



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB4098

by Rep. William B. Black

#### SYNOPSIS AS INTRODUCED:

|                   |                               |
|-------------------|-------------------------------|
| 30 ILCS 105/6z-18 | from Ch. 127, par. 142z-18    |
| 30 ILCS 105/6z-20 | from Ch. 127, par. 142z-20    |
| 35 ILCS 105/3-10  | from Ch. 120, par. 439.3-10   |
| 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  | from Ch. 120, par. 441-10     |
| 35 ILCS 505/2     | from Ch. 120, par. 418        |
| 35 ILCS 505/2a    | from Ch. 120, par. 418a       |
| 35 ILCS 505/13a   | from Ch. 120, par. 429a       |

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Provides that, beginning on July 1, 2007 through September 3, 2007, with respect to motor fuel and gasohol the tax under the Acts is imposed at the rate of 1.25% (now, 6.25%). Amends the Motor Fuel Tax Law. Provides that taxes are not imposed under the Act for the period beginning on July 1, 2007 and continuing through September 3, 2007. Effective immediately.

LRB095 12115 BDD 36078 b

FISCAL NOTE ACT  
MAY APPLY

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 State Finance Act is amended by changing  
5 Sections 6z-18 and 6z-20 as follows:

6 (30 ILCS 105/6z-18) (from Ch. 127, par. 142z-18)

7 Sec. 6z-18. A portion of the money paid into the Local  
8 Government Tax Fund from sales of food for human consumption  
9 which is to be consumed off the premises where it is sold  
10 (other than alcoholic beverages, soft drinks and food which has  
11 been prepared for immediate consumption) and prescription and  
12 nonprescription medicines, drugs, medical appliances and  
13 insulin, urine testing materials, syringes and needles used by  
14 diabetics, which occurred in municipalities, shall be  
15 distributed to each municipality based upon the sales which  
16 occurred in that municipality. The remainder shall be  
17 distributed to each county based upon the sales which occurred  
18 in the unincorporated area of that county.

19 A portion of the money paid into the Local Government Tax  
20 Fund from the 6.25% general use tax rate on the selling price  
21 of tangible personal property which is purchased outside  
22 Illinois at retail from a retailer and which is titled or  
23 registered by any agency of this State's government shall be

1 distributed to municipalities as provided in this paragraph.  
2 Each municipality shall receive the amount attributable to  
3 sales for which Illinois addresses for titling or registration  
4 purposes are given as being in such municipality. The remainder  
5 of the money paid into the Local Government Tax Fund from such  
6 sales shall be distributed to counties. Each county shall  
7 receive the amount attributable to sales for which Illinois  
8 addresses for titling or registration purposes are given as  
9 being located in the unincorporated area of such county.

10 A portion of the money paid into the Local Government Tax  
11 Fund from the 6.25% general rate (and, beginning July 1, 2000  
12 and through December 31, 2000, and beginning again on July 1,  
13 2007 through September 3, 2007 the 1.25% rate on motor fuel and  
14 gasohol) on sales subject to taxation under the Retailers'  
15 Occupation Tax Act and the Service Occupation Tax Act, which  
16 occurred in municipalities, shall be distributed to each  
17 municipality, based upon the sales which occurred in that  
18 municipality. The remainder shall be distributed to each  
19 county, based upon the sales which occurred in the  
20 unincorporated area of such county.

21 For the purpose of determining allocation to the local  
22 government unit, a retail sale by a producer of coal or other  
23 mineral mined in Illinois is a sale at retail at the place  
24 where the coal or other mineral mined in Illinois is extracted  
25 from the earth. This paragraph does not apply to coal or other  
26 mineral when it is delivered or shipped by the seller to the

1 purchaser at a point outside Illinois so that the sale is  
2 exempt under the United States Constitution as a sale in  
3 interstate or foreign commerce.

4 Whenever the Department determines that a refund of money  
5 paid into the Local Government Tax Fund should be made to a  
6 claimant instead of issuing a credit memorandum, the Department  
7 shall notify the State Comptroller, who shall cause the order  
8 to be drawn for the amount specified, and to the person named,  
9 in such notification from the Department. Such refund shall be  
10 paid by the State Treasurer out of the Local Government Tax  
11 Fund.

