

# SB1744



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1744

Introduced 2/9/2023, by Sen. Dale Fowler

### SYNOPSIS AS INTRODUCED:

35 ILCS 173/5-10

35 ILCS 615/1

35 ILCS 640/2-4

from Ch. 120, par. 467.16

Amends the Gas Use Tax Law. Exempts certain business enterprises from taxation under the Act. Amends the Gas Revenue Tax Act. Provides that the definition of "gross receipts" does not include consideration received from certain business enterprises. Amends the Electricity Excise Tax Law. Provides that the tax under the Act is not imposed with respect to any use by the purchaser in the process of manufacturing or assembling tangible personal property for wholesale or for retail sale or lease. Effective immediately.

LRB103 28573 HLH 54954 b

A BILL FOR

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 changing  
5 Section 5-10 as follows:

6 (35 ILCS 173/5-10)

7 Sec. 5-10. Imposition of tax. Beginning October 1, 2003, a  
8 tax is imposed upon the privilege of using in this State gas  
9 obtained in a purchase of out-of-state gas at the rate of 2.4  
10 cents per therm or 5% of the purchase price for the billing  
11 period, whichever is the lower rate. Such tax rate shall be  
12 referred to as the "self-assessing purchaser tax rate".  
13 Beginning with bills issued by delivering suppliers on and  
14 after October 1, 2003, purchasers may elect an alternative tax  
15 rate of 2.4 cents per therm to be paid under the provisions of  
16 Section 5-15 of this Law to a delivering supplier maintaining  
17 a place of business in this State. Such tax rate shall be  
18 referred to as the "alternate tax rate".

19 The tax imposed under this Section shall not apply to gas  
20 used by business enterprises certified under Section 9-222.1  
21 of the Public Utilities Act, as amended, to the extent of such  
22 exemption and during the period of time specified by the  
23 Department of Commerce and Economic Opportunity.

1       The tax imposed under this Section does not apply to gas  
2       used by any business enterprise that is properly assigned or  
3       included within one of the following Standard Industrial  
4       Classifications, as designated in the 1987 Standard Industrial  
5       Classification Manual prepared by the federal Office of  
6       Management and Budget: 10; 12; 13; 14; 21; 22; 23; 24; 25; 26;  
7       27; 28; 29; 30; 31; 32; 33; 34; 35; 36; 37; 38; or 39.

8       (Source: P.A. 93-31, eff. 10-1-03; 94-793, eff. 5-19-06.)

9       Section 10. The Gas Revenue Tax Act is amended by changing  
10      Section 1 as follows:

11           (35 ILCS 615/1) (from Ch. 120, par. 467.16)

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

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

- 1           (ii) any charge for a dishonored check;
- 2           (iii) any finance or credit charge, penalty or charge  
3 for delayed payment, or discount for prompt payment;
- 4           (iv) any charge for reconnection of service or for  
5 replacement or relocation of facilities;
- 6           (v) any advance or contribution in aid of  
7 construction;
- 8           (vi) repair, inspection or servicing of equipment  
9 located on customer premises;
- 10          (vii) leasing or rental of equipment, the leasing or  
11 rental of which is not necessary to distributing,  
12 furnishing, supplying, selling, transporting or storing  
13 gas;
- 14          (viii) any sale to a customer if the taxpayer is  
15 prohibited by federal or State constitution, treaty,  
16 convention, statute or court decision from recovering the  
17 related tax liability from such customer;
- 18          (ix) any charges added to customers' bills pursuant to  
19 the provisions of Section 9-221 or Section 9-222 of the  
20 Public Utilities Act, as amended, or any charges added to  
21 customers' bills by taxpayers who are not subject to rate  
22 regulation by the Illinois Commerce Commission for the  
23 purpose of recovering any of the tax liabilities or other  
24 amounts specified in such provisions of such Act; and
- 25          (x) prior to October 1, 2003, any charge for gas or gas  
26 services to a customer who acquired contractual rights for

