold" does not
10 include candy. For purposes of this Section, "candy" means a
11 preparation of sugar, honey, or other natural or artificial
12 sweeteners in combination with chocolate, fruits, nuts or
13 other ingredients or flavorings in the form of bars, drops, or
14 pieces. "Candy" does not include any preparation that contains
15 flour or requires refrigeration.

16 Notwithstanding any other provisions of this Act,
17 beginning September 1, 2009, "nonprescription medicines and
18 drugs" does not include grooming and hygiene products. For
19 purposes of this Section, "grooming and hygiene products"
20 includes, but is not limited to, soaps and cleaning solutions,
21 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
22 lotions and screens, unless those products are available by
23 prescription only, regardless of whether the products meet the
24 definition of "over-the-counter-drugs". For the purposes of
25 this paragraph, "over-the-counter-drug" means a drug for human
26 use that contains a label that identifies the product as a drug

1 as required by 21 CFR ~~C.F.R.~~ § 201.66. The
2 "over-the-counter-drug" label includes:

3 (A) a ~~A~~ "Drug Facts" panel; or

4 (B) a ~~A~~ statement of the "active ingredient(s)" with a
5 list of those ingredients contained in the compound,
6 substance or preparation.

7 Beginning on January 1, 2014 (the effective date of Public
8 Act 98-122) ~~this amendatory Act of the 98th General Assembly,~~
9 "prescription and nonprescription medicines and drugs"
10 includes medical cannabis purchased from a registered
11 dispensing organization under the Compassionate Use of Medical
12 Cannabis Program Act.

13 As used in this Section, "adult use cannabis" means
14 cannabis subject to tax under the Cannabis Cultivation
15 Privilege Tax Law and the Cannabis Purchaser Excise Tax Law
16 and does not include cannabis subject to tax under the
17 Compassionate Use of Medical Cannabis Program Act.

18 If the property that is purchased at retail from a
19 retailer is acquired outside Illinois and used outside
20 Illinois before being brought to Illinois for use here and is
21 taxable under this Act, the "selling price" on which the tax is
22 computed shall be reduced by an amount that represents a
23 reasonable allowance for depreciation for the period of prior
24 out-of-state use.

25 (Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19;
26 102-4, eff. 4-27-21; 102-700, Article 20, Section 20-5, eff.

1 4-19-22; 102-700, Article 60, Section 60-15, eff. 4-19-22;
2 102-700, Article 65, Section 65-5, eff. 4-19-22; revised
3 5-27-22.)

4 Section 10. The Service Use Tax Act is amended by changing
5 Section 3-10 as follows:

6 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

7 Sec. 3-10. Rate of tax. Unless otherwise provided in this
8 Section, the tax imposed by this Act is at the rate of 6.25% of
9 the selling price of tangible personal property transferred as
10 an incident to the sale of service, but, for the purpose of
11 computing this tax, in no event shall the selling price be less
12 than the cost price of the property to the serviceman.

13 Beginning on July 1, 2000 and through December 31, 2000,
14 with respect to motor fuel, as defined in Section 1.1 of the
15 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
16 the Use Tax Act, the tax is imposed at the rate of 1.25%.

17 Beginning 30 days after the effective date of this
18 amendatory Act of the 103rd General Assembly, with respect to:
19 motor fuel, as defined in Section 1.1 of the Motor Fuel Tax
20 Law; gasohol, as defined in Section 3-40 of the Use Tax Act;
21 majority blended ethanol fuel; and biodiesel and biodiesel
22 blends, the tax imposed under this Act may not exceed the cents
23 per gallon rate established by the Department under subsection
24 (e) of Section 2d of the Retailers' Occupation Tax Act. With

1 respect to the tax imposed on biodiesel blends and gasohol,
2 the maximum cents per gallon rate shall include the reduction
3 allowed in subsection (e) of Section 2d of the Retailers'
4 Occupation Tax Act.

5 With respect to gasohol, as defined in the Use Tax Act, the
6 tax imposed by this Act applies to (i) 70% of the selling price
7 of property transferred as an incident to the sale of service
8 on or after January 1, 1990, and before July 1, 2003, (ii) 80%
9 of the selling price of property transferred as an incident to
10 the sale of service on or after July 1, 2003 and on or before
11 July 1, 2017, and (iii) 100% of the selling price thereafter.
12 If, at any time, however, the tax under this Act on sales of
13 gasohol, as defined in the Use Tax Act, is imposed at the rate
14 of 1.25%, then the tax imposed by this Act applies to 100% of
15 the proceeds of sales of gasohol made during that time.

16 With respect to majority blended ethanol fuel, as defined
17 in the Use Tax Act, the tax imposed by this Act does not apply
18 to the selling price of property transferred as an incident to
19 the sale of service on or after July 1, 2003 and on or before
20 December 31, 2023 but applies to 100% of the selling price
21 thereafter.