12 On or before the 25th day of each calendar month, the  
13 Department shall prepare and certify to the Comptroller the  
14 disbursement of stated sums of money to named municipalities  
15 and counties, the municipalities and counties to be those  
16 entitled to distribution of taxes or penalties paid to the  
17 Department during the second preceding calendar month. The  
18 amount to be paid to each municipality or county shall be the  
19 amount (not including credit memoranda) collected during the  
20 second preceding calendar month by the Department and paid into  
21 the Local Government Tax Fund, plus an amount the Department  
22 determines is necessary to offset any amounts which were  
23 erroneously paid to a different taxing body, and not including  
24 an amount equal to the amount of refunds made during the second  
25 preceding calendar month by the Department, and not including  
26 any amount which the Department determines is necessary to

1 offset any amounts which are payable to a different taxing body  
2 but were erroneously paid to the municipality or county. Within  
3 10 days after receipt, by the Comptroller, of the disbursement  
4 certification to the municipalities and counties, provided for  
5 in this Section to be given to the Comptroller by the  
6 Department, the Comptroller shall cause the orders to be drawn  
7 for the respective amounts in accordance with the directions  
8 contained in such certification.

9 When certifying the amount of monthly disbursement to a  
10 municipality or county under this Section, the Department shall  
11 increase or decrease that amount by an amount necessary to  
12 offset any misallocation of previous disbursements. The offset  
13 amount shall be the amount erroneously disbursed within the 6  
14 months preceding the time a misallocation is discovered.

15 The provisions directing the distributions from the  
16 special fund in the State Treasury provided for in this Section  
17 shall constitute an irrevocable and continuing appropriation  
18 of all amounts as provided herein. The State Treasurer and  
19 State Comptroller are hereby authorized to make distributions  
20 as provided in this Section.

21 In construing any development, redevelopment, annexation,  
22 preannexation or other lawful agreement in effect prior to  
23 September 1, 1990, which describes or refers to receipts from a  
24 county or municipal retailers' occupation tax, use tax or  
25 service occupation tax which now cannot be imposed, such  
26 description or reference shall be deemed to include the

1 replacement revenue for such abolished taxes, distributed from  
2 the Local Government Tax Fund.

3 (Source: P.A. 90-491, eff. 1-1-98; 91-51, eff. 6-30-99; 91-872,  
4 eff. 7-1-00.)

5 (30 ILCS 105/6z-20) (from Ch. 127, par. 142z-20)

6 Sec. 6z-20. Of the money received from the 6.25% general  
7 rate (and, beginning July 1, 2000 and through December 31, 2000  
8 and beginning again on July 1, 2007 through September 3, 2007,  
9 the 1.25% rate on motor fuel and gasohol) on sales subject to  
10 taxation under the Retailers' Occupation Tax Act and Service  
11 Occupation Tax Act and paid into the County and Mass Transit  
12 District Fund, distribution to the Regional Transportation  
13 Authority tax fund, created pursuant to Section 4.03 of the  
14 Regional Transportation Authority Act, for deposit therein  
15 shall be made based upon the retail sales occurring in a county  
16 having more than 3,000,000 inhabitants. The remainder shall be  
17 distributed to each county having 3,000,000 or fewer  
18 inhabitants based upon the retail sales occurring in each such  
19 county.

20 For the purpose of determining allocation to the local  
21 government unit, a retail sale by a producer of coal or other  
22 mineral mined in Illinois is a sale at retail at the place  
23 where the coal or other mineral mined in Illinois is extracted  
24 from the earth. This paragraph does not apply to coal or other  
25 mineral when it is delivered or shipped by the seller to the

1 purchaser at a point outside Illinois so that the sale is  
2 exempt under the United States Constitution as a sale in  
3 interstate or foreign commerce.

4 Of the money received from the 6.25% general use tax rate  
5 on tangible personal property which is purchased outside  
6 Illinois at retail from a retailer and which is titled or  
7 registered by any agency of this State's government and paid  
8 into the County and Mass Transit District Fund, the amount for  
9 which Illinois addresses for titling or registration purposes  
10 are given as being in each county having more than 3,000,000  
11 inhabitants shall be distributed into the Regional  
12 Transportation Authority tax fund, created pursuant to Section  
13 4.03 of the Regional Transportation Authority Act. The  
14 remainder of the money paid from such sales shall be  
15 distributed to each county based on sales for which Illinois  
16 addresses for titling or registration purposes are given as  
17 being located in the county. Any money paid into the Regional  
18 Transportation Authority Occupation and Use Tax Replacement  
19 Fund from the County and Mass Transit District Fund prior to  
20 January 14, 1991, which has not been paid to the Authority  
21 prior to that date, shall be transferred to the Regional  
22 Transportation Authority tax fund.

23 Whenever the Department determines that a refund of money  
24 paid into the County and Mass Transit District Fund should be  
25 made to a claimant instead of issuing a credit memorandum, the  
26 Department shall notify the State Comptroller, who shall cause

1 the order to be drawn for the amount specified, and to the  
2 person named, in such notification from the Department. Such  
3 refund shall be paid by the State Treasurer out of the County  
4 and Mass Transit District Fund.

