

1 or other place of business, or any employee, agent, or other
2 representative operating within this State under the
3 authority of such delivering supplier or such delivering
4 supplier's subsidiary, irrespective of whether such place of
5 business or agent or other representative is located in this
6 State permanently or temporarily, or whether such delivering
7 supplier or such delivering supplier's subsidiary is licensed
8 to do business in this State.

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

11 "Director" means the Director of Revenue.

12 "Gas" means any gaseous fuel distributed through a
13 pipeline system.

14 "Maintaining a place of business in this State", or any
15 like term, means having or maintaining within this State,
16 directly or by a subsidiary, an office, distribution house,
17 sales house, warehouse, or other place of business, or any
18 agent or other representative operating within this State
19 under the authority of any person or such person's subsidiary
20 engaged in the business of distributing, supplying,
21 furnishing or selling gas, irrespective of whether that place
22 of business or agent or other representative is located here
23 permanently or temporarily, or whether that person or that
24 person's subsidiary engaged in the business of distributing,
25 supplying, furnishing, or selling gas is licensed to do
26 business in this State.

27 "Person" means any natural individual, firm, trust,
28 estate, partnership, association, joint stock company, joint
29 adventure, corporation, or a receiver, trustee, guardian, or
30 other representative appointed by order of any court, or any
31 city, town, county, or other political subdivision of this
32 State.

33 "Purchase of out-of-State gas" means a transaction for
34 the purchase of gas from any supplier in a manner that does

1 not subject the seller of that gas to liability under the Gas
2 Revenue Tax Act.

3 "Purchase price" means the consideration paid for the
4 distribution, supply, furnishing, sale, transportation, or
5 delivery of gas to a person for use or consumption and not
6 for resale, and for all services directly related to the
7 production, transportation, or distribution of gas
8 distributed, supplied, furnished, sold, transmitted, or
9 delivered for use or consumption, as well as cash, services,
10 and property of every kind and nature. However, "purchase
11 price" shall not include consideration paid for:

12 (i) Any charge for a dishonored check.

13 (ii) Any finance or credit charge, penalty, charge
14 for delayed payment, or discount for prompt payment.

15 (iii) Any charge for reconnection of service or for
16 replacement or relocation of facilities.

17 (iv) Any advance or contribution in aid of
18 construction.

19 (v) Repair, inspection, or servicing of equipment
20 located on customer premises.

21 (vi) Leasing or rental of equipment, the leasing or
22 rental of which is not necessary to furnishing,
23 supplying, or selling gas.

24 (vii) Any purchase by a purchaser if the supplier
25 is prohibited by federal or State constitution, treaty,
26 convention, statute, or court decision from recovering
27 the related tax liability from such purchaser.

28 (viii) Any amounts added to purchasers' bills
29 because of changes made pursuant to the tax imposed by
30 this Law.

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

33 "Purchaser" means any person who acquires the ownership
34 of gas for use or consumption, and not for resale, for a

1 valuable consideration.

2 "Self-assessing purchaser" means a purchaser of gas for
3 use or consumption that is required to be registered with the
4 Department and is responsible for filing returns and paying
5 the tax imposed under this Law directly to the Department.

6 "Use" means the exercise by any person of any right or
7 power over gas incident to the ownership of that gas, except
8 that it does not include the sale of gas in the regular
9 course of business.

10 Section 5-10. Imposition of tax. Beginning October 1,
11 2003, a tax is imposed upon the privilege of using in this
12 State gas obtained in a purchase of out-of-state gas at the
13 rate of 2.4 cents per therm or 5% of the purchase price for
14 the billing period, whichever is the lower rate. Such tax
15 rate shall be referred to as the "self-assessing purchaser
16 tax rate." Beginning with bills issued by delivering
17 suppliers on and after October 1, 2003, purchasers may elect
18 an alternative tax rate of 2.4 cents per therm to be paid
19 under the provisions of Section 5-15 of this Law to a
20 delivering supplier maintaining a place of business in this
21 State. Such tax rate shall be referred to as the "alternate
22 tax rate". The tax imposed under this Section shall not apply
23 to gas used by business enterprises certified under Section
24 9-222.1 of the Public Utilities Act, as amended, to the
25 extent of such exemption and during the period of time
26 specified by the Department of Commerce and Community
27 Affairs.

