



Rep. Careen M. Gordon

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LRB096 13427 HLH 30089 a

1 AMENDMENT TO HOUSE BILL 4599

2 AMENDMENT NO. _____. Amend House Bill 4599 by replacing
3 everything from line 4 on page 1 through line 19 on page 6 with
4 the following:

5 "Section 5. The Gas Use Tax Law is amended by changing
6 Section 5-50 as follows:

7 (35 ILCS 173/5-50)

8 Sec. 5-50. Exemptions. The tax imposed under this Act shall
9 not apply to:

10 (1) Gas used by business enterprises located in an
11 enterprise zone certified by the Department of Commerce and
12 Economic Opportunity pursuant to the Illinois Enterprise
13 Zone Act;

14 (2) Gas used by governmental bodies, or a corporation,
15 society, association, foundation, or institution organized
16 and operated exclusively for charitable, religious, or

1 educational purposes. Such use shall not be exempt unless
2 the government body, or corporation, society, association,
3 foundation, or institution organized and operated
4 exclusively for charitable, religious, or educational
5 purposes has first been issued a tax exemption
6 identification number by the Department of Revenue
7 pursuant to Section 1g of the Retailers' Occupation Tax
8 Act. A limited liability company may qualify for the
9 exemption under this Section only if the limited liability
10 company is organized and operated exclusively for
11 educational purposes. The term "educational purposes"
12 shall have the same meaning as that set forth in Section 2h
13 of the Retailers' Occupation Tax Act;

14 (3) Gas used in the production of electric energy. This
15 exemption does not include gas used in the general
16 maintenance or heating of an electric energy production
17 facility or other structure;

18 (4) Gas used in a petroleum refinery operation;

19 (5) Gas purchased by persons for use in liquefaction
20 and fractionation processes that produce value added
21 natural gas byproducts for resale;

22 (6) Gas used in the production of anhydrous ammonia and
23 downstream nitrogen fertilizer products for resale.

24 (7) Gas used by any business enterprise that is
25 properly assigned or included within one of the following
26 Standard Industrial Classifications, as designated in the

1 Standard Industrial Classification Manual prepared by the
2 federal Office of Management and Budget: 10; 12; 13; 14;
3 15; 16; 17; 20; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31;
4 32; 33; 34; 35; 36; 37; 38; or 39.

5 The Department may adopt rules to implement the provisions
6 of this Section.

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

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

10 (35 ILCS 615/1) (from Ch. 120, par. 467.16)

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

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

24 (ii) any charge for a dishonored check;

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

3 (iv) any charge for reconnection of service or for
4 replacement or relocation of facilities;

5 (v) any advance or contribution in aid of construction;

6 (vi) repair, inspection or servicing of equipment
7 located on customer premises;

8 (vii) leasing or rental of equipment, the leasing or
9 rental of which is not necessary to distributing,
10 furnishing, supplying, selling, transporting or storing
11 gas;

12 (viii) any sale to a customer if the taxpayer is
13 prohibited by federal or State constitution, treaty,
14 convention, statute or court decision from recovering the
15 related tax liability from such customer;

16 (ix) any charges added to customers' bills pursuant to
17 the provisions of Section 9-221 or Section 9-222 of the
18 Public Utilities Act, as amended, or any charges added to
19 customers' bills by taxpayers who are not subject to rate
20 regulation by the Illinois Commerce Commission for the
21 purpose of recovering any of the tax liabilities or other
22 amounts specified in such provisions of such Act; and

23 (x) prior to October 1, 2003, any charge for gas or gas
24 services to a customer who acquired contractual rights for
25 the direct purchase of gas or gas services originating from
26 an out-of-state supplier or source on or before March 1,

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

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

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

20 "Gross receipts" does not include consideration received
21 from any business enterprise that is properly assigned or
22 included within one of the following Standard Industrial
23 Classifications, as designated in the Standard Industrial
24 Classification Manual prepared by the federal Office of
25 Management and Budget: 10; 12; 13; 14; 15; 16; 17; 20; 21; 22;
26 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33; 34; 35; 36; 37; 38;

1 or 39, during the period in time in which such business
2 enterprise provides a valid exemption certificate (as
3 determined by the Illinois Department of Revenue) to their gas
4 supplier and delivering gas utility. Gas suppliers and
5 delivering gas utilities may reasonably rely on exemption
6 certificates provided by those business enterprises.

7 "Department" means the Department of Revenue of the State
8 of Illinois.

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

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

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

20 "Invested capital" means that amount equal to (i) the
21 average of the balances at the beginning and end of each
22 taxable period of the taxpayer's total stockholder's equity and
23 total long-term debt, less investments in and advances to all
24 corporations, as set forth on the balance sheets included in
25 the taxpayer's annual report to the Illinois Commerce
26 Commission for the taxable period; (ii) multiplied by a

1 fraction determined under Sections 301 and 304(a) of the
2 "Illinois Income Tax Act" and reported on the Illinois income
3 tax return for the taxable period ending in or with the taxable
4 period in question. However, notwithstanding the income tax
5 return reporting requirement stated above, beginning July 1,
6 1979, no taxpayer's denominators used to compute the sales,
7 property or payroll factors under subsection (a) of Section 304
8 of the Illinois Income Tax Act shall include payroll, property
9 or sales of any corporate entity other than the taxpayer for
10 the purposes of determining an allocation for the invested
11 capital tax. This amendatory Act of 1982, Public Act 82-1024,
12 is not intended to and does not make any change in the meaning
13 of any provision of this Act, it having been the intent of the
14 General Assembly in initially enacting the definition of
15 "invested capital" to provide for apportionment of the invested
16 capital of each company, based solely upon the sales, property
17 and payroll of that company.

18 "Taxable period" means each period which ends after the
19 effective date of this Act and which is covered by an annual
20 report filed by the taxpayer with the Illinois Commerce
21 Commission.

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