



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3670

Introduced 2/17/2023, by Rep. Joyce Mason

SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-10
35 ILCS 110/3-10
35 ILCS 115/3-10
35 ILCS 120/2-10

from Ch. 120, par. 439.33-10
from Ch. 120, par. 439.103-10

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Provides that, with respect to diapers and infant formula, the tax is imposed under these Acts at the rate of 1%.

LRB103 27090 HLH 53458 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 on August 6, 2010 through August 15, 2010, and
10 beginning again on August 5, 2022 through August 14, 2022,
11 with respect to sales tax holiday items as defined in Section
12 3-6 of this Act, the tax is imposed at the rate of 1.25%.

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

22 With respect to majority blended ethanol fuel, the tax
23 imposed by this Act does not apply to the proceeds of sales
24 made on or after July 1, 2003 and on or before December 31,
25 2023 but applies to 100% of the proceeds of sales made
26 thereafter.

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

15 With respect to biodiesel and biodiesel blends 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.

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 on July 1, 2022 and until July 1, 2023, with respect
3 to 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 Beginning on the effective date of this amendatory Act of
7 the 103rd General Assembly, with respect to diapers and infant
8 formula, the tax is imposed at the rate of 1%. As used in this
9 Section, "infant formula" means a food which purports to be or
10 is represented for special dietary use solely as a food for
11 infants by reason of its simulation of human milk or its
12 suitability as a complete or partial substitute for human
13 milk.

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

21 (Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19;
22 102-4, eff. 4-27-21; 102-700, Article 20, Section 20-5, eff.
23 4-19-22; 102-700, Article 60, Section 60-15, eff. 4-19-22;
24 102-700, Article 65, Section 65-5, eff. 4-19-22; revised
25 5-27-22.)

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

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

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

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

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

25 With respect to majority blended ethanol fuel, as defined

1 in the Use Tax Act, the tax imposed by this Act does not apply
2 to the selling price of property transferred as an incident to
3 the sale of service on or after July 1, 2003 and on or before
4 December 31, 2023 but applies to 100% of the selling price
5 thereafter.

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

22 With respect to biodiesel, as defined in the Use Tax Act,
23 and biodiesel blends, as defined in the Use Tax Act, with more
24 than 10% but no more than 99% biodiesel, the tax imposed by
25 this Act does not apply to the proceeds of the selling price of
26 property transferred as an incident to the sale of service on

1 or after July 1, 2003 and on or before December 31, 2023. On
2 and after January 1, 2024 and on or before December 31, 2030,
3 the taxation of biodiesel, renewable diesel, and biodiesel
4 blends shall be as provided in Section 3-5.1 of the Use Tax
5 Act.

6 At the election of any registered serviceman made for each
7 fiscal year, sales of service in which the aggregate annual
8 cost price of tangible personal property transferred as an
9 incident to the sales of service is less than 35%, or 75% in
10 the case of servicemen transferring prescription drugs or
11 servicemen engaged in graphic arts production, of the
12 aggregate annual total gross receipts from all sales of
13 service, the tax imposed by this Act shall be based on the
14 serviceman's cost price of the tangible personal property
15 transferred as an incident to the sale of those services.

16 Until July 1, 2022 and beginning again on July 1, 2023, the
17 tax shall be imposed at the rate of 1% on food prepared for
18 immediate consumption and transferred incident to a sale of
19 service subject to this Act or the Service Occupation Tax Act
20 by an entity licensed under the Hospital Licensing Act, the
21 Nursing Home Care Act, the Assisted Living and Shared Housing
22 Act, the ID/DD Community Care Act, the MC/DD Act, the
23 Specialized Mental Health Rehabilitation Act of 2013, or the
24 Child Care Act of 1969, or an entity that holds a permit issued
25 pursuant to the Life Care Facilities Act. Until July 1, 2022
26 and beginning again on July 1, 2023, the tax shall also be

1 imposed at the rate of 1% on food for human consumption that is
2 to be consumed off the premises where it is sold (other than
3 alcoholic beverages, food consisting of or infused with adult
4 use cannabis, soft drinks, and food that has been prepared for
5 immediate consumption and is not otherwise included in this
6 paragraph).

