



## 103RD GENERAL ASSEMBLY

### State of Illinois

### 2023 and 2024

### HB2565

Introduced 2/15/2023, by Rep. Katie Stuart

#### SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-10	
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	

Amends the Retailers' Occupation Tax Act. Provides that internal (also known as female) and male condoms, incontinence products, diapers, and baby wipes shall be taxed by the State at a rate of 1% (currently, 6.25%). Provides that the net revenue from the 1% tax collected from the sale of those products shall be deposited into the State and Local Sales Tax Reform Fund. Amends the Use Tax, Service Occupation Tax, and Service Occupation Use Tax Acts to make conforming changes.

LRB103 28109 HLH 54488 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, internal (also known as  
10 female) and male condoms, incontinence products, diapers, baby  
11 wipes, products classified as Class III medical devices by the  
12 United States Food and Drug Administration that are used for  
13 cancer treatment pursuant to a prescription, as well as any  
14 accessories and components related to those devices,  
15 modifications to a motor vehicle for the purpose of rendering  
16 it usable by a person with a disability, and insulin, blood  
17 sugar testing materials, syringes, and needles used by human  
18 diabetics, the tax is imposed at the rate of 1%. For the  
19 purposes of this Section, until September 1, 2009: the term  
20 "soft drinks" means any complete, finished, ready-to-use,  
21 non-alcoholic drink, whether carbonated or not, including, but  
22 not limited to, soda water, cola, fruit juice, vegetable  
23 juice, carbonated water, and all other preparations commonly  
24 known as soft drinks of whatever kind or description that are  
25 contained in any closed or sealed bottle, can, carton, or  
26 container, regardless of size; but "soft drinks" does not

1 include coffee, tea, non-carbonated water, infant formula,  
2 milk or milk products as defined in the Grade A Pasteurized  
3 Milk and Milk Products Act, or drinks containing 50% or more  
4 natural fruit or vegetable juice.

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

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

23 Notwithstanding any other provisions of this Act,  
24 beginning September 1, 2009, "food for human consumption that  
25 is to be consumed off the premises where it is sold" does not  
26 include candy. For purposes of this Section, "candy" means a

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

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

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

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

1 dispensing organization under the Compassionate Use of Medical  
2 Cannabis Program Act.

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

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

15 (Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19;  
16 102-4, eff. 4-27-21; 102-700, Article 20, Section 20-5, eff.  
17 4-19-22; 102-700, Article 60, Section 60-15, eff. 4-19-22;  
18 102-700, Article 65, Section 65-5, eff. 4-19-22; revised  
19 5-27-22.)

20 Section 10. The Service Use Tax Act is amended by changing  
21 Section 3-10 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,  
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 applies to (i) 70% of the selling price  
11 of property transferred as an incident to the sale of service  
12 on or after January 1, 1990, and before July 1, 2003, (ii) 80%  
13 of the selling price of property transferred as an incident to  
14 the sale of service on or after July 1, 2003 and on or before  
15 July 1, 2017, and (iii) 100% of the selling price thereafter.  
16 If, at any time, however, the tax under this Act on sales of  
17 gasohol, as defined in the Use Tax Act, is imposed at the rate  
18 of 1.25%, then the tax imposed by this Act applies to 100% of  
19 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  
25 thereafter.

26 With respect to biodiesel blends, as defined in the Use

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

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

26 At the election of any registered serviceman made for each

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

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

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

18           The tax shall also be imposed at the rate of 1% on  
19 prescription and nonprescription medicines, drugs, medical  
20 appliances, internal (also known as female) and male condoms,  
21 incontinence products, diapers, baby wipes, products  
22 classified as Class III medical devices by the United States  
23 Food and Drug Administration that are used for cancer  
24 treatment pursuant to a prescription, as well as any  
25 accessories and components related to those devices,  
26 modifications to a motor vehicle for the purpose of rendering

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

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

21 Until August 1, 2009, and notwithstanding any other  
22 provisions of this Act, "food for human consumption that is to  
23 be consumed off the premises where it is sold" includes all  
24 food sold through a vending machine, except soft drinks and  
25 food products that are dispensed hot from a vending machine,  
26 regardless of the location of the vending machine. Beginning

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

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

16 Notwithstanding any other provisions of this Act,  
17 beginning September 1, 2009, "nonprescription medicines and  
18 drugs" does not include grooming and hygiene products. For  
19 purposes of this Section, "grooming and hygiene products"  
20 includes, but is not limited to, soaps and cleaning solutions,  
21 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan  
22 lotions and screens, unless those products are available by  
23 prescription only, regardless of whether the products meet the  
24 definition of "over-the-counter-drugs". For the purposes of  
25 this paragraph, "over-the-counter-drug" means a drug for human  
26 use that contains a label that identifies the product as a drug

1 as required by 21 CFR ~~C.F.R.~~ § 201.66. The  
2 "over-the-counter-drug" label includes:

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

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

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

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

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

24 (Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19;  
25 102-4, eff. 4-27-21; 102-16, eff. 6-17-21; 102-700, Article  
26 20, Section 20-10, eff. 4-19-22; 102-700, Article 60, Section

1 60-20, eff. 4-19-22; revised 6-1-22.)

