

SB2432



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2432

Introduced 2/26/2021, by Sen. Bill Cunningham

SYNOPSIS AS INTRODUCED:

35 ILCS 110/3-10
35 ILCS 115/3-10

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

Amends the Service Use Tax Act and the Service Occupation Tax Act. Extends the 1% rate of tax to food prepared for immediate consumption and transferred incident to a sale of service at a facility subject to the Assisted Living and Shared Housing Act or the Life Care Facilities Act.

LRB102 16457 HLH 21849 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 Service Use Tax Act is amended by changing
5 Section 3-10 as follows:

6 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

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

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 With respect to gasohol, as defined in the Use Tax Act, the
18 tax imposed by this Act applies to (i) 70% of the selling price
19 of property transferred as an incident to the sale of service
20 on or after January 1, 1990, and before July 1, 2003, (ii) 80%
21 of the selling price of property transferred as an incident to
22 the sale of service on or after July 1, 2003 and on or before
23 July 1, 2017, and (iii) 100% of the selling price thereafter.

1 If, at any time, however, the tax under this Act on sales of
2 gasohol, as defined in the Use Tax Act, is imposed at the rate
3 of 1.25%, then the tax imposed by this Act applies to 100% of
4 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, 2023 but applies to 100% of the selling price
10 thereafter.

11 With respect to biodiesel blends, as defined in the Use
12 Tax Act, with no less than 1% and no more than 10% biodiesel,
13 the tax imposed by this Act applies to (i) 80% of the selling
14 price of property transferred as an incident to the sale of
15 service on or after July 1, 2003 and on or before December 31,
16 2018 and (ii) 100% of the proceeds of the selling price
17 thereafter. If, at any time, however, the tax under this Act on
18 sales of biodiesel blends, as defined in the Use Tax Act, with
19 no less than 1% and no more than 10% biodiesel is imposed at
20 the rate of 1.25%, then the tax imposed by this Act applies to
21 100% of the proceeds of sales of biodiesel blends with no less
22 than 1% 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, the tax imposed
26 by this Act does not apply to the proceeds of the selling price

1 of property transferred as an incident to the sale of service
2 on or after July 1, 2003 and on or before December 31, 2023 but
3 applies to 100% of the selling price thereafter.

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

14 The tax shall be imposed at the rate of 1% on food prepared
15 for immediate consumption and transferred incident to a sale
16 of service subject to this Act or the Service Occupation Tax
17 Act by an entity licensed under the Hospital Licensing Act,
18 the Nursing Home Care Act, the Assisted Living and Shared
19 Housing Act, the ID/DD Community Care Act, the MC/DD Act, the
20 Specialized Mental Health Rehabilitation Act of 2013, or the
21 Child Care Act of 1969, or an entity that holds a permit issued
22 pursuant to the Life Care Facilities Act. The tax shall also be
23 imposed at the rate of 1% on food for human consumption that is
24 to be 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 and is not otherwise included in this
2 paragraph) and prescription and nonprescription medicines,
3 drugs, medical appliances, products classified as Class III
4 medical devices by the United States Food and Drug
5 Administration that are used for cancer treatment pursuant to
6 a prescription, as well as any accessories and components
7 related to those devices, modifications to a motor vehicle for
8 the purpose of rendering it usable by a person with a
9 disability, and insulin, urine testing materials, syringes,
10 and needles used by diabetics, for human use. For the purposes
11 of this Section, until September 1, 2009: the term "soft
12 drinks" means any complete, finished, ready-to-use,
13 non-alcoholic drink, whether carbonated or not, including but
14 not limited to soda water, cola, fruit juice, vegetable juice,
15 carbonated water, and all other preparations commonly known as
16 soft drinks of whatever kind or description that are contained
17 in any closed or sealed bottle, can, carton, or container,
18 regardless of size; but "soft drinks" does not include coffee,
19 tea, non-carbonated water, infant formula, milk or milk
20 products as defined in the Grade A Pasteurized Milk and Milk
21 Products Act, or drinks containing 50% or more natural fruit
22 or vegetable juice.

23 Notwithstanding any other provisions of this Act,
24 beginning September 1, 2009, "soft drinks" means non-alcoholic
25 beverages that contain natural or artificial sweeteners. "Soft
26 drinks" do not include beverages that contain milk or milk

1 products, soy, rice or similar milk substitutes, or greater
2 than 50% of vegetable or fruit juice by volume.

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

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

24 Notwithstanding any other provisions of this Act,
25 beginning September 1, 2009, "nonprescription medicines and
26 drugs" does not include grooming and hygiene products. For

1 purposes of this Section, "grooming and hygiene products"
2 includes, but is not limited to, soaps and cleaning solutions,
3 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
4 lotions and screens, unless those products are available by
5 prescription only, regardless of whether the products meet the
6 definition of "over-the-counter-drugs". For the purposes of
7 this paragraph, "over-the-counter-drug" means a drug for human
8 use that contains a label that identifies the product as a drug
9 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
10 label includes:

11 (A) A "Drug Facts" panel; or

12 (B) A statement of the "active ingredient(s)" with a
13 list of those ingredients contained in the compound,
14 substance or preparation.