7 Beginning on July 1, 2022 and until July 1, 2023, the tax
8 shall be imposed at the rate of 0% on food prepared for
9 immediate consumption and transferred incident to a sale of
10 service subject to this Act or the Service Occupation Tax Act
11 by an entity licensed under the Hospital Licensing Act, the
12 Nursing Home Care Act, the Assisted Living and Shared Housing
13 Act, the ID/DD Community Care Act, the MC/DD Act, the
14 Specialized Mental Health Rehabilitation Act of 2013, or the
15 Child Care Act of 1969, or an entity that holds a permit issued
16 pursuant to the Life Care Facilities Act. Beginning on July 1,
17 2022 and until July 1, 2023, the tax shall also be imposed at
18 the rate of 0% on food for human consumption that is to be
19 consumed off the premises where it is sold (other than
20 alcoholic beverages, food consisting of or infused with adult
21 use cannabis, soft drinks, and food that has been prepared for
22 immediate consumption and is not otherwise included in this
23 paragraph).

24 The tax shall also be imposed at the rate of 1% on
25 prescription and nonprescription medicines, drugs, medical
26 appliances, products classified as Class III medical devices

1 by the United States Food and Drug Administration that are
2 used for cancer treatment pursuant to a prescription, as well
3 as any accessories and components related to those devices,
4 modifications to a motor vehicle for the purpose of rendering
5 it usable by a person with a disability, and insulin, blood
6 sugar testing materials, syringes, and needles used by human
7 diabetics. For the purposes of this Section, until September
8 1, 2009: the term "soft drinks" means any complete, finished,
9 ready-to-use, non-alcoholic drink, whether carbonated or not,
10 including, but not limited to, soda water, cola, fruit juice,
11 vegetable juice, carbonated water, and all other preparations
12 commonly known as soft drinks of whatever kind or description
13 that are contained in any closed or sealed bottle, can,
14 carton, or container, regardless of size; but "soft drinks"
15 does not include coffee, tea, non-carbonated water, infant
16 formula, milk or milk products as defined in the Grade A
17 Pasteurized Milk and Milk Products Act, or drinks containing
18 50% or more natural fruit or vegetable juice.

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

25 Until August 1, 2009, and notwithstanding any other
26 provisions of this Act, "food for human consumption that is to

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

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

20 Notwithstanding any other provisions of this Act,
21 beginning September 1, 2009, "nonprescription medicines and
22 drugs" does not include grooming and hygiene products. For
23 purposes of this Section, "grooming and hygiene products"
24 includes, but is not limited to, soaps and cleaning solutions,
25 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
26 lotions and screens, unless those products are available by

1 prescription only, regardless of whether the products meet the
2 definition of "over-the-counter-drugs". For the purposes of
3 this paragraph, "over-the-counter-drug" means a drug for human
4 use that contains a label that identifies the product as a drug
5 as required by 21 CFR ~~C.F.R. §~~ 201.66. The
6 "over-the-counter-drug" label includes:

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

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

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

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

21 Beginning on the effective date of this amendatory Act of
22 the 103rd General Assembly, with respect to diapers and infant
23 formula, the tax is imposed at the rate of 1%. As used in this
24 Section, "infant formula" means a food which purports to be or
25 is represented for special dietary use solely as a food for
26 infants by reason of its simulation of human milk or its

1 suitability as a complete or partial substitute for human
2 milk.

3 If the property that is acquired from a serviceman is
4 acquired outside Illinois and used outside Illinois before
5 being brought to Illinois for use here and is taxable under
6 this Act, the "selling price" on which the tax is computed
7 shall be reduced by an amount that represents a reasonable
8 allowance for depreciation for the period of prior
9 out-of-state use.

10 (Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19;
11 102-4, eff. 4-27-21; 102-16, eff. 6-17-21; 102-700, Article
12 20, Section 20-10, eff. 4-19-22; 102-700, Article 60, Section
13 60-20, eff. 4-19-22; revised 6-1-22.)

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

16 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

17 Sec. 3-10. Rate of tax. Unless otherwise provided in this
18 Section, the tax imposed by this Act is at the rate of 6.25% of
19 the "selling price", as defined in Section 2 of the Service Use
20 Tax Act, of the tangible personal property. For the purpose of
21 computing this tax, in no event shall the "selling price" be
22 less than the cost price to the serviceman of the tangible
23 personal property transferred. The selling price of each item
24 of tangible personal property transferred as an incident of a

1 sale of service may be shown as a distinct and separate item on
2 the serviceman's billing to the service customer. If the
3 selling price is not so shown, the selling price of the
4 tangible personal property is deemed to be 50% of the
5 serviceman's entire billing to the service customer. When,
6 however, a serviceman contracts to design, develop, and
7 produce special order machinery or equipment, the tax imposed
8 by this Act shall be based on the serviceman's cost price of
9 the tangible personal property transferred incident to the
10 completion of the contract.