22 With respect to biodiesel blends, as defined in the Use
23 Tax Act, with no less than 1% and no more than 10% biodiesel,
24 the tax imposed by this Act applies to (i) 80% of the selling
25 price of property transferred as an incident to the sale of
26 service on or after July 1, 2003 and on or before December 31,

1 2018 and (ii) 100% of the proceeds of the selling price after
2 December 31, 2018 and before January 1, 2024. On and after
3 January 1, 2024 and on or before December 31, 2030, the
4 taxation of biodiesel, renewable diesel, and biodiesel blends
5 shall be as provided in Section 3-5.1 of the Use Tax Act. If,
6 at any time, however, the tax under this Act on sales of
7 biodiesel blends, as defined in the Use Tax Act, with no less
8 than 1% and no more than 10% biodiesel is imposed at the rate
9 of 1.25%, then the tax imposed by this Act applies to 100% of
10 the proceeds of sales of biodiesel blends with no less than 1%
11 and no more than 10% biodiesel made during that time.

12 With respect to biodiesel, as defined in the Use Tax Act,
13 and biodiesel blends, as defined in the Use Tax Act, with more
14 than 10% but no more than 99% biodiesel, the tax imposed by
15 this Act does not apply to the proceeds of the selling price of
16 property transferred as an incident to the sale of service on
17 or after July 1, 2003 and on or before December 31, 2023. On
18 and after January 1, 2024 and on or before December 31, 2030,
19 the taxation of biodiesel, renewable diesel, and biodiesel
20 blends shall be as provided in Section 3-5.1 of the Use Tax
21 Act.

22 At the election of any registered serviceman made for each
23 fiscal year, sales of service in which the aggregate annual
24 cost price of tangible personal property transferred as an
25 incident to the sales of service is less than 35%, or 75% in
26 the case of servicemen transferring prescription drugs or

1 servicemen engaged in graphic arts production, of the
2 aggregate annual total gross receipts from all sales of
3 service, the tax imposed by this Act shall be based on the
4 serviceman's cost price of the tangible personal property
5 transferred as an incident to the sale of those services.

6 Until July 1, 2022 and beginning again on July 1, 2023, the
7 tax shall be imposed at the rate of 1% on food prepared for
8 immediate consumption and transferred incident to a sale of
9 service subject to this Act or the Service Occupation Tax Act
10 by an entity licensed under the Hospital Licensing Act, the
11 Nursing Home Care Act, the Assisted Living and Shared Housing
12 Act, the ID/DD Community Care Act, the MC/DD Act, the
13 Specialized Mental Health Rehabilitation Act of 2013, or the
14 Child Care Act of 1969, or an entity that holds a permit issued
15 pursuant to the Life Care Facilities Act. Until July 1, 2022
16 and beginning again on July 1, 2023, the tax shall also be
17 imposed at the rate of 1% on food for human consumption that is
18 to be consumed off the premises where it is sold (other than
19 alcoholic beverages, food consisting of or infused with adult
20 use cannabis, soft drinks, and food that has been prepared for
21 immediate consumption and is not otherwise included in this
22 paragraph).

23 Beginning on July 1, 2022 and until July 1, 2023, the tax
24 shall be imposed at the rate of 0% on food prepared for
25 immediate consumption and transferred incident to a sale of
26 service subject to this Act or the Service Occupation Tax Act

1 by an entity licensed under the Hospital Licensing Act, the
2 Nursing Home Care Act, the Assisted Living and Shared Housing
3 Act, the ID/DD Community Care Act, the MC/DD Act, the
4 Specialized Mental Health Rehabilitation Act of 2013, or the
5 Child Care Act of 1969, or an entity that holds a permit issued
6 pursuant to the Life Care Facilities Act. Beginning on July 1,
7 2022 and until July 1, 2023, the tax shall also be imposed at
8 the rate of 0% on food for human consumption that is to be
9 consumed off the premises where it is sold (other than
10 alcoholic beverages, food consisting of or infused with adult
11 use cannabis, soft drinks, and food that has been prepared for
12 immediate consumption and is not otherwise included in this
13 paragraph).

14 The tax shall also be imposed at the rate of 1% on
15 prescription and nonprescription medicines, drugs, medical
16 appliances, products classified as Class III medical devices
17 by the United States Food and Drug Administration that are
18 used for cancer treatment pursuant to a prescription, as well
19 as any accessories and components related to those devices,
20 modifications to a motor vehicle for the purpose of rendering
21 it usable by a person with a disability, and insulin, blood
22 sugar testing materials, syringes, and needles used by human
23 diabetics. For the purposes of this Section, until September
24 1, 2009: the term "soft drinks" means any complete, finished,
25 ready-to-use, non-alcoholic drink, whether carbonated or not,
26 including, but not limited to, soda water, cola, fruit juice,

1 vegetable juice, carbonated water, and all other preparations
2 commonly known as soft drinks of whatever kind or description
3 that are contained in any closed or sealed bottle, can,
4 carton, or container, regardless of size; but "soft drinks"
5 does not include coffee, tea, non-carbonated water, infant
6 formula, milk or milk products as defined in the Grade A
7 Pasteurized Milk and Milk Products Act, or drinks containing
8 50% or more natural fruit or vegetable juice.