28 Section 5-15. Collection of Gas Use Tax; relief of duty.
29 Beginning with bills issued on and after October 1, 2003, a
30 delivering supplier maintaining a place of business in this
31 State shall collect, from the purchasers who have elected the
32 alternate tax rate provided in Section 5-10 of this Law, the

1 tax that is imposed by this Law at the alternate 2.4 cents
2 per therm rate. The tax imposed at the alternate tax rate by
3 this Law shall, when collected, be stated as a distinct and
4 separate item apart from the selling price of the gas. The
5 tax herein required to be collected by any delivering
6 supplier shall constitute a debt owed by that person to this
7 State. Upon receipt by a delivering supplier of a copy of a
8 certificate of registration issued to a self-assessing
9 purchaser under Section 5-20 of this Law, that delivering
10 supplier is relieved of the duty to collect the alternate tax
11 from that self-assessing purchaser beginning with bills
12 issued to that self-assessing purchaser 30 or more days after
13 receipt of the copy of that certificate of registration.

14 Section. 5-20. Self-assessing purchaser registration;
15 certificate of registration. Any purchaser who does not elect
16 the alternate tax rate to be paid to a delivering supplier
17 shall register with the Department as a self-assessing
18 purchaser and pay the tax imposed by Section 5-10 of this Law
19 directly to the Department at the self-assessing purchaser
20 rate.

21 A purchaser registering as a self-assessing purchaser may
22 not revoke such registration for at least one year
23 thereafter. Application for a certificate of registration as
24 a self-assessing purchaser shall be made to the Department
25 upon forms furnished by the Department and shall contain any
26 reasonable information that the Department may require. The
27 self-assessing purchaser shall be required to disclose the
28 name of the delivering supplier or suppliers who are
29 delivering the gas upon which the self-assessing purchaser
30 will be paying tax directly to the Department.

31 Upon receipt of the application for a certificate of
32 registration in proper form, the Department shall issue to
33 the applicant a certificate of registration as a

1 self-assessing purchaser. The applicant shall provide a copy
2 of the certificate of registration as a self-assessing
3 purchaser to the applicant's delivering supplier or
4 suppliers.

5 Section 5-25. Self-assessing purchaser; direct return
6 and payment of tax. Except for purchasers who have chosen the
7 alternate tax rate to be paid to a delivering supplier
8 maintaining a place of business in this State, the tax
9 imposed in Section 5-10 of this Law shall be paid to the
10 Department directly by each self-assessing purchaser who is
11 subject to the tax imposed by this Law. Each self-assessing
12 purchaser shall, on or before the 15th day of each month,
13 make a return to the Department for the preceding calendar
14 month, stating the following:

- 15 (1) His or her name and principal address.
- 16 (2) The total number of therms used by him or her
17 during the preceding calendar month and upon the basis of
18 which the tax is imposed.
- 19 (3) The purchase price of gas used by him or her
20 during the preceding calendar month and upon the basis of
21 which the tax is imposed.
- 22 (4) Amount of tax (computed upon items 2 and 3).
- 23 (5) Such other reasonable information as the
24 Department may require.

25 In making such return, the self-assessing purchaser may
26 use any reasonable method to derive reportable "therms" and
27 "purchase price" from his or her billing and payment records.

28 If the average monthly liability of the self-assessing
29 purchaser to the Department does not exceed \$100, the
30 Department may authorize his or her returns to be filed on a
31 quarter-annual basis, with the return for January, February,
32 and March of a given year being due by April 30 of such year;
33 with the return for April, May, and June of a given year

1 being due by July 31 of such year; with the return for July,
2 August, and September of a given year being due by October 31
3 of such year; and with the return for October, November, and
4 December of a given year being due by January 31 of the
5 following year.

6 If the average monthly liability of the self-assessing
7 purchaser to the Department does not exceed \$20, the
8 Department may authorize his or her returns to be filed on a
9 annual basis, with the return for a given year being due by
10 January 31 of the following year.

11 Such quarter-annual and annual returns, as to form and
12 substance, shall be subject to the same requirements as
13 monthly returns.

14 Notwithstanding any other provision in this Law
15 concerning the time within which a self-assessing purchaser
16 may file his or her return, in the case of any such
17 self-assessing purchaser who ceases to engage in a kind of
18 business which makes him or her responsible for filing
19 returns under this Law, such person shall file a final return
20 under this Law with the Department not more than one month
21 after discontinuing such business.