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

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

25 If the property that is acquired from a serviceman is
26 acquired outside Illinois and used outside Illinois before

1 being brought to Illinois for use here and is taxable under
2 this Act, the "selling price" on which the tax is computed
3 shall be reduced by an amount that represents a reasonable
4 allowance for depreciation for the period of prior
5 out-of-state use.

6 (Source: P.A. 100-22, eff. 7-6-17; 101-363, eff. 8-9-19;
7 101-593, eff. 12-4-19.)

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

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

11 Sec. 3-10. Rate of tax. Unless otherwise provided in this
12 Section, the tax imposed by this Act is at the rate of 6.25% of
13 the "selling price", as defined in Section 2 of the Service Use
14 Tax Act, of the tangible personal property. For the purpose of
15 computing this tax, in no event shall the "selling price" be
16 less than the cost price to the serviceman of the tangible
17 personal property transferred. The selling price of each item
18 of tangible personal property transferred as an incident of a
19 sale of service may be shown as a distinct and separate item on
20 the serviceman's billing to the service customer. If the
21 selling price is not so shown, the selling price of the
22 tangible personal property is deemed to be 50% of the
23 serviceman's entire billing to the service customer. When,
24 however, a serviceman contracts to design, develop, and

1 produce special order machinery or equipment, the tax imposed
2 by this Act shall be based on the serviceman's cost price of
3 the tangible personal property transferred incident to the
4 completion of the contract.

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

20 With respect to majority blended ethanol fuel, as defined
21 in the Use Tax Act, the tax imposed by this Act does not apply
22 to the selling price of property transferred as an incident to
23 the sale of service on or after July 1, 2003 and on or before
24 December 31, 2023 but applies to 100% of the selling price
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1 Tax Act, with no less than 1% and no more than 10% biodiesel,
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4 service on or after July 1, 2003 and on or before December 31,
5 2018 and (ii) 100% of the proceeds of the selling price
6 thereafter. If, at any time, however, the tax under this Act on
7 sales of biodiesel blends, as defined in the Use Tax Act, with
8 no less than 1% and no more than 10% biodiesel is imposed at
9 the rate of 1.25%, then the tax imposed by this Act applies to
10 100% of the proceeds of sales of biodiesel blends with no less
11 than 1% and no more than 10% biodiesel made during that time.

12 With respect to 100% biodiesel, as defined in the Use Tax
13 Act, and biodiesel blends, as defined in the Use Tax Act, with
14 more than 10% but no more than 99% biodiesel material, the tax
15 imposed by this Act does not apply to the proceeds of the
16 selling price of property transferred as an incident to the
17 sale of service on or after July 1, 2003 and on or before
18 December 31, 2023 but applies to 100% of the selling price
19 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
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24 the case of servicemen transferring prescription drugs or
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7 Act by an entity licensed under the Hospital Licensing Act,
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9 Housing Act, the ID/DD Community Care Act, the MC/DD Act, the
10 Specialized Mental Health Rehabilitation Act of 2013, ~~or~~ the
11 Child Care Act of 1969, or an entity that holds a permit issued
12 pursuant to the Life Care Facilities Act. The tax shall also be
13 imposed at the rate of 1% on food for human consumption that is
14 to be consumed off the premises where it is sold (other than
15 alcoholic beverages, food consisting of or infused with adult
16 use cannabis, soft drinks, and food that has been prepared for
17 immediate consumption and is not otherwise included in this
18 paragraph) and prescription and nonprescription medicines,
19 drugs, medical appliances, products classified as Class III
20 medical devices by the United States Food and Drug
21 Administration that are used for cancer treatment pursuant to
22 a prescription, as well as any accessories and components
23 related to those devices, modifications to a motor vehicle for
24 the purpose of rendering it usable by a person with a
25 disability, and insulin, urine testing materials, syringes,
26 and needles used by diabetics, for human use. For the purposes

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3 non-alcoholic drink, whether carbonated or not, including but
4 not limited to soda water, cola, fruit juice, vegetable juice,
5 carbonated water, and all other preparations commonly known as
6 soft drinks of whatever kind or description that are contained
7 in any closed or sealed can, carton, or container, regardless
8 of size; but "soft drinks" does not include coffee, tea,
9 non-carbonated water, infant formula, milk or milk products as
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12 juice.

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23 food products that are dispensed hot from a vending machine,
24 regardless of the location of the vending machine. Beginning
25 August 1, 2009, and notwithstanding any other provisions of
26 this Act, "food for human consumption that is to be consumed

1 off the premises where it is sold" includes all food sold
2 through a vending machine, except soft drinks, candy, and food
3 products that are dispensed hot from a vending machine,
4 regardless of the location of the vending machine.

5 Notwithstanding any other provisions of this Act,
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17 purposes of this Section, "grooming and hygiene products"
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15 (Source: P.A. 100-22, eff. 7-6-17; 101-363, eff. 8-9-19;
16 101-593, eff. 12-4-19.)