9 Notwithstanding any other provisions of this Act,
10 beginning September 1, 2009, "soft drinks" means non-alcoholic
11 beverages that contain natural or artificial sweeteners. "Soft
12 drinks" does ~~do~~ not include beverages that contain milk or
13 milk products, soy, rice or similar milk substitutes, or
14 greater than 50% of vegetable or fruit juice by volume.

15 Until August 1, 2009, and notwithstanding any other
16 provisions of this Act, "food for human consumption that is to
17 be consumed off the premises where it is sold" includes all
18 food sold through a vending machine, except soft drinks and
19 food products that are dispensed hot from a vending machine,
20 regardless of the location of the vending machine. Beginning
21 August 1, 2009, and notwithstanding any other provisions of
22 this Act, "food for human consumption that is to be consumed
23 off the premises where it is sold" includes all food sold
24 through a vending machine, except soft drinks, candy, and food
25 products that are dispensed hot from a vending machine,
26 regardless of the location of the vending machine.

1 Notwithstanding any other provisions of this Act,
2 beginning September 1, 2009, "food for human consumption that
3 is to be consumed off the premises where it is sold" does not
4 include candy. For purposes of this Section, "candy" means a
5 preparation of sugar, honey, or other natural or artificial
6 sweeteners in combination with chocolate, fruits, nuts or
7 other ingredients or flavorings in the form of bars, drops, or
8 pieces. "Candy" does not include any preparation that contains
9 flour or requires refrigeration.

10 Notwithstanding any other provisions of this Act,
11 beginning September 1, 2009, "nonprescription medicines and
12 drugs" does not include grooming and hygiene products. For
13 purposes of this Section, "grooming and hygiene products"
14 includes, but is not limited to, soaps and cleaning solutions,
15 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
16 lotions and screens, unless those products are available by
17 prescription only, regardless of whether the products meet the
18 definition of "over-the-counter-drugs". For the purposes of
19 this paragraph, "over-the-counter-drug" means a drug for human
20 use that contains a label that identifies the product as a drug
21 as required by 21 CFR ~~C.F.R. §~~ 201.66. The
22 "over-the-counter-drug" label includes:

23 (A) a ~~A~~ "Drug Facts" panel; or

24 (B) a ~~A~~ statement of the "active ingredient(s)" with a
25 list of those ingredients contained in the compound,
26 substance or preparation.

1 Beginning on January 1, 2014 (the effective date of Public
2 Act 98-122), "prescription and nonprescription medicines and
3 drugs" includes medical cannabis purchased from a registered
4 dispensing organization under the Compassionate Use of Medical
5 Cannabis Program Act.

6 As used in this Section, "adult use cannabis" means
7 cannabis subject to tax under the Cannabis Cultivation
8 Privilege Tax Law and the Cannabis Purchaser Excise Tax Law
9 and does not include cannabis subject to tax under the
10 Compassionate Use of Medical Cannabis Program Act.

11 If the property that is acquired from a serviceman is
12 acquired outside Illinois and used outside Illinois before
13 being brought to Illinois for use here and is taxable under
14 this Act, the "selling price" on which the tax is computed
15 shall be reduced by an amount that represents a reasonable
16 allowance for depreciation for the period of prior
17 out-of-state use.

18 (Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19;
19 102-4, eff. 4-27-21; 102-16, eff. 6-17-21; 102-700, Article
20 20, Section 20-10, eff. 4-19-22; 102-700, Article 60, Section
21 60-20, eff. 4-19-22; revised 6-1-22.)

22 Section 15. The Service Occupation Tax Act is amended by
23 changing Section 3-10 as follows:

24 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

1 Sec. 3-10. Rate of tax. Unless otherwise provided in this
2 Section, the tax imposed by this Act is at the rate of 6.25% of
3 the "selling price", as defined in Section 2 of the Service Use
4 Tax Act, of the tangible personal property. For the purpose of
5 computing this tax, in no event shall the "selling price" be
6 less than the cost price to the serviceman of the tangible
7 personal property transferred. The selling price of each item
8 of tangible personal property transferred as an incident of a
9 sale of service may be shown as a distinct and separate item on
10 the serviceman's billing to the service customer. If the
11 selling price is not so shown, the selling price of the
12 tangible personal property is deemed to be 50% of the
13 serviceman's entire billing to the service customer. When,
14 however, a serviceman contracts to design, develop, and
15 produce special order machinery or equipment, the tax imposed
16 by this Act shall be based on the serviceman's cost price of
17 the tangible personal property transferred incident to the
18 completion of the contract.

19 Beginning on July 1, 2000 and through December 31, 2000,
20 with respect to motor fuel, as defined in Section 1.1 of the
21 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
22 the Use Tax Act, the tax is imposed at the rate of 1.25%.