5 On or before the 25th day of each calendar month, the  
6 Department shall prepare and certify to the Comptroller the  
7 disbursement of stated sums of money to the Regional  
8 Transportation Authority and to named counties, the counties to  
9 be those entitled to distribution, as hereinabove provided, of  
10 taxes or penalties paid to the Department during the second  
11 preceding calendar month. The amount to be paid to the Regional  
12 Transportation Authority and each county having 3,000,000 or  
13 fewer inhabitants shall be the amount (not including credit  
14 memoranda) collected during the second preceding calendar  
15 month by the Department and paid into the County and Mass  
16 Transit District Fund, plus an amount the Department determines  
17 is necessary to offset any amounts which were erroneously paid  
18 to a different taxing body, and not including an amount equal  
19 to the amount of refunds made during the second preceding  
20 calendar month by the Department, and not including any amount  
21 which the Department determines is necessary to offset any  
22 amounts which were payable to a different taxing body but were  
23 erroneously paid to the Regional Transportation Authority or  
24 county. Within 10 days after receipt, by the Comptroller, of  
25 the disbursement certification to the Regional Transportation  
26 Authority and counties, provided for in this Section to be



1 given to the Comptroller by the Department, the Comptroller  
2 shall cause the orders to be drawn for the respective amounts  
3 in accordance with the directions contained in such  
4 certification.

5 When certifying the amount of a monthly disbursement to the  
6 Regional Transportation Authority or to a county under this  
7 Section, the Department shall increase or decrease that amount  
8 by an amount necessary to offset any misallocation of previous  
9 disbursements. The offset amount shall be the amount  
10 erroneously disbursed within the 6 months preceding the time a  
11 misallocation is discovered.

12 The provisions directing the distributions from the  
13 special fund in the State Treasury provided for in this Section  
14 and from the Regional Transportation Authority tax fund created  
15 by Section 4.03 of the Regional Transportation Authority Act  
16 shall constitute an irrevocable and continuing appropriation  
17 of all amounts as provided herein. The State Treasurer and  
18 State Comptroller are hereby authorized to make distributions  
19 as provided in this Section.

20 In construing any development, redevelopment, annexation,  
21 preannexation or other lawful agreement in effect prior to  
22 September 1, 1990, which describes or refers to receipts from a  
23 county or municipal retailers' occupation tax, use tax or  
24 service occupation tax which now cannot be imposed, such  
25 description or reference shall be deemed to include the  
26 replacement revenue for such abolished taxes, distributed from

1 the County and Mass Transit District Fund or Local Government  
2 Distributive Fund, as the case may be.

3 (Source: P.A. 90-491, eff. 1-1-98; 91-872, eff. 7-1-00.)

4 Section 10. The Use Tax Act is amended by changing Sections  
5 3-10 and 9 as follows:

6 (35 ILCS 105/3-10) (from Ch. 120, par. 439.3-10)

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 functionally  
14 used or consumed is a by-product or waste product that has been  
15 refined, manufactured, or produced from property purchased at  
16 retail, then the tax is imposed on the lower of the fair market  
17 value, if any, of the specific property so used in this State  
18 or on the selling price of the property purchased at retail.  
19 For purposes of this Section "fair market value" means the  
20 price at which property would change hands between a willing  
21 buyer and a willing seller, neither being under any compulsion  
22 to buy or sell and both having reasonable knowledge of the  
23 relevant facts. The fair market value shall be established by  
24 Illinois sales by the taxpayer of the same property as that

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

4 Beginning on July 1, 2000 and through December 31, 2000 and  
5 beginning again on July 1, 2007 through September 3, 2007, with  
6 respect to motor fuel, as defined in Section 1.1 of the Motor  
7 Fuel Tax Law, and gasohol, as defined in Section 3-40 of the  
8 Use Tax Act, the tax is imposed at the rate of 1.25%.

9 With respect to gasohol, the tax imposed by this Act  
10 applies to (i) 70% of the proceeds of sales made on or after  
11 January 1, 1990, and before July 1, 2003, (ii) 80% of the  
12 proceeds of sales made on or after July 1, 2003 and on or  
13 before December 31, 2013, and (iii) 100% of the proceeds of  
14 sales made thereafter. If, at any time, however, the tax under  
15 this Act on sales of gasohol is imposed at the rate of 1.25%,  
16 then the tax imposed by this Act applies to 100% of the  
17 proceeds of sales of gasohol made during that time.

18 With respect to majority blended ethanol fuel, the tax  
19 imposed by this Act does not apply to the proceeds of sales  
20 made on or after July 1, 2003 and on or before December 31,  
21 2013 but applies to 100% of the proceeds of sales made  
22 thereafter.

