



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**  
**SB2319**

Introduced 1/28/2004, by Lawrence M. Walsh

**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.

LRB093 20240 BDD 46002 b

1 AN ACT concerning taxes.

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. Tax rate ~~Rate of tax~~. Unless otherwise provided  
8 in this Section, 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.)