23 Beginning 30 days after the effective date of this
24 amendatory Act of the 103rd General Assembly, with respect to:
25 motor fuel, as defined in Section 1.1 of the Motor Fuel Tax
26 Law; gasohol, as defined in Section 3-40 of the Use Tax Act;

1 majority blended ethanol fuel; and biodiesel and biodiesel
2 blends, the tax imposed under this Act may not exceed the cents
3 per gallon rate established by the Department under subsection
4 (e) of Section 2d of the Retailers' Occupation Tax Act. With
5 respect to the tax imposed on biodiesel blends and gasohol,
6 the maximum cents per gallon rate shall include the reduction
7 allowed in subsection (e) of Section 2d of the Retailers'
8 Occupation Tax Act.

9 With respect to gasohol, as defined in the Use Tax Act, the
10 tax imposed by this Act shall apply to (i) 70% of the cost
11 price of property transferred as an incident to the sale of
12 service on or after January 1, 1990, and before July 1, 2003,
13 (ii) 80% of the selling price of property transferred as an
14 incident to the sale of service on or after July 1, 2003 and on
15 or before July 1, 2017, and (iii) 100% of the cost price
16 thereafter. If, at any time, however, the tax under this Act on
17 sales of gasohol, as defined in the Use Tax Act, is imposed at
18 the rate of 1.25%, then the tax imposed by this Act applies to
19 100% of the proceeds of sales of gasohol made during that time.

20 With respect to majority blended ethanol fuel, as defined
21 in the Use Tax Act, the tax imposed by this Act does not apply
22 to the selling price of property transferred as an incident to
23 the sale of service on or after July 1, 2003 and on or before
24 December 31, 2023 but applies to 100% of the selling price
25 thereafter.

26 With respect to biodiesel blends, as defined in the Use

1 Tax Act, with no less than 1% and no more than 10% biodiesel,
2 the tax imposed by this Act applies to (i) 80% of the selling
3 price of property transferred as an incident to the sale of
4 service on or after July 1, 2003 and on or before December 31,
5 2018 and (ii) 100% of the proceeds of the selling price after
6 December 31, 2018 and before January 1, 2024. On and after
7 January 1, 2024 and on or before December 31, 2030, the
8 taxation of biodiesel, renewable diesel, and biodiesel blends
9 shall be as provided in Section 3-5.1 of the Use Tax Act. If,
10 at any time, however, the tax under this Act on sales of
11 biodiesel blends, as defined in the Use Tax Act, with no less
12 than 1% and no more than 10% biodiesel is imposed at the rate
13 of 1.25%, then the tax imposed by this Act applies to 100% of
14 the proceeds of sales of biodiesel blends with no less than 1%
15 and no more than 10% biodiesel made during that time.

16 With respect to biodiesel, as defined in the Use Tax Act,
17 and biodiesel blends, as defined in the Use Tax Act, with more
18 than 10% but no more than 99% biodiesel material, the tax
19 imposed by this Act does not apply to the proceeds of the
20 selling price of property transferred as an incident to the
21 sale of service on or after July 1, 2003 and on or before
22 December 31, 2023. On and after January 1, 2024 and on or
23 before December 31, 2030, the taxation of biodiesel, renewable
24 diesel, and biodiesel blends shall be as provided in Section
25 3-5.1 of the Use Tax Act.

26 At the election of any registered serviceman made for each

1 fiscal year, sales of service in which the aggregate annual
2 cost price of tangible personal property transferred as an
3 incident to the sales of service is less than 35%, or 75% in
4 the case of servicemen transferring prescription drugs or
5 servicemen engaged in graphic arts production, of the
6 aggregate annual total gross receipts from all sales of
7 service, the tax imposed by this Act shall be based on the
8 serviceman's cost price of the tangible personal property
9 transferred incident to the sale of those services.

10 Until July 1, 2022 and beginning again on July 1, 2023, the
11 tax shall be imposed at the rate of 1% on food prepared for
12 immediate consumption and transferred incident to a sale of
13 service subject to this Act or the Service Use Tax Act by an
14 entity licensed under the Hospital Licensing Act, the Nursing
15 Home Care Act, the Assisted Living and Shared Housing Act, the
16 ID/DD Community Care Act, the MC/DD Act, the Specialized
17 Mental Health Rehabilitation Act of 2013, or the Child Care
18 Act of 1969, or an entity that holds a permit issued pursuant
19 to the Life Care Facilities Act. Until July 1, 2022 and
20 beginning again on July 1, 2023, the tax shall also be imposed
21 at the rate of 1% on food for human consumption that is to be
22 consumed off the premises where it is sold (other than
23 alcoholic beverages, food consisting of or infused with adult
24 use cannabis, soft drinks, and food that has been prepared for
25 immediate consumption and is not otherwise included in this
26 paragraph).