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

15 With respect to gasohol, as defined in the Use Tax Act, the
16 tax imposed by this Act shall apply to (i) 70% of the cost
17 price of property transferred as an incident to the sale of
18 service on or after January 1, 1990, and before July 1, 2003,
19 (ii) 80% of the selling price of property transferred as an
20 incident to the sale of service on or after July 1, 2003 and on
21 or before July 1, 2017, and (iii) 100% of the cost price
22 thereafter. If, at any time, however, the tax under this Act on
23 sales of gasohol, as defined in the Use Tax Act, is imposed at
24 the rate of 1.25%, then the tax imposed by this Act applies to
25 100% of the proceeds of sales of gasohol made during that time.

26 With respect to majority blended ethanol fuel, as defined

1 in the Use Tax Act, the tax imposed by this Act does not apply
2 to the selling price of property transferred as an incident to
3 the sale of service on or after July 1, 2003 and on or before
4 December 31, 2023 but applies to 100% of the selling price
5 thereafter.

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

22 With respect to biodiesel, as defined in the Use Tax Act,
23 and biodiesel blends, as defined in the Use Tax Act, with more
24 than 10% but no more than 99% biodiesel material, the tax
25 imposed by this Act does not apply to the proceeds of the
26 selling price of property transferred as an incident to the

1 sale of service on or after July 1, 2003 and on or before
2 December 31, 2023. On and after January 1, 2024 and on or
3 before December 31, 2030, the taxation of biodiesel, renewable
4 diesel, and biodiesel blends shall be as provided in Section
5 3-5.1 of the Use Tax Act.

6 At the election of any registered serviceman made for each
7 fiscal year, sales of service in which the aggregate annual
8 cost price of tangible personal property transferred as an
9 incident to the sales of service is less than 35%, or 75% in
10 the case of servicemen transferring prescription drugs or
11 servicemen engaged in graphic arts production, of the
12 aggregate annual total gross receipts from all sales of
13 service, the tax imposed by this Act shall be based on the
14 serviceman's cost price of the tangible personal property
15 transferred incident to the sale of those services.

16 Until July 1, 2022 and beginning again on July 1, 2023, the
17 tax shall be imposed at the rate of 1% on food prepared for
18 immediate consumption and transferred incident to a sale of
19 service subject to this Act or the Service Use Tax Act by an
20 entity licensed under the Hospital Licensing Act, the Nursing
21 Home Care Act, the Assisted Living and Shared Housing Act, the
22 ID/DD Community Care Act, the MC/DD Act, the Specialized
23 Mental Health Rehabilitation Act of 2013, or the Child Care
24 Act of 1969, or an entity that holds a permit issued pursuant
25 to the Life Care Facilities Act. Until July 1, 2022 and
26 beginning again on July 1, 2023, the tax shall also be imposed

1 at the rate of 1% on food for human consumption that is to be
2 consumed off the premises where it is sold (other than
3 alcoholic beverages, food consisting of or infused with adult
4 use cannabis, soft drinks, and food that has been prepared for
5 immediate consumption and is not otherwise included in this
6 paragraph).

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

23 The tax shall also be imposed at the rate of 1% on
24 prescription and nonprescription medicines, drugs, medical
25 appliances, products classified as Class III medical devices
26 by the United States Food and Drug Administration that are

1 used for cancer treatment pursuant to a prescription, as well
2 as any accessories and components related to those devices,
3 modifications to a motor vehicle for the purpose of rendering
4 it usable by a person with a disability, and insulin, blood
5 sugar testing materials, syringes, and needles used by human
6 diabetics. For the purposes of this Section, until September
7 1, 2009: the term "soft drinks" means any complete, finished,
8 ready-to-use, non-alcoholic drink, whether carbonated or not,
9 including, but not limited to, soda water, cola, fruit juice,
10 vegetable juice, carbonated water, and all other preparations
11 commonly known as soft drinks of whatever kind or description
12 that are contained in any closed or sealed can, carton, or
13 container, regardless of size; but "soft drinks" does not
14 include coffee, tea, non-carbonated water, infant formula,
15 milk or milk products as defined in the Grade A Pasteurized
16 Milk and Milk Products Act, or drinks containing 50% or more
17 natural fruit or vegetable juice.