22 Each self-assessing purchaser whose average monthly
23 liability to the Department under this Law was \$10,000 or
24 more during the preceding calendar year, excluding the month
25 of highest liability and the month of lowest liability in
26 such calendar year, and who is not operated by a unit of
27 local government, shall make estimated payments to the
28 Department on or before the 7th, 15th, 22nd, and last day of
29 the month during which tax liability to the Department is
30 incurred in an amount not less than the lower of either 22.5%
31 of such person's actual tax liability for the month or 25% of
32 such person's actual tax liability for the same calendar
33 month of the preceding year. The amount of such
34 quarter-monthly payments shall be credited against the final

1 tax liability of the self-assessing purchaser's return for
2 that month. Any outstanding credit, approved by the
3 Department, arising from the self-assessing purchaser's
4 overpayment of his or her final tax liability for any month
5 may be applied to reduce the amount of any subsequent
6 quarter-monthly payment or credited against the final tax
7 liability of such self-assessing purchaser's return for any
8 subsequent month. If any quarter-monthly payment is not paid
9 at the time or in the amount required by this Section, such
10 person shall be liable for penalty and interest on the
11 difference between the minimum amount due as a payment and
12 the amount of such payment actually and timely paid, except
13 insofar as such person has previously made payments for that
14 month to the Department in excess of the minimum payments
15 previously due.

16 The self-assessing purchaser making the return provided
17 for in this Section shall, at the time of making such return,
18 pay to the Department the amount of tax imposed by this Law.
19 All moneys received by the Department under this Law shall be
20 paid into the General Revenue Fund in the State treasury.

21 Section 5-30. Registration of delivering suppliers. A
22 delivering supplier maintaining a place of business in this
23 State who engages in the delivery of gas in this State shall
24 register with the Department. A delivering supplier, if
25 required to register under the Gas Revenue Tax Act, need not
26 obtain an additional certificate of registration under this
27 Law, but shall be deemed to be sufficiently registered by
28 virtue of his being registered under the Gas Revenue Tax Act.
29 Application for a certificate of registration shall be made
30 to the Department upon forms furnished by the Department and
31 shall contain any reasonable information the Department may
32 require. Upon receipt of the application for a certificate of
33 registration in proper form, the Department shall issue to

1 the applicant a certificate of registration. The Department
2 may deny a certificate of registration to any applicant if
3 such applicant is in default for moneys due under this Law.
4 Any person aggrieved by any decision of the Department under
5 this Section may, within 20 days after notice of such
6 decision, protest and request a hearing, whereupon the
7 Department shall give notice to such person of the time and
8 place fixed for such hearing and shall hold a hearing in
9 conformity with the provisions of this Law and then issue its
10 final administrative decision in the matter to such person.
11 In the absence of such a protest within 20 days, the
12 Department's decision shall become final without any further
13 determination being made or notice given.

14 Section 5-35. Return and payment of tax by delivering
15 supplier. Each delivering supplier who is required under
16 Section 5-15 to collect the tax imposed by this Law shall
17 make a return to the Department on or before the 15th day of
18 each month for the preceding calendar month stating the
19 following:

- 20 (1) His or her name.
- 21 (2) The address of his or her principal place of
22 business and the address of the principal place of
23 business (if that is a different address) from which he
24 or she engages in the business of delivering gas to
25 persons for use or consumption and not for resale.
- 26 (3) The total number of therms of gas delivered to
27 purchasers during the preceding calendar month and upon
28 the basis of which the tax is imposed.
- 29 (4) Amount of tax computed upon item 3.
- 30 (5) Such other reasonable information as the
31 Department may require.

32 In making such return the person engaged in the business
33 of delivering gas to persons for use or consumption and not

1 for resale may use any reasonable method to derive reportable
2 "therms" from his or her billing and payment records.

3 If the average monthly liability to the Department of the
4 delivering supplier does not exceed \$100, the Department may
5 authorize his or her returns to be filed on a quarter-annual
6 basis, with the return for January, February, and March of a
7 given year being due by April 30 of such year; with the
8 return for April, May, and June of a given year being due by
9 July 31 of such year; with the return for July, August, and
10 September of a given year being due by October 31 of such
11 year; and with the return for October, November, and December
12 of a given year being due by January 31 of the following
13 year.

14 If the average monthly liability to the Department of the
15 delivering supplier does not exceed \$20, the Department may
16 authorize his or her returns to be filed on an annual basis,
17 with the return for a given year being due by January 31 of
18 the following year.