1 Beginning on July 1, 2022 and until July 1, 2023, the tax
2 shall be imposed at the rate of 0% on food prepared for
3 immediate consumption and transferred incident to a sale of
4 service subject to this Act or the Service Use Tax Act by an
5 entity licensed under the Hospital Licensing Act, the Nursing
6 Home Care Act, the Assisted Living and Shared Housing Act, the
7 ID/DD Community Care Act, the MC/DD Act, the Specialized
8 Mental Health Rehabilitation Act of 2013, or the Child Care
9 Act of 1969, or an entity that holds a permit issued pursuant
10 to the Life Care Facilities Act. Beginning July 1, 2022 and
11 until July 1, 2023, the tax shall also be imposed at the rate
12 of 0% on food for human consumption that is to be consumed off
13 the premises where it is sold (other than alcoholic beverages,
14 food consisting of or infused with adult use cannabis, soft
15 drinks, and food that has been prepared for immediate
16 consumption and is not otherwise included in this paragraph).

17 The tax shall also be imposed at the rate of 1% on
18 prescription and nonprescription medicines, drugs, medical
19 appliances, products classified as Class III medical devices
20 by the United States Food and Drug Administration that are
21 used for cancer treatment pursuant to a prescription, as well
22 as any accessories and components related to those devices,
23 modifications to a motor vehicle for the purpose of rendering
24 it usable by a person with a disability, and insulin, blood
25 sugar testing materials, syringes, and needles used by human
26 diabetics. For the purposes of this Section, until September

1 1, 2009: the term "soft drinks" means any complete, finished,
2 ready-to-use, non-alcoholic drink, whether carbonated or not,
3 including, but not limited to, soda water, cola, fruit juice,
4 vegetable juice, carbonated water, and all other preparations
5 commonly known as soft drinks of whatever kind or description
6 that are contained in any closed or sealed can, carton, or
7 container, regardless of size; but "soft drinks" does not
8 include coffee, tea, non-carbonated water, infant formula,
9 milk or milk products as defined in the Grade A Pasteurized
10 Milk and Milk Products Act, or drinks containing 50% or more
11 natural fruit or vegetable juice.

12 Notwithstanding any other provisions of this Act,
13 beginning September 1, 2009, "soft drinks" means non-alcoholic
14 beverages that contain natural or artificial sweeteners. "Soft
15 drinks" does ~~do~~ not include beverages that contain milk or
16 milk products, soy, rice or similar milk substitutes, or
17 greater than 50% of vegetable or fruit juice by volume.

18 Until August 1, 2009, and notwithstanding any other
19 provisions of this Act, "food for human consumption that is to
20 be consumed off the premises where it is sold" includes all
21 food sold through a vending machine, except soft drinks and
22 food products that are dispensed hot from a vending machine,
23 regardless of the location of the vending machine. Beginning
24 August 1, 2009, and notwithstanding any other provisions of
25 this Act, "food for human consumption that is to be consumed
26 off the premises where it is sold" includes all food sold

1 through a vending machine, except soft drinks, candy, and food
2 products that are dispensed hot from a vending machine,
3 regardless of the location of the vending machine.

4 Notwithstanding any other provisions of this Act,
5 beginning September 1, 2009, "food for human consumption that
6 is to be consumed off the premises where it is sold" does not
7 include candy. For purposes of this Section, "candy" means a
8 preparation of sugar, honey, or other natural or artificial
9 sweeteners in combination with chocolate, fruits, nuts or
10 other ingredients or flavorings in the form of bars, drops, or
11 pieces. "Candy" does not include any preparation that contains
12 flour or requires refrigeration.

13 Notwithstanding any other provisions of this Act,
14 beginning September 1, 2009, "nonprescription medicines and
15 drugs" does not include grooming and hygiene products. For
16 purposes of this Section, "grooming and hygiene products"
17 includes, but is not limited to, soaps and cleaning solutions,
18 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
19 lotions and screens, unless those products are available by
20 prescription only, regardless of whether the products meet the
21 definition of "over-the-counter-drugs". For the purposes of
22 this paragraph, "over-the-counter-drug" means a drug for human
23 use that contains a label that identifies the product as a drug
24 as required by 21 CFR ~~C.F.R.~~ § 201.66. The
25 "over-the-counter-drug" label includes:

26 (A) a ~~A~~ "Drug Facts" panel; or

1 (B) a ~~A~~ statement of the "active ingredient(s)" with a
2 list of those ingredients contained in the compound,
3 substance or preparation.

4 Beginning on January 1, 2014 (the effective date of Public
5 Act 98-122), "prescription and nonprescription medicines and
6 drugs" includes medical cannabis purchased from a registered
7 dispensing organization under the Compassionate Use of Medical
8 Cannabis Program Act.

9 As used in this Section, "adult use cannabis" means
10 cannabis subject to tax under the Cannabis Cultivation
11 Privilege Tax Law and the Cannabis Purchaser Excise Tax Law
12 and does not include cannabis subject to tax under the
13 Compassionate Use of Medical Cannabis Program Act.