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

4 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

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

23 Beginning on July 1, 2000 and through December 31, 2000,  
24 with respect to motor fuel, as defined in Section 1.1 of the



1 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
2 the Use Tax Act, the tax is imposed at the rate of 1.25%.

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

14 With respect to majority blended ethanol fuel, as defined  
15 in the Use Tax Act, the tax imposed by this Act does not apply  
16 to the selling price of property transferred as an incident to  
17 the 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 With respect to biodiesel blends, as defined in the Use  
21 Tax Act, with no less than 1% and no more than 10% biodiesel,  
22 the tax imposed by this Act applies to (i) 80% of the selling  
23 price of property transferred as an incident to the sale of  
24 service on or after July 1, 2003 and on or before December 31,  
25 2018 and (ii) 100% of the proceeds of the selling price after  
26 December 31, 2018 and before January 1, 2024. On and after

1 January 1, 2024 and on or before December 31, 2030, the  
2 taxation of biodiesel, renewable diesel, and biodiesel blends  
3 shall be as provided in Section 3-5.1 of the Use Tax Act. If,  
4 at any time, however, the tax under this Act on sales of  
5 biodiesel blends, as defined in the Use Tax Act, with no less  
6 than 1% and no more than 10% biodiesel is imposed at the rate  
7 of 1.25%, then the tax imposed by this Act applies to 100% of  
8 the proceeds of sales of biodiesel blends with no less than 1%  
9 and no more than 10% biodiesel made during that time.

10 With respect to biodiesel, as defined in the Use Tax Act,  
11 and biodiesel blends, as defined in the Use Tax Act, with more  
12 than 10% but no more than 99% biodiesel material, the tax  
13 imposed by this Act does not apply to the proceeds of the  
14 selling price of property transferred as an incident to the  
15 sale of service on or after July 1, 2003 and on or before  
16 December 31, 2023. On and after January 1, 2024 and on or  
17 before December 31, 2030, the taxation of biodiesel, renewable  
18 diesel, and biodiesel blends shall be as provided in Section  
19 3-5.1 of the Use Tax Act.

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  
26 aggregate annual total gross receipts from all sales of

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

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

21 Beginning on July 1, 2022 and until July 1, 2023, the tax  
22 shall be imposed at the rate of 0% on food prepared for  
23 immediate consumption and transferred incident to a sale of  
24 service subject to this Act or the Service Use Tax Act by an  
25 entity licensed under the Hospital Licensing Act, the Nursing  
26 Home Care Act, the Assisted Living and Shared Housing Act, the

1 ID/DD Community Care Act, the MC/DD Act, the Specialized  
2 Mental Health Rehabilitation Act of 2013, or the Child Care  
3 Act of 1969, or an entity that holds a permit issued pursuant  
4 to the Life Care Facilities Act. Beginning July 1, 2022 and  
5 until July 1, 2023, the tax shall also be imposed at the rate  
6 of 0% on food for human consumption that is to be consumed off  
7 the 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 and is not otherwise included in this paragraph).

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

1 commonly known as soft drinks of whatever kind or description  
2 that are contained in any closed or sealed can, carton, or  
3 container, regardless of size; but "soft drinks" does not  
4 include coffee, tea, non-carbonated water, infant formula,  
5 milk or milk products as defined in the Grade A Pasteurized  
6 Milk and Milk Products Act, or drinks containing 50% or more  
7 natural fruit or vegetable juice.

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

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

26 Notwithstanding any other provisions of this Act,

1 beginning September 1, 2009, "food for human consumption that  
2 is to be consumed off the premises where it is sold" does not  
3 include candy. For purposes of this Section, "candy" means a  
4 preparation of sugar, honey, or other natural or artificial  
5 sweeteners in combination with chocolate, fruits, nuts or  
6 other ingredients or flavorings in the form of bars, drops, or  
7 pieces. "Candy" does not include any preparation that contains  
8 flour or requires refrigeration.

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

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

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

26 Beginning on January 1, 2014 (the effective date of Public

1 Act 98-122), "prescription and nonprescription medicines and  
2 drugs" includes medical cannabis purchased from a registered  
3 dispensing organization under the Compassionate Use of Medical  
4 Cannabis Program Act.