19 Such quarter-annual and annual returns, as to form and
20 substance, shall be subject to the same requirements as
21 monthly returns.

22 Notwithstanding any other provision in this Law
23 concerning the time within which a delivering supplier may
24 file his or her return, in the case of any delivering
25 supplier who ceases to engage in a kind of business that
26 makes him or her responsible for filing returns under this
27 Law, such delivering supplier shall file a final return under
28 this Law with the Department not more than one month after
29 discontinuing such business.

30 Each delivering supplier whose average monthly liability
31 to the Department under this Law was \$10,000 or more during
32 the preceding calendar year, excluding the month of highest
33 liability and the month of lowest liability in such calendar
34 year, and who is not operated by a unit of local government,

1 shall make estimated payments to the Department on or before
2 the 7th, 15th, 22nd, and last day of the month during which
3 tax liability to the Department is incurred in an amount not
4 less than the lower of either 22.5% of such person's actual
5 tax liability for the month or 25% of such person's actual
6 tax liability for the same calendar month of the preceding
7 year. The amount of such quarter-monthly payments shall be
8 credited against the final tax liability of such person's
9 return for that month. Any outstanding credit, approved by
10 the Department, arising from such person's overpayment of his
11 or her final tax liability for any month may be applied to
12 reduce the amount of any subsequent quarter-monthly payment
13 or credited against the final tax liability of such person's
14 return for any subsequent month. If any quarter-monthly
15 payment is not paid at the time or in the amount required by
16 this Section, such person shall be liable for penalty and
17 interest on the difference between the minimum amount due as
18 a payment and the amount of such payment actually and timely
19 paid, except insofar as such person has previously made
20 payments for that month to the Department in excess of the
21 minimum payments previously due.

22 The delivering supplier making the return provided for in
23 this Section shall, at the time of making such return, pay to
24 the Department the amount of tax imposed by this Law. All
25 moneys received by the Department under this Law shall be
26 paid into the General Revenue Fund in the State treasury.

27 Section 5-40. Incorporation of applicable Sections. The
28 Department shall have full power to administer and enforce
29 this Law; to collect all taxes, penalties, and interest due
30 hereunder; to dispose of taxes, penalties, and interest so
31 collected in the manner hereinafter provided; and to
32 determine all rights to credit memoranda or refunds arising
33 on account of the erroneous payment of tax, penalty, or

1 interest hereunder. In the administration of, and compliance
2 with, this Section, the Department and persons who are
3 subject to this Section shall have the same rights, remedies,
4 privileges, immunities, powers, and duties, be subject to the
5 same conditions, restrictions, limitations, penalties, and
6 definitions of terms, and employ the same modes of procedure,
7 as are prescribed in Sections 2, 4, 5, 6, 7, 9 (except
8 provisions relating to transaction returns and except that
9 the due date for returns shall be the 15th day of each month
10 for the preceding calendar month), 10, 11, 12, 12a, 12b, 13,
11 14, 15, 18, 19, 20, 21, and 22 of the Use Tax Act, and are
12 not inconsistent with this Section, as fully as if those
13 provisions were set forth herein.

14 Section 5-45. Multistate exemption. To prevent actual
15 multi-state taxation of the privilege that is subject to
16 taxation under this Law, any purchaser, upon proof that
17 purchaser has paid a tax in another state on such event,
18 shall be allowed a credit against the tax imposed by this
19 Law, to the extent of the amount of the tax properly due and
20 paid in the other state.

21 Section 5-50. Exemptions. The tax imposed under this Act
22 shall not apply to:

23 (1) Gas used by business enterprises certified
24 under Section 9-222.1 of the Public Utilities Act, to the
25 extent of such exemptions and during the period of time
26 specified by the Department of Commerce and Community
27 Affairs;

28 (2) Gas used by governmental bodies, or a
29 corporation, society, association, foundation, or
30 institution organized and operated exclusively for
31 charitable, religious, or educational purposes. Such use
32 shall not be exempt unless the government body, or

1 corporation, society, association, foundation, or
2 institution organized and operated exclusively for
3 charitable, religious, or educational purposes has first
4 been issued a tax exemption identification number by the
5 Department of Revenue pursuant to Section 1g of the
6 Retailers' Occupation Tax Act. A limited liability
7 company may qualify for the exemption under this Section
8 only if the limited liability company is organized and
9 operated exclusively for educational purposes. The term
10 "educational purposes" shall have the same meaning as
11 that set forth in Section 2h of the Retailers' Occupation
12 Tax Act;