23 With respect to biodiesel blends with no less than 1% and  
24 no more than 10% biodiesel, the tax imposed by this Act applies  
25 to (i) 80% of the proceeds of sales made on or after July 1,  
26 2003 and on or before December 31, 2013 and (ii) 100% of the

1 proceeds of sales made thereafter. If, at any time, however,  
2 the tax under this Act on sales of biodiesel blends with no  
3 less than 1% and no more than 10% biodiesel is imposed at the  
4 rate of 1.25%, then the tax imposed by this Act applies to 100%  
5 of the proceeds of sales of biodiesel blends with no less than  
6 1% and no more than 10% biodiesel made during that time.

7 With respect to 100% biodiesel and biodiesel blends with  
8 more than 10% but no more than 99% biodiesel, the tax imposed  
9 by this Act does not apply to the proceeds of sales made on or  
10 after July 1, 2003 and on or before December 31, 2013 but  
11 applies to 100% of the proceeds of sales made thereafter.

12 With respect to food for human consumption that is to be  
13 consumed off the premises where it is sold (other than  
14 alcoholic beverages, soft drinks, and food that has been  
15 prepared for immediate consumption) and prescription and  
16 nonprescription medicines, drugs, medical appliances,  
17 modifications to a motor vehicle for the purpose of rendering  
18 it usable by a disabled person, and insulin, urine testing  
19 materials, syringes, and needles used by diabetics, for human  
20 use, the tax is imposed at the rate of 1%. For the purposes of  
21 this Section, the term "soft drinks" means any complete,  
22 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. "Soft  
2 drinks" does not include coffee, tea, non-carbonated water,  
3 infant formula, milk or milk products as defined in the Grade A  
4 Pasteurized Milk and Milk Products Act, or drinks containing  
5 50% or more natural fruit or vegetable juice.

6 Notwithstanding any other provisions of this Act, "food for  
7 human consumption that is to be consumed off the premises where  
8 it is sold" includes all food sold through a vending machine,  
9 except soft drinks and food products that are dispensed hot  
10 from a vending machine, regardless of the location of the  
11 vending machine.

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

19 (Source: P.A. 93-17, eff. 6-11-03.)

20 Section 15. The Service Use Tax Act is amended by changing  
21 Sections 3-10 and 9 as follows:

22 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

23 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
24 Section, the tax imposed by this Act is at the rate of 6.25% of

1 the selling price of tangible personal property transferred as  
2 an incident to the sale of service, but, for the purpose of  
3 computing this tax, in no event shall the selling price be less  
4 than the cost price of the property to the serviceman.

5 Beginning on July 1, 2000 and through December 31, 2000 and  
6 beginning again on July 1, 2007 through September 3, 2007, with  
7 respect to motor fuel, as defined in Section 1.1 of the Motor  
8 Fuel Tax Law, and gasohol, as defined in Section 3-40 of the  
9 Use Tax Act, the tax is imposed at the rate of 1.25%.

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 selling price  
12 of property transferred as an incident to the sale of service  
13 on or after January 1, 1990, and before July 1, 2003, (ii) 80%  
14 of the selling price of property transferred as an incident to  
15 the sale of service on or after July 1, 2003 and on or before  
16 December 31, 2013, and (iii) 100% of the selling price  
17 thereafter. If, at any time, however, the tax under this Act on  
18 sales of gasohol, as defined in the Use Tax Act, is imposed at  
19 the rate of 1.25%, then the tax imposed by this Act applies to  
20 100% of the proceeds of sales of gasohol made during that time.

21 With respect to majority blended ethanol fuel, as defined  
22 in the Use Tax Act, the tax imposed by this Act does not apply  
23 to the selling price of property transferred as an incident to  
24 the sale of service on or after July 1, 2003 and on or before  
25 December 31, 2013 but applies to 100% of the selling price  
26 thereafter.

1           With respect to biodiesel blends, as defined in the Use Tax  
2 Act, with no less than 1% and no more than 10% biodiesel, the  
3 tax imposed by this Act applies to (i) 80% of the selling price  
4 of property transferred as an incident to the sale of service  
5 on or after July 1, 2003 and on or before December 31, 2013 and  
6 (ii) 100% of the proceeds of the selling price thereafter. If,  
7 at any time, however, the tax under this Act on sales of  
8 biodiesel blends, as defined in the Use Tax Act, with no less  
9 than 1% and no more than 10% biodiesel is imposed at the rate  
10 of 1.25%, then the tax imposed by this Act applies to 100% of  
11 the proceeds of sales of biodiesel blends with no less than 1%  
12 and no more than 10% biodiesel made during that time.

13           With respect to 100% biodiesel, as defined in the Use Tax  
14 Act, and biodiesel blends, as defined in the Use Tax Act, with  
15 more than 10% but no more than 99% biodiesel, the tax imposed  
16 by this Act does not apply to the proceeds of the selling price  
17 of property transferred as an incident to the sale of service  
18 on or after July 1, 2003 and on or before December 31, 2013 but  
19 applies to 100% of the selling price thereafter.

