



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB2354

Introduced 2/16/2005, by Rep. Robert F. Flider

SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-10

from Ch. 120, par. 439.3-10

Amends the Use Tax Act. Makes a technical change in a Section concerning the rate of the tax.

LRB094 10284 BDD 40553 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) (from Ch. 120, par. 439.3-10)

7 Sec. 3-10. Rate of tax. Unless otherwise provided in this
8 Section, the ~~the~~ tax imposed by this Act is at the rate of
9 6.25% of either the selling price or the fair market value, if
10 any, of the tangible personal property. In all cases where
11 property functionally used or consumed is the same as the
12 property that was purchased at retail, then the tax is imposed
13 on the selling price of the property. In all cases where
14 property functionally used or consumed is a by-product or waste
15 product that has been refined, manufactured, or produced from
16 property purchased at retail, then the tax is imposed on the
17 lower of the fair market value, if any, of the specific
18 property so used in this State or on the selling price of the
19 property purchased at retail. For purposes of this Section
20 "fair market value" means the price at which property would
21 change hands between a willing buyer and a willing seller,
22 neither being under any compulsion to buy or sell and both
23 having reasonable knowledge of the relevant facts. The fair
24 market value shall be established by Illinois sales by the
25 taxpayer of the same property as that functionally used or
26 consumed, or if there are no such sales by the taxpayer, then
27 comparable sales or purchases of property of like kind and
28 character in Illinois.

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

1 With respect to gasohol, the tax imposed by this Act
2 applies to (i) 70% of the proceeds of sales made on or after
3 January 1, 1990, and before July 1, 2003, (ii) 80% of the
4 proceeds of sales made on or after July 1, 2003 and on or
5 before December 31, 2013, and (iii) 100% of the proceeds of
6 sales made thereafter. If, at any time, however, the tax under
7 this Act on sales of gasohol is imposed at the rate of 1.25%,
8 then the tax imposed by this Act applies to 100% of the
9 proceeds of sales of gasohol made during that time.

10 With respect to majority blended ethanol fuel, the tax
11 imposed by this Act does not apply to the proceeds of sales
12 made on or after July 1, 2003 and on or before December 31,
13 2013 but applies to 100% of the proceeds of sales made
14 thereafter.

15 With respect to biodiesel blends with no less than 1% and
16 no more than 10% biodiesel, the tax imposed by this Act applies
17 to (i) 80% of the proceeds of sales made on or after July 1,
18 2003 and on or before December 31, 2013 and (ii) 100% of the
19 proceeds of sales made thereafter. If, at any time, however,
20 the tax under this Act on sales of biodiesel blends with no
21 less than 1% and no more than 10% biodiesel is imposed at the
22 rate of 1.25%, then the tax imposed by this Act applies to 100%
23 of the proceeds of sales of biodiesel blends with no less than
24 1% and no more than 10% biodiesel made during that time.

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

30 With respect to food for human consumption that is to be
31 consumed off the premises where it is sold (other than
32 alcoholic beverages, soft drinks, and food that has been
33 prepared for immediate consumption) and prescription and
34 nonprescription medicines, drugs, medical appliances,
35 modifications to a motor vehicle for the purpose of rendering
36 it usable by a disabled person, and insulin, urine testing

1 materials, syringes, and needles used by diabetics, for human
2 use, the tax is imposed at the rate of 1%. For the purposes of
3 this Section, the term "soft drinks" means any complete,
4 finished, ready-to-use, non-alcoholic drink, whether
5 carbonated or not, including but not limited to soda water,
6 cola, fruit juice, vegetable juice, carbonated water, and all
7 other preparations commonly known as soft drinks of whatever
8 kind or description that are contained in any closed or sealed
9 bottle, can, carton, or container, regardless of size. "Soft
10 drinks" does not include coffee, tea, non-carbonated water,
11 infant formula, milk or milk products as defined in the Grade A
12 Pasteurized Milk and Milk Products Act, or drinks containing
13 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 If the property that is purchased at retail from a retailer
21 is acquired outside Illinois and used outside Illinois before
22 being brought to Illinois for use here and is taxable under
23 this Act, the "selling price" on which the tax is computed
24 shall be reduced by an amount that represents a reasonable
25 allowance for depreciation for the period of prior out-of-state
26 use.

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