14 (Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19;
15 102-4, eff. 4-27-21; 102-16, eff. 6-17-21; 102-700, Article
16 20, Section 20-15, eff. 4-19-22; 102-700, Article 60, Section
17 60-25, eff. 4-19-22; revised 6-1-22.)

18 Section 20. The Retailers' Occupation Tax Act is amended
19 by changing Sections 2-10 and 2d as follows:

20 (35 ILCS 120/2-10)

21 Sec. 2-10. Rate of tax. Unless otherwise provided in this
22 Section, the tax imposed by this Act is at the rate of 6.25% of
23 gross receipts from sales of tangible personal property made
24 in the course of business.

1 Beginning on July 1, 2000 and through December 31, 2000,
2 with respect to motor fuel, as defined in Section 1.1 of the
3 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
4 the Use Tax Act, the tax is imposed at the rate of 1.25%.

5 Beginning 30 days after the effective date of this
6 amendatory Act of the 103rd General Assembly, with respect to:
7 motor fuel, as defined in Section 1.1 of the Motor Fuel Tax
8 Law; gasohol, as defined in Section 3-40 of the Use Tax Act;
9 majority blended ethanol fuel; and biodiesel and biodiesel
10 blends, the tax imposed under this Act may not exceed the cents
11 per gallon rate established by the Department under subsection
12 (e) of Section 2d of this Act. With respect to the tax imposed
13 on biodiesel blends and gasohol, the maximum cents per gallon
14 rate shall include the reduction allowed in subsection (e) of
15 Section 2d of the Retailers' Occupation Tax Act.

16 Beginning on August 6, 2010 through August 15, 2010, and
17 beginning again on August 5, 2022 through August 14, 2022,
18 with respect to sales tax holiday items as defined in Section
19 2-8 of this Act, the tax is imposed at the rate of 1.25%.

20 Within 14 days after July 1, 2000 (the effective date of
21 Public Act 91-872) ~~this amendatory Act of the 91st General~~
22 ~~Assembly,~~ each retailer of motor fuel and gasohol shall cause
23 the following notice to be posted in a prominently visible
24 place on each retail dispensing device that is used to
25 dispense motor fuel or gasohol in the State of Illinois: "As of
26 July 1, 2000, the State of Illinois has eliminated the State's

1 share of sales tax on motor fuel and gasohol through December
2 31, 2000. The price on this pump should reflect the
3 elimination of the tax." The notice shall be printed in bold
4 print on a sign that is no smaller than 4 inches by 8 inches.
5 The sign shall be clearly visible to customers. Any retailer
6 who fails to post or maintain a required sign through December
7 31, 2000 is guilty of a petty offense for which the fine shall
8 be \$500 per day per each retail premises where a violation
9 occurs.

10 With respect to gasohol, as defined in the Use Tax Act, the
11 tax imposed by this Act applies to (i) 70% of the proceeds of
12 sales made on or after January 1, 1990, and before July 1,
13 2003, (ii) 80% of the proceeds of sales made on or after July
14 1, 2003 and on or before July 1, 2017, and (iii) 100% of the
15 proceeds of sales made thereafter. If, at any time, however,
16 the tax under this Act on sales of gasohol, as defined in the
17 Use Tax Act, is imposed at the rate of 1.25%, then the tax
18 imposed by this Act applies to 100% of the proceeds of sales of
19 gasohol made during that time.

20 With respect to majority blended ethanol fuel, as defined
21 in the Use Tax Act, the tax imposed by this Act does not apply
22 to the proceeds of sales made on or after July 1, 2003 and on
23 or before December 31, 2023 but applies to 100% of the proceeds
24 of sales made thereafter.

25 With respect to biodiesel blends, as defined in the Use
26 Tax Act, with no less than 1% and no more than 10% biodiesel,

1 the tax imposed by this Act applies to (i) 80% of the proceeds
2 of sales made on or after July 1, 2003 and on or before
3 December 31, 2018 and (ii) 100% of the proceeds of sales made
4 after December 31, 2018 and before January 1, 2024. On and
5 after January 1, 2024 and on or before December 31, 2030, the
6 taxation of biodiesel, renewable diesel, and biodiesel blends
7 shall be as provided in Section 3-5.1 of the Use Tax Act. If,
8 at any time, however, the tax under this Act on sales of
9 biodiesel blends, as defined in the Use Tax Act, with no less
10 than 1% and no more than 10% biodiesel is imposed at the rate
11 of 1.25%, then the tax imposed by this Act applies to 100% of
12 the proceeds of sales of biodiesel blends with no less than 1%
13 and no more than 10% biodiesel made during that time.