20           At the election of any registered serviceman made for each  
21 fiscal year, sales of service in which the aggregate annual  
22 cost price of tangible personal property transferred as an  
23 incident to the sales of service is less than 35%, or 75% in  
24 the case of servicemen transferring prescription drugs or  
25 servicemen engaged in graphic arts production, of the aggregate  
26 annual total gross receipts from all sales of service, the tax

1 imposed by this Act shall be based on the serviceman's cost  
2 price of the tangible personal property transferred as an  
3 incident to the sale of those services.

4 The tax shall be imposed at the rate of 1% on food prepared  
5 for immediate consumption and transferred incident to a sale of  
6 service subject to this Act or the Service Occupation Tax Act  
7 by an entity licensed under the Hospital Licensing Act, the  
8 Nursing Home Care Act, or the Child Care Act of 1969. The tax  
9 shall also be imposed at the rate of 1% on food for human  
10 consumption that is to be consumed off the premises where it is  
11 sold (other than alcoholic beverages, soft drinks, and food  
12 that has been prepared for immediate consumption and is not  
13 otherwise included in this paragraph) and prescription and  
14 nonprescription medicines, drugs, medical appliances,  
15 modifications to a motor vehicle for the purpose of rendering  
16 it usable by a disabled person, and insulin, urine testing  
17 materials, syringes, and needles used by diabetics, for human  
18 use. For the purposes of this Section, the term "soft drinks"  
19 means any complete, finished, ready-to-use, non-alcoholic  
20 drink, whether carbonated or not, including but not limited to  
21 soda water, cola, fruit juice, vegetable juice, carbonated  
22 water, and all other preparations commonly known as soft drinks  
23 of whatever kind or description that are contained in any  
24 closed or sealed bottle, can, carton, or container, regardless  
25 of size. "Soft drinks" does not include coffee, tea,  
26 non-carbonated water, infant formula, milk or milk products as



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

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

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

17 (Source: P.A. 93-17, eff. 6-11-03.)

18 Section 20. The Service Occupation Tax Act is amended by  
19 changing Sections 3-10 and 9 as follows:

20 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

21 Sec. 3-10. 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 the "selling price", as defined in Section 2 of the Service Use  
24 Tax Act, of the tangible personal property. For the purpose of

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

15 Beginning on July 1, 2000 and through December 31, 2000 and  
16 beginning again on July 1, 2007 through September 3, 2007, with  
17 respect to motor fuel, as defined in Section 1.1 of the Motor  
18 Fuel Tax Law, and gasohol, as defined in Section 3-40 of the  
19 Use Tax Act, the tax is imposed at the rate of 1.25%.

20 With respect to gasohol, as defined in the Use Tax Act, the  
21 tax imposed by this Act shall apply to (i) 70% of the cost  
22 price of property transferred as an incident to the sale of  
23 service on or after January 1, 1990, and before July 1, 2003,  
24 (ii) 80% of the selling price of property transferred as an  
25 incident to the sale of service on or after July 1, 2003 and on  
26 or before December 31, 2013, and (iii) 100% of the cost price

1 thereafter. If, at any time, however, the tax under this Act on  
2 sales of gasohol, as defined in the Use Tax Act, is imposed at  
3 the rate of 1.25%, then the tax imposed by this Act applies to  
4 100% of the proceeds of sales of gasohol made during that time.

5 With respect to majority blended ethanol fuel, as defined  
6 in the Use Tax Act, the tax imposed by this Act does not apply  
7 to the selling price of property transferred as an incident to  
8 the sale of service on or after July 1, 2003 and on or before  
9 December 31, 2013 but applies to 100% of the selling price  
10 thereafter.

11 With respect to biodiesel blends, as defined in the Use Tax  
12 Act, with no less than 1% and no more than 10% biodiesel, the  
13 tax imposed by this Act applies to (i) 80% of the selling price  
14 of property transferred as an incident to the sale of service  
15 on or after July 1, 2003 and on or before December 31, 2013 and  
16 (ii) 100% of the proceeds of the selling price thereafter. If,  
17 at any time, however, the tax under this Act on sales of  
18 biodiesel blends, as defined in the Use Tax Act, with no less  
19 than 1% and no more than 10% biodiesel is imposed at the rate  
20 of 1.25%, then the tax imposed by this Act applies to 100% of  
21 the proceeds of sales of biodiesel blends with no less than 1%  
22 and no more than 10% biodiesel made during that time.