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

17 The Department may adopt rules to implement the
18 provisions of this Section.

19 Section 5-905. The Gas Revenue Tax Act is amended by
20 changing Sections 1 and 2 as follows:

21 (35 ILCS 615/1) (from Ch. 120, par. 467.16)

22 Sec. 1. For the purposes of this Act: "Gross receipts"
23 means the consideration received for gas distributed,
24 supplied, furnished or sold to persons for use or consumption
25 and not for resale, and for all services (including the
26 transportation or storage of gas for an end-user) rendered in
27 connection therewith, and shall include cash, services and
28 property of every kind or nature, and shall be determined
29 without any deduction on account of the cost of the service,
30 product or commodity supplied, the cost of materials used,
31 labor or service costs, or any other expense whatsoever.
32 However, "gross receipts" shall not include receipts from:

1 (i) any minimum or other charge for gas or gas
2 service where the customer has taken no terms of gas;

3 (ii) any charge for a dishonored check;

4 (iii) any finance or credit charge, penalty or
5 charge for delayed payment, or discount for prompt
6 payment;

7 (iv) any charge for reconnection of service or for
8 replacement or relocation of facilities;

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

11 (vi) repair, inspection or servicing of equipment
12 located on customer premises;

13 (vii) leasing or rental of equipment, the leasing
14 or rental of which is not necessary to distributing,
15 furnishing, supplying, selling, transporting or storing
16 gas;

17 (viii) any sale to a customer if the taxpayer is
18 prohibited by federal or State constitution, treaty,
19 convention, statute or court decision from recovering the
20 related tax liability from such customer;

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

29 (x) prior to October 1, 2003, any charge for gas or
30 gas services to a customer who acquired contractual
31 rights for the direct purchase of gas or gas services
32 originating from an out-of-state supplier or source on or
33 before March 1, 1995, except for those charges solely
34 related to the local distribution of gas by a public

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

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

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

19 "Department" means the Department of Revenue of the State
20 of Illinois.

21 "Director" means the Director of Revenue for the
22 Department of Revenue of the State of Illinois.

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

26 "Person" means any natural individual, firm, trust,
27 estate, partnership, association, joint stock company, joint
28 adventure, corporation, limited liability company, or a
29 receiver, trustee, guardian or other representative appointed
30 by order of any court, or any city, town, county or other
31 political subdivision of this State.

32 "Invested capital" means that amount equal to (i) the
33 average of the balances at the beginning and end of each
34 taxable period of the taxpayer's total stockholder's equity

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

23 "Taxable period" means each period which ends after the
24 effective date of this Act and which is covered by an annual
25 report filed by the taxpayer with the Illinois Commerce
26 Commission.

27 (Source: P.A. 89-417, eff. 1-1-96; 90-16, eff. 6-16-97.)

28 (35 ILCS 615/2) (from Ch. 120, par. 467.17)

29 Sec. 2. A tax is imposed upon persons engaged in the
30 business of distributing, supplying, furnishing or selling
31 gas to persons for use or consumption and not for resale at
32 the rate of 2.4 cents per therm of all gas which is so
33 distributed, supplied, furnished, sold or transported to or

1 for each customer in the course of such business, or 5% of
2 the gross receipts received from each customer from such
3 business, whichever is the lower rate as applied to each
4 customer for that customer's billing period, provided that
5 any change in rate imposed by this amendatory Act of 1985
6 shall become effective only with bills having a meter reading
7 date on or after January 1, 1986. However, such taxes are not
8 imposed with respect to any business in interstate commerce,
9 or otherwise to the extent to which such business may not,
10 under the Constitution and statutes of the United States, be
11 made the subject of taxation by this State.

12 Nothing in this amendatory Act of 1985 shall impose a tax
13 with respect to any transaction with respect to which no tax
14 was imposed immediately preceding the effective date of this
15 amendatory Act of 1985.

16 Beginning with bills issued to customers on and after
17 October 1, 2003, no tax shall be imposed under this Act on
18 transactions with customers who incur a tax liability under
19 the Gas Use Tax Law.

20 (Source: P.A. 84-307; 84-1093.)

21 Section 5-999. Effective date. This Act takes effect on
22 October 1, 2003."