1 the direct purchase of gas or gas services originating  
2 from an out-of-state supplier or source on or before March  
3 1, 1995, except for those charges solely related to the  
4 local distribution of gas by a public utility. This  
5 exemption includes any charge for gas or gas service,  
6 except for those charges solely related to the local  
7 distribution of gas by a public utility, to a customer who  
8 maintained an account with a public utility (as defined in  
9 Section 3-105 of the Public Utilities Act) for the  
10 transportation of customer-owned gas on or before March 1,  
11 1995. The provisions of this amendatory Act of 1997 are  
12 intended to clarify, rather than change, existing law as  
13 to the meaning and scope of this exemption. This exemption  
14 (x) expires on September 30, 2003.

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

17 "Gross receipts" shall not include consideration received  
18 from business enterprises certified under Section 9-222.1 of  
19 the Public Utilities Act, as amended, to the extent of such  
20 exemption and during the period of time specified by the  
21 Department of Commerce and Economic Opportunity.

22 "Gross receipts" does not include consideration received  
23 from any business enterprise that is properly assigned or  
24 included within one of the following Standard Industrial  
25 Classifications, as designated in the 1987 Standard Industrial  
26 Classification Manual prepared by the federal Office of

1 Management and Budget: 10; 12; 13; 14; 21; 22; 23; 24; 25; 26;  
2 27; 28; 29; 30; 31; 32; 33; 34; 35; 36; 37; 38; or 39.

3 "Department" means the Department of Revenue of the State  
4 of Illinois.

5 "Director" means the Director of Revenue for the  
6 Department of Revenue of the State of Illinois.

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

10 "Person" means any natural individual, firm, trust,  
11 estate, partnership, association, joint stock company, joint  
12 adventure, corporation, limited liability company, or a  
13 receiver, trustee, guardian or other representative appointed  
14 by order of any court, or any city, town, county or other  
15 political subdivision of this State.

16 "Invested capital" means that amount equal to (i) the  
17 average of the balances at the beginning and end of each  
18 taxable period of the taxpayer's total stockholder's equity  
19 and total long-term debt, less investments in and advances to  
20 all corporations, as set forth on the balance sheets included  
21 in the taxpayer's annual report to the Illinois Commerce  
22 Commission for the taxable period; (ii) multiplied by a  
23 fraction determined under Sections 301 and 304(a) of the  
24 "Illinois Income Tax Act" and reported on the Illinois income  
25 tax return for the taxable period ending in or with the taxable  
26 period in question. However, notwithstanding the income tax

1 return reporting requirement stated above, beginning July 1,  
2 1979, no taxpayer's denominators used to compute the sales,  
3 property or payroll factors under subsection (a) of Section  
4 304 of the Illinois Income Tax Act shall include payroll,  
5 property or sales of any corporate entity other than the  
6 taxpayer for the purposes of determining an allocation for the  
7 invested capital tax. This amendatory Act of 1982, Public Act  
8 82-1024, is not intended to and does not make any change in the  
9 meaning of any provision of this Act, it having been the intent  
10 of the General Assembly in initially enacting the definition  
11 of "invested capital" to provide for apportionment of the  
12 invested capital of each company, based solely upon the sales,  
13 property and payroll of that company.

14 "Taxable period" means each period which ends after the  
15 effective date of this Act and which is covered by an annual  
16 report filed by the taxpayer with the Illinois Commerce  
17 Commission.

18 (Source: P.A. 93-31, eff. 10-1-03; 94-793, eff. 5-19-06.)

19 Section 15. The Electricity Excise Tax Law is amended by  
20 changing Section 2-4 as follows:

21 (35 ILCS 640/2-4)

22 Sec. 2-4. Tax imposed.

23 (a) Except as provided in subsection (b), a tax is imposed  
24 on the privilege of using in this State electricity purchased

1 for use or consumption and not for resale, other than by  
2 municipal corporations owning and operating a local  
3 transportation system for public service, at the following  
4 rates per kilowatt-hour delivered to the purchaser:

5 (i) For the first 2000 kilowatt-hours used or consumed  
6 in a month: 0.330 cents per kilowatt-hour;