23 With respect to 100% biodiesel, as defined in the Use Tax  
24 Act, and biodiesel blends, as defined in the Use Tax Act, with  
25 more than 10% but no more than 99% biodiesel material, the tax  
26 imposed by this Act does not apply to the proceeds of the

1 selling price of property transferred as an incident to the  
2 sale of service on or after July 1, 2003 and on or before  
3 December 31, 2013 but applies to 100% of the selling price  
4 thereafter.

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

15 The tax shall be imposed at the rate of 1% on food prepared  
16 for immediate consumption and transferred incident to a sale of  
17 service subject to this Act or the Service Occupation Tax Act  
18 by an entity licensed under the Hospital Licensing Act, the  
19 Nursing Home Care Act, or the Child Care Act of 1969. The tax  
20 shall also be imposed at the rate of 1% on food for human  
21 consumption that is to be consumed off the premises where it is  
22 sold (other than alcoholic beverages, soft drinks, and food  
23 that has been prepared for immediate consumption and is not  
24 otherwise included in this paragraph) and prescription and  
25 nonprescription medicines, drugs, medical appliances,  
26 modifications to a motor vehicle for the purpose of rendering

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

14 Notwithstanding any other provisions of this Act, "food for  
15 human consumption that is to be consumed off the premises where  
16 it is sold" includes all food sold through a vending machine,  
17 except soft drinks and food products that are dispensed hot  
18 from a vending machine, regardless of the location of the  
19 vending machine.

20 (Source: P.A. 93-17, eff. 6-11-03.)

21 Section 25. The Retailers' Occupation Tax Act is amended by  
22 changing Sections 2-10 and 3 as follows:

23 (35 ILCS 120/2-10) (from Ch. 120, par. 441-10)

24 Sec. 2-10. Rate of tax. Unless otherwise provided in this

1 Section, the tax imposed by this Act is at the rate of 6.25% of  
2 gross receipts from sales of tangible personal property made in  
3 the course of business.

4 Beginning on July 1, 2000 and through December 31, 2000 and  
5 beginning again on July 1, 2007 through September 3, 2007, with  
6 respect to motor fuel, as defined in Section 1.1 of the Motor  
7 Fuel Tax Law, and gasohol, as defined in Section 3-40 of the  
8 Use Tax Act, the tax is imposed at the rate of 1.25%.

9 Within 14 days after the effective date of this amendatory  
10 Act of the 91st General Assembly, each retailer of motor fuel  
11 and gasohol shall cause the following notice to be posted in a  
12 prominently visible place on each retail dispensing device that  
13 is used to dispense motor fuel or gasohol in the State of  
14 Illinois: "As of July 1, 2000, the State of Illinois has  
15 eliminated the State's share of sales tax on motor fuel and  
16 gasohol through December 31, 2000. The price on this pump  
17 should reflect the elimination of the tax." The notice shall be  
18 printed in bold print on a sign that is no smaller than 4  
19 inches by 8 inches. The sign shall be clearly visible to  
20 customers. Any retailer who fails to post or maintain a  
21 required sign through December 31, 2000 is guilty of a petty  
22 offense for which the fine shall be \$500 per day per each  
23 retail premises where a violation occurs.

24 With respect to gasohol, as defined in the Use Tax Act, the  
25 tax imposed by this Act applies to (i) 70% of the proceeds of  
26 sales made on or after January 1, 1990, and before July 1,

1 2003, (ii) 80% of the proceeds of sales made on or after July  
2 1, 2003 and on or before December 31, 2013, and (iii) 100% of  
3 the proceeds of sales made thereafter. If, at any time,  
4 however, the tax under this Act on sales of gasohol, as defined  
5 in the Use Tax Act, is imposed at the rate of 1.25%, then the  
6 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, as defined  
9 in the Use Tax Act, the tax imposed by this Act does not apply  
10 to the proceeds of sales made on or after July 1, 2003 and on or  
11 before December 31, 2013 but applies to 100% of the proceeds of  
12 sales made thereafter.

13 With respect to biodiesel blends, as defined in the Use Tax  
14 Act, with no less than 1% and no more than 10% biodiesel, the  
15 tax imposed by this Act applies to (i) 80% of the proceeds of  
16 sales made on or after July 1, 2003 and on or before December  
17 31, 2013 and (ii) 100% of the proceeds of sales made  
18 thereafter. If, at any time, however, the tax under this Act on  
19 sales of biodiesel blends, as defined in the Use Tax Act, with  
20 no less than 1% and no more than 10% biodiesel is imposed at  
21 the rate of 1.25%, then the tax imposed by this Act applies to  
22 100% of the proceeds of sales of biodiesel blends with no less  
23 than 1% and no more than 10% biodiesel made during that time.