14 With respect to biodiesel, as defined in the Use Tax Act,
15 and biodiesel blends, as defined in the Use Tax Act, with more
16 than 10% but no more than 99% biodiesel, the tax imposed by
17 this Act does not apply to the proceeds of sales made on or
18 after July 1, 2003 and on or before December 31, 2023. On and
19 after January 1, 2024 and on or before December 31, 2030, the
20 taxation of biodiesel, renewable diesel, and biodiesel blends
21 shall be as provided in Section 3-5.1 of the Use Tax Act.

22 Until July 1, 2022 and beginning again on July 1, 2023,
23 with respect to food for human consumption that is to be
24 consumed off the premises where it is sold (other than
25 alcoholic beverages, food consisting of or infused with adult
26 use cannabis, soft drinks, and food that has been prepared for

1 immediate consumption), the tax is imposed at the rate of 1%.
2 Beginning July 1, 2022 and until July 1, 2023, with respect to
3 food for human consumption that is to be consumed off the
4 premises where it is sold (other than alcoholic beverages,
5 food consisting of or infused with adult use cannabis, soft
6 drinks, and food that has been prepared for immediate
7 consumption), the tax is imposed at the rate of 0%.

8 With respect to prescription and nonprescription
9 medicines, drugs, medical appliances, products classified as
10 Class III medical devices by the United States Food and Drug
11 Administration that are used for cancer treatment pursuant to
12 a prescription, as well as any accessories and components
13 related to those devices, modifications to a motor vehicle for
14 the purpose of rendering it usable by a person with a
15 disability, and insulin, blood sugar testing materials,
16 syringes, and needles used by human diabetics, the tax is
17 imposed at the rate of 1%. For the purposes of this Section,
18 until September 1, 2009: the term "soft drinks" means any
19 complete, finished, ready-to-use, non-alcoholic drink, whether
20 carbonated or not, including, but not limited to, soda water,
21 cola, fruit juice, vegetable juice, carbonated water, and all
22 other preparations commonly known as soft drinks of whatever
23 kind or description that are contained in any closed or sealed
24 bottle, can, carton, or container, regardless of size; but
25 "soft drinks" does not include coffee, tea, non-carbonated
26 water, infant formula, milk or milk products as defined in the

1 Grade A Pasteurized Milk and Milk Products Act, or drinks
2 containing 50% or more natural fruit or vegetable juice.

3 Notwithstanding any other provisions of this Act,
4 beginning September 1, 2009, "soft drinks" means non-alcoholic
5 beverages that contain natural or artificial sweeteners. "Soft
6 drinks" does ~~do~~ not include beverages that contain milk or
7 milk products, soy, rice or similar milk substitutes, or
8 greater than 50% of vegetable or fruit juice by volume.

9 Until August 1, 2009, and notwithstanding any other
10 provisions of this Act, "food for human consumption that is to
11 be consumed off the premises where it is sold" includes all
12 food sold through a vending machine, except soft drinks and
13 food products that are dispensed hot from a vending machine,
14 regardless of the location of the vending machine. Beginning
15 August 1, 2009, and notwithstanding any other provisions of
16 this Act, "food for human consumption that is to be consumed
17 off the premises where it is sold" includes all food sold
18 through a vending machine, except soft drinks, candy, and food
19 products that are dispensed hot from a vending machine,
20 regardless of the location of the vending machine.

21 Notwithstanding any other provisions of this Act,
22 beginning September 1, 2009, "food for human consumption that
23 is to be consumed off the premises where it is sold" does not
24 include candy. For purposes of this Section, "candy" means a
25 preparation of sugar, honey, or other natural or artificial
26 sweeteners in combination with chocolate, fruits, nuts or

1 other ingredients or flavorings in the form of bars, drops, or
2 pieces. "Candy" does not include any preparation that contains
3 flour or requires refrigeration.

4 Notwithstanding any other provisions of this Act,
5 beginning September 1, 2009, "nonprescription medicines and
6 drugs" does not include grooming and hygiene products. For
7 purposes of this Section, "grooming and hygiene products"
8 includes, but is not limited to, soaps and cleaning solutions,
9 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
10 lotions and screens, unless those products are available by
11 prescription only, regardless of whether the products meet the
12 definition of "over-the-counter-drugs". For the purposes of
13 this paragraph, "over-the-counter-drug" means a drug for human
14 use that contains a label that identifies the product as a drug
15 as required by 21 CFR ~~C.F.R.~~ § 201.66. The
16 "over-the-counter-drug" label includes:

- 17 (A) a ~~A~~ "Drug Facts" panel; or
18 (B) a ~~A~~ statement of the "active ingredient(s)" with a
19 list of those ingredients contained in the compound,
20 substance or preparation.

21 Beginning on January 1, 2014 (the effective date of Public
22 Act 98-122) ~~this amendatory Act of the 98th General Assembly,~~
23 "prescription and nonprescription medicines and drugs"
24 includes medical cannabis purchased from a registered
25 dispensing organization under the Compassionate Use of Medical
26 Cannabis Program Act.