7 (ii) For the next 48,000 kilowatt-hours used or  
8 consumed in a month: 0.319 cents per kilowatt-hour;

9 (iii) For the next 50,000 kilowatt-hours used or  
10 consumed in a month: 0.303 cents per kilowatt-hour;

11 (iv) For the next 400,000 kilowatt-hours used or  
12 consumed in a month: 0.297 cents per kilowatt-hour;

13 (v) For the next 500,000 kilowatt-hours used or  
14 consumed in a month: 0.286 cents per kilowatt-hour;

15 (vi) For the next 2,000,000 kilowatt-hours used or  
16 consumed in a month: 0.270 cents per kilowatt-hour;

17 (vii) For the next 2,000,000 kilowatt-hours used or  
18 consumed in a month: 0.254 cents per kilowatt-hour;

19 (viii) For the next 5,000,000 kilowatt-hours used or  
20 consumed in a month: 0.233 cents per kilowatt-hour;

21 (ix) For the next 10,000,000 kilowatt-hours used or  
22 consumed in a month: 0.207 cents per kilowatt-hour;

23 (x) For all electricity in excess of 20,000,000  
24 kilowatt-hours used or consumed in a month: 0.202 cents  
25 per kilowatt-hour.

26 Provided, that in lieu of the foregoing rates, the tax is



1 imposed on a self-assessing purchaser at the rate of 5.1% of  
2 the self-assessing purchaser's purchase price for all  
3 electricity distributed, supplied, furnished, sold,  
4 transmitted and delivered to the self-assessing purchaser in a  
5 month.

6 (b) A tax is imposed on the privilege of using in this  
7 State electricity purchased from a municipal system or  
8 electric cooperative, as defined in Article XVII of the Public  
9 Utilities Act, which has not made an election as permitted by  
10 either Section 17-200 or Section 17-300 of such Act, at the  
11 lesser of 0.32 cents per kilowatt hour of all electricity  
12 distributed, supplied, furnished, sold, transmitted, and  
13 delivered by such municipal system or electric cooperative to  
14 the purchaser or 5% of each such purchaser's purchase price  
15 for all electricity distributed, supplied, furnished, sold,  
16 transmitted, and delivered by such municipal system or  
17 electric cooperative to the purchaser, whichever is the lower  
18 rate as applied to each purchaser in each billing period.

19 (c) The tax imposed by this Section 2-4 is not imposed with  
20 respect to any use of electricity by business enterprises  
21 certified under Section 9-222.1 or 9-222.1A of the Public  
22 Utilities Act, as amended, to the extent of such exemption and  
23 during the time specified by the Department of Commerce and  
24 Economic Opportunity; or with respect to any transaction in  
25 interstate commerce, or otherwise, to the extent to which such  
26 transaction may not, under the Constitution and statutes of

1 the United States, be made the subject of taxation by this  
2 State.

3 (d) The tax imposed by this Section 2-4 is not imposed with  
4 respect to any use of electricity at a REV Illinois Project  
5 site that has received a certification for tax exemption from  
6 the Department of Commerce and Economic Opportunity pursuant  
7 to Section 95 of the Reimagining Electric Vehicles in Illinois  
8 Act, to the extent of such exemption, which shall be no more  
9 than 10 years.

10 (e) The tax imposed by this Section 2-4 is not imposed with  
11 respect to any use of electricity at a project site that has  
12 received a certification for tax exemption from the Department  
13 of Commerce and Economic Opportunity pursuant to the  
14 Manufacturing Illinois Chips for Real Opportunity (MICRO) Act,  
15 to the extent of such exemption, which shall be no more than 10  
16 years.

17 (f) The tax imposed by this Section 2-4 is not imposed with  
18 respect to any use by the purchaser in the process of  
19 manufacturing or assembling tangible personal property for  
20 wholesale or for retail sale or lease.

21 (Source: P.A. 102-669, eff. 11-16-21; 102-700, eff. 4-19-22.)

22 Section 99. Effective date. This Act takes effect upon  
23 becoming law.