24 With respect to 100% biodiesel, as defined in the Use Tax  
25 Act, and biodiesel blends, as defined in the Use Tax Act, with  
26 more than 10% but no more than 99% biodiesel, the tax imposed

1 by this Act does not apply to the proceeds of sales made on or  
2 after July 1, 2003 and on or before December 31, 2013 but  
3 applies to 100% of the proceeds of sales made thereafter.

4 With respect to food for human consumption that is to be  
5 consumed off the premises where it is sold (other than  
6 alcoholic beverages, soft drinks, and food that has been  
7 prepared for immediate consumption) and prescription and  
8 nonprescription medicines, drugs, medical appliances,  
9 modifications to a motor vehicle for the purpose of rendering  
10 it usable by a disabled person, and insulin, urine testing  
11 materials, syringes, and needles used by diabetics, for human  
12 use, the tax is imposed at the rate of 1%. For the purposes of  
13 this Section, the term "soft drinks" means any complete,  
14 finished, ready-to-use, non-alcoholic drink, whether  
15 carbonated or not, including but not limited to soda water,  
16 cola, fruit juice, vegetable juice, carbonated water, and all  
17 other preparations commonly known as soft drinks of whatever  
18 kind or description that are contained in any closed or sealed  
19 bottle, can, carton, or container, regardless of size. "Soft  
20 drinks" does not include coffee, tea, non-carbonated water,  
21 infant formula, milk or milk products as defined in the Grade A  
22 Pasteurized Milk and Milk Products Act, or drinks containing  
23 50% or more natural fruit or vegetable juice.

24 Notwithstanding any other provisions of this Act, "food for  
25 human consumption that is to be consumed off the premises where  
26 it is sold" includes all food sold through a vending machine,



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

4 (Source: P.A. 93-17, eff. 6-11-03.)

5 Section 30. The Motor Fuel Tax Law is amended by changing  
6 Sections 2, 2a, and 13a as follows:

7 (35 ILCS 505/2) (from Ch. 120, par. 418)

8 Sec. 2. Tax on the operation of motor vehicles and  
9 watercraft; exceptions. A tax is imposed on the privilege of  
10 operating motor vehicles upon the public highways and  
11 recreational-type watercraft upon the waters of this State.

12 (a) Prior to August 1, 1989, the tax is imposed at the rate  
13 of 13 cents per gallon on all motor fuel used in motor vehicles  
14 operating on the public highways and recreational type  
15 watercraft operating upon the waters of this State. Beginning  
16 on August 1, 1989 and until January 1, 1990, the rate of the  
17 tax imposed in this paragraph shall be 16 cents per gallon.  
18 Beginning January 1, 1990, the rate of tax imposed in this  
19 paragraph shall be 19 cents per gallon.

20 (b) The tax on the privilege of operating motor vehicles  
21 which use diesel fuel shall be the rate according to paragraph  
22 (a) plus an additional 2 1/2 cents per gallon. "Diesel fuel" is  
23 defined as any product intended for use or offered for sale as  
24 a fuel for engines in which the fuel is injected into the

1 combustion chamber and ignited by pressure without electric  
2 spark.

3 (c) A tax is imposed upon the privilege of engaging in the  
4 business of selling motor fuel as a retailer or reseller on all  
5 motor fuel used in motor vehicles operating on the public  
6 highways and recreational type watercraft operating upon the  
7 waters of this State: (1) at the rate of 3 cents per gallon on  
8 motor fuel owned or possessed by such retailer or reseller at  
9 12:01 a.m. on August 1, 1989; and (2) at the rate of 3 cents per  
10 gallon on motor fuel owned or possessed by such retailer or  
11 reseller at 12:01 A.M. on January 1, 1990.

12 Retailers and resellers who are subject to this additional  
13 tax shall be required to inventory such motor fuel and pay this  
14 additional tax in a manner prescribed by the Department of  
15 Revenue.

16 The tax imposed in this paragraph (c) shall be in addition  
17 to all other taxes imposed by the State of Illinois or any unit  
18 of local government in this State.

19 (d) Except as provided in Section 2a, the collection of a  
20 tax based on gallonage of gasoline used for the propulsion of  
21 any aircraft is prohibited on and after October 1, 1979.

22 (e) The collection of a tax, based on gallonage of all  
23 products commonly or commercially known or sold as 1-K  
24 kerosene, regardless of its classification or uses, is  
25 prohibited (i) on and after July 1, 1992 until December 31,  
26 1999, except when the 1-K kerosene is either: (1) delivered

1 into bulk storage facilities of a bulk user, or (2) delivered  
2 directly into the fuel supply tanks of motor vehicles and (ii)  
3 on and after January 1, 2000. Beginning on January 1, 2000, the  
4 collection of a tax, based on gallonage of all products  
5 commonly or commercially known or sold as 1-K kerosene,  
6 regardless of its classification or uses, is prohibited except  
7 when the 1-K kerosene is delivered directly into a storage tank  
8 that is located at a facility that has withdrawal facilities  
9 that are readily accessible to and are capable of dispensing  
10 1-K kerosene into the fuel supply tanks of motor vehicles.