1 As used in this Section, "adult use cannabis" means
2 cannabis subject to tax under the Cannabis Cultivation
3 Privilege Tax Law and the Cannabis Purchaser Excise Tax Law
4 and does not include cannabis subject to tax under the
5 Compassionate Use of Medical Cannabis Program Act.

6 (Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19;
7 102-4, eff. 4-27-21; 102-700, Article 20, Section 20-20, eff.
8 4-19-22; 102-700, Article 60, Section 60-30, eff. 4-19-22;
9 102-700, Article 65, Section 65-10, eff. 4-19-22; revised
10 6-1-22.)

11 (35 ILCS 120/2d) (from Ch. 120, par. 441d)

12 Sec. 2d. Tax prepayment by motor fuel retailer.

13 (a) Any person engaged in the business of selling motor
14 fuel at retail, as defined in the Motor Fuel Tax Law, and who
15 is not a licensed distributor or supplier, as defined in the
16 Motor Fuel Tax Law, shall prepay to his or her distributor,
17 supplier, or other reseller of motor fuel a portion of the tax
18 imposed by this Act if the distributor, supplier, or other
19 reseller of motor fuel is registered under Section 2a or
20 Section 2c of this Act. The prepayment requirement provided
21 for in this Section does not apply to liquid propane gas.

22 (b) Beginning on July 1, 2000 and through December 31,
23 2000, the Retailers' Occupation Tax paid to the distributor,
24 supplier, or other reseller shall be an amount equal to \$0.01
25 per gallon of the motor fuel, except gasohol as defined in

1 Section 2-10 of this Act which shall be an amount equal to
2 \$0.01 per gallon, purchased from the distributor, supplier, or
3 other reseller.

4 (c) Before July 1, 2000 and then beginning on January 1,
5 2001 and through June 30, 2003, the Retailers' Occupation Tax
6 paid to the distributor, supplier, or other reseller shall be
7 an amount equal to \$0.04 per gallon of the motor fuel, except
8 gasohol as defined in Section 2-10 of this Act which shall be
9 an amount equal to \$0.03 per gallon, purchased from the
10 distributor, supplier, or other reseller.

11 (d) Beginning July 1, 2003 and through December 31, 2010,
12 the Retailers' Occupation Tax paid to the distributor,
13 supplier, or other reseller shall be an amount equal to \$0.06
14 per gallon of the motor fuel, except gasohol as defined in
15 Section 2-10 of this Act which shall be an amount equal to
16 \$0.05 per gallon, purchased from the distributor, supplier, or
17 other reseller.

18 (e) Beginning on January 1, 2011 and thereafter, the
19 Retailers' Occupation Tax paid to the distributor, supplier,
20 or other reseller shall be at the rate established by the
21 Department under this subsection. The rate shall be
22 established by the Department on January 1 and July 1 of each
23 year using the average selling price, as defined in Section 1
24 of this Act, per gallon of motor fuel sold in the State during
25 the previous 6 months and multiplying that amount by 6.25% to
26 determine the cents per gallon rate. Beginning 30 days after

1 the effective date of this amendatory Act of the 103rd General
2 Assembly, the cents per gallon rate established by the
3 Department for motor fuel under this subsection may not exceed
4 \$0.18 per gallon. In the case of biodiesel blends, as defined
5 in Section 3-42 of the Use Tax Act, with no less than 1% and no
6 more than 10% biodiesel, and in the case of gasohol, as defined
7 in Section 3-40 of the Use Tax Act, the rate shall be 80% of
8 the rate established by the Department under this subsection
9 for motor fuel. The Department shall provide persons subject
10 to this Section notice of the rate established under this
11 subsection at least 20 days prior to each January 1 and July 1.
12 The Department shall provide persons subject to this Section
13 notice of the rate change required by this amendatory Act of
14 the 103rd General Assembly at least 20 days prior to the date
15 on which that change takes effect. Publication of the
16 established rate on the Department's internet website shall
17 constitute sufficient notice under this Section. The
18 Department may use data derived from independent surveys
19 conducted or accumulated by third parties to determine the
20 average selling price per gallon of motor fuel sold in the
21 State.

22 (f) Any person engaged in the business of selling motor
23 fuel at retail shall be entitled to a credit against tax due
24 under this Act in an amount equal to the tax paid to the
25 distributor, supplier, or other reseller.

26 (g) Every distributor, supplier, or other reseller

1 registered as provided in Section 2a or Section 2c of this Act
2 shall remit the prepaid tax on all motor fuel that is due from
3 any person engaged in the business of selling at retail motor
4 fuel with the returns filed under Section 2f or Section 3 of
5 this Act, but the vendors discount provided in Section 3 shall
6 not apply to the amount of prepaid tax that is remitted. Any
7 distributor or supplier who fails to properly collect and
8 remit the tax shall be liable for the tax. For purposes of this
9 Section, the prepaid tax is due on invoiced gallons sold
10 during a month by the 20th day of the following month.

11 (Source: P.A. 96-1384, eff. 7-29-10.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.