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

24 Until August 1, 2009, and notwithstanding any other
25 provisions of this Act, "food for human consumption that is to
26 be consumed off the premises where it is sold" includes all

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

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

19 Notwithstanding any other provisions of this Act,
20 beginning September 1, 2009, "nonprescription medicines and
21 drugs" does not include grooming and hygiene products. For
22 purposes of this Section, "grooming and hygiene products"
23 includes, but is not limited to, soaps and cleaning solutions,
24 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
25 lotions and screens, unless those products are available by
26 prescription only, regardless of whether the products meet the

1 definition of "over-the-counter-drugs". For the purposes of
2 this paragraph, "over-the-counter-drug" means a drug for human
3 use that contains a label that identifies the product as a drug
4 as required by 21 CFR ~~C.F.R.~~ § 201.66. The
5 "over-the-counter-drug" label includes:

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

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

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

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

20 Beginning on the effective date of this amendatory Act of
21 the 103rd General Assembly, with respect to diapers and infant
22 formula, the tax is imposed at the rate of 1%. As used in this
23 Section, "infant formula" means a food which purports to be or
24 is represented for special dietary use solely as a food for
25 infants by reason of its simulation of human milk or its
26 suitability as a complete or partial substitute for human

1 milk.

2 (Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19;
3 102-4, eff. 4-27-21; 102-16, eff. 6-17-21; 102-700, Article
4 20, Section 20-15, eff. 4-19-22; 102-700, Article 60, Section
5 60-25, eff. 4-19-22; revised 6-1-22.)

6 Section 20. The Retailers' Occupation Tax Act is amended
7 by changing Section 2-10 as follows:

8 (35 ILCS 120/2-10)

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

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 on August 6, 2010 through August 15, 2010, and
18 beginning again on August 5, 2022 through August 14, 2022,
19 with respect to sales tax holiday items as defined in Section
20 2-8 of this Act, the tax is imposed at the rate of 1.25%.

21 Within 14 days after July 1, 2000 (the effective date of
22 Public Act 91-872) ~~this amendatory Act of the 91st General~~
23 ~~Assembly~~, each retailer of motor fuel and gasohol shall cause
24 the following notice to be posted in a prominently visible

1 place on each retail dispensing device that is used to
2 dispense motor fuel or gasohol in the State of Illinois: "As of
3 July 1, 2000, the State of Illinois has eliminated the State's
4 share of sales tax on motor fuel and gasohol through December
5 31, 2000. The price on this pump should reflect the
6 elimination of the tax." The notice shall be printed in bold
7 print on a sign that is no smaller than 4 inches by 8 inches.
8 The sign shall be clearly visible to customers. Any retailer
9 who fails to post or maintain a required sign through December
10 31, 2000 is guilty of a petty offense for which the fine shall
11 be \$500 per day per each retail premises where a violation
12 occurs.

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

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

1 of sales made thereafter.

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

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

25 Until July 1, 2022 and beginning again on July 1, 2023,
26 with respect to food for human consumption that is to be

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

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

1 bottle, can, carton, or container, regardless of size; but
2 "soft drinks" does not include coffee, tea, non-carbonated
3 water, infant formula, milk or milk products as defined in the
4 Grade A Pasteurized Milk and Milk Products Act, or drinks
5 containing 50% or more natural fruit or vegetable juice.

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

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

24 Notwithstanding any other provisions of this Act,
25 beginning September 1, 2009, "food for human consumption that
26 is to be consumed off the premises where it is sold" does not

1 include candy. For purposes of this Section, "candy" means a
2 preparation of sugar, honey, or other natural or artificial
3 sweeteners in combination with chocolate, fruits, nuts or
4 other ingredients or flavorings in the form of bars, drops, or
5 pieces. "Candy" does not include any preparation that contains
6 flour or requires refrigeration.

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

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

24 Beginning on January 1, 2014 (the effective date of Public
25 Act 98-122) ~~this amendatory Act of the 98th General Assembly,~~
26 "prescription and nonprescription medicines and drugs"

1 includes medical cannabis purchased from a registered
2 dispensing organization under the Compassionate Use of Medical
3 Cannabis Program Act.

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

9 Beginning on the effective date of this amendatory Act of
10 the 103rd General Assembly, with respect to diapers and infant
11 formula, the tax is imposed at the rate of 1%. As used in this
12 Section, "infant formula" means a food which purports to be or
13 is represented for special dietary use solely as a food for
14 infants by reason of its simulation of human milk or its
15 suitability as a complete or partial substitute for human
16 milk.

17 (Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19;
18 102-4, eff. 4-27-21; 102-700, Article 20, Section 20-20, eff.
19 4-19-22; 102-700, Article 60, Section 60-30, eff. 4-19-22;
20 102-700, Article 65, Section 65-10, eff. 4-19-22; revised
21 6-1-22.)