11 Any person who sells or uses 1-K kerosene for use in motor  
12 vehicles upon which the tax imposed by this Law has not been  
13 paid shall be liable for any tax due on the sales or use of 1-K  
14 kerosene.

15 (f) No tax is imposed under this Section for the period  
16 beginning on July 1, 2007 and continuing through September 3,  
17 2007.

18 (Source: P.A. 93-17, eff. 6-11-03.)

19 (35 ILCS 505/2a) (from Ch. 120, par. 418a)

20 Sec. 2a. Tax on receivers of fuel for sale or use. Except  
21 as hereinafter provided, on and after January 1, 1990 and  
22 before January 1, 2013, a tax of three-tenths of a cent per  
23 gallon is imposed upon the privilege of being a receiver in  
24 this State of fuel for sale or use.

25 The tax shall be paid by the receiver in this State who

1 first sells or uses fuel. In the case of a sale, the tax shall  
2 be stated as a separate item on the invoice.

3 No tax is imposed under this Section for the period  
4 beginning on July 1, 2007 and continuing through September 3,  
5 2007.

6 For the purpose of the tax imposed by this Section, being a  
7 receiver of "motor fuel" as defined by Section 1.1 of this Act,  
8 and aviation fuels, home heating oil and kerosene, but  
9 excluding liquified petroleum gases, is subject to tax without  
10 regard to whether the fuel is intended to be used for operation  
11 of motor vehicles on the public highways and waters. However,  
12 no such tax shall be imposed upon the importation or receipt of  
13 aviation fuels and kerosene at airports with over 300,000  
14 operations per year, for years prior to 1991, and over 170,000  
15 operations per year beginning in 1991, located in a city of  
16 more than 1,000,000 inhabitants for sale to or use by holders  
17 of certificates of public convenience and necessity or foreign  
18 air carrier permits, issued by the United States Department of  
19 Transportation, and their air carrier affiliates, or upon the  
20 importation or receipt of aviation fuels and kerosene at  
21 facilities owned or leased by those certificate or permit  
22 holders and used in their activities at an airport described  
23 above. In addition, no such tax shall be imposed upon the  
24 importation or receipt of diesel fuel sold to or used by a rail  
25 carrier registered pursuant to Section 18c-7201 of the Illinois  
26 Vehicle Code or otherwise recognized by the Illinois Commerce

1 Commission as a rail carrier, to the extent used directly in  
2 railroad operations. In addition, no such tax shall be imposed  
3 when the sale is made with delivery to a purchaser outside this  
4 State or when the sale is made to a person holding a valid  
5 license as a receiver. In addition, no tax shall be imposed  
6 upon diesel fuel consumed or used in the operation of ships,  
7 barges, or vessels, that are used primarily in or for the  
8 transportation of property in interstate commerce for hire on  
9 rivers bordering on this State, if the diesel fuel is delivered  
10 by a licensed receiver to the purchaser's barge, ship, or  
11 vessel while it is afloat upon that bordering river. A specific  
12 notation thereof shall be made on the invoices or sales slips  
13 covering each sale.

14 (Source: P.A. 92-232, eff. 8-2-01.)

15 (35 ILCS 505/13a) (from Ch. 120, par. 429a)

16 Sec. 13a. Motor fuel use tax for commercial vehicles.

17 (1) A tax is hereby imposed upon the use of motor fuel upon  
18 highways of this State by commercial motor vehicles. The tax  
19 shall be comprised of 2 parts. Part (a) shall be at the rate  
20 established by Section 2 of this Act, as heretofore or  
21 hereafter amended. Part (b) shall be at the rate established by  
22 subsection (2) of this Section as now or hereafter amended.

23 (2) A rate shall be established by the Department as of  
24 January 1 of each year using the average "selling price", as  
25 defined in the Retailers' Occupation Tax Act, per gallon of

1 motor fuel sold in this State during the previous 12 months and  
2 multiplying it by 6 1/4% to determine the cents per gallon  
3 rate. For the period beginning on July 1, 2000 and through  
4 December 31, 2000, the Department shall establish a rate using  
5 the average "selling price", as defined in the Retailers'  
6 Occupation Tax Act, per gallon of motor fuel sold in this State  
7 during calendar year 1999 and multiplying it by 1.25% to  
8 determine the cents per gallon rate.

9 (3) No tax is imposed under this Section for the period  
10 beginning on July 1, 2007 and continuing through September 3,  
11 2007.

12 (Source: P.A. 91-872, eff. 7-1-00.)

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