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

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 20-15, eff. 4-19-22; 102-700, Article 60, Section  
13 60-25, eff. 4-19-22; revised 6-1-22.)

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

16 (35 ILCS 120/2-10)

17 Sec. 2-10. 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 gross receipts from sales of tangible personal property made  
20 in the course of business.

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

1           Beginning on August 6, 2010 through August 15, 2010, and  
2 beginning again on August 5, 2022 through August 14, 2022,  
3 with respect to sales tax holiday items as defined in Section  
4 2-8 of this Act, the tax is imposed at the rate of 1.25%.

5           Within 14 days after July 1, 2000 (the effective date of  
6 Public Act 91-872) ~~this amendatory Act of the 91st General~~  
7 ~~Assembly~~, each retailer of motor fuel and gasohol shall cause  
8 the following notice to be posted in a prominently visible  
9 place on each retail dispensing device that is used to  
10 dispense motor fuel or gasohol in the State of Illinois: "As of  
11 July 1, 2000, the State of Illinois has eliminated the State's  
12 share of sales tax on motor fuel and gasohol through December  
13 31, 2000. The price on this pump should reflect the  
14 elimination of the tax." The notice shall be printed in bold  
15 print on a sign that is no smaller than 4 inches by 8 inches.  
16 The sign shall be clearly visible to customers. Any retailer  
17 who fails to post or maintain a required sign through December  
18 31, 2000 is guilty of a petty offense for which the fine shall  
19 be \$500 per day per each retail premises where a violation  
20 occurs.

21           With respect to gasohol, as defined in the Use Tax Act, the  
22 tax imposed by this Act applies to (i) 70% of the proceeds of  
23 sales made on or after January 1, 1990, and before July 1,  
24 2003, (ii) 80% of the proceeds of sales made on or after July  
25 1, 2003 and on or before July 1, 2017, and (iii) 100% of the  
26 proceeds of sales made thereafter. If, at any time, however,



1 the tax under this Act on sales of gasohol, as defined in the  
2 Use Tax Act, is imposed at the rate of 1.25%, then the tax  
3 imposed by this Act applies to 100% of the proceeds of sales of  
4 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 proceeds of sales made on or after July 1, 2003 and on  
8 or before December 31, 2023 but applies to 100% of the proceeds  
9 of sales made thereafter.

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

25 With respect to biodiesel, as defined in the Use Tax Act,  
26 and biodiesel blends, as defined in the Use Tax Act, with more

1 than 10% but no more than 99% biodiesel, the tax imposed by  
2 this Act does not apply to the proceeds of sales made on or  
3 after July 1, 2003 and on or before December 31, 2023. On and  
4 after January 1, 2024 and on or before December 31, 2030, the  
5 taxation of biodiesel, renewable diesel, and biodiesel blends  
6 shall be as provided in Section 3-5.1 of the Use Tax Act.

7 Until July 1, 2022 and beginning again on July 1, 2023,  
8 with respect to food for human consumption that is to be  
9 consumed off the premises where it is sold (other than  
10 alcoholic beverages, food consisting of or infused with adult  
11 use cannabis, soft drinks, and food that has been prepared for  
12 immediate consumption), the tax is imposed at the rate of 1%.  
13 Beginning July 1, 2022 and until July 1, 2023, with respect to  
14 food for human consumption that is to be consumed off the  
15 premises where it is sold (other than alcoholic beverages,  
16 food consisting of or infused with adult use cannabis, soft  
17 drinks, and food that has been prepared for immediate  
18 consumption), the tax is imposed at the rate of 0%.

19 With respect to prescription and nonprescription  
20 medicines, drugs, medical appliances, internal (also known as  
21 female) and male condoms, incontinence products, diapers, baby  
22 wipes, products classified as Class III medical devices by the  
23 United States Food and Drug Administration that are used for  
24 cancer treatment pursuant to a prescription, as well as any  
25 accessories and components related to those devices,  
26 modifications to a motor vehicle for the purpose of rendering

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

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

22 Until August 1, 2009, and notwithstanding any other  
23 provisions of this Act, "food for human consumption that is to  
24 be consumed off the premises where it is sold" includes all  
25 food sold through a vending machine, except soft drinks and  
26 food products that are dispensed hot from a vending machine,

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

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

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

1 use that contains a label that identifies the product as a drug  
2 as required by 21 CFR ~~C.F.R.~~ § 201.66. The  
3 "over-the-counter-drug" label includes:

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

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

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

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

19 (Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19;  
20 102-4, eff. 4-27-21; 102-700, Article 20, Section 20-20, eff.  
21 4-19-22; 102-700, Article 60, Section 60-30, eff. 4-19-22;  
22 102-700, Article 65, Section 65-10, eff. 4-19-22; revised  
23 6-1-22.)