



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB3184

Introduced 5/3/2006, by Sen. Peter J. Roskam

SYNOPSIS AS INTRODUCED:

30 ILCS 105/6z-18	from Ch. 127, par. 142z-18
30 ILCS 105/6z-20	from Ch. 127, par. 142z-20
35 ILCS 105/3-10	from Ch. 120, par. 439.3-10
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	from Ch. 120, par. 441-10

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Provides that, beginning on July 1, 2006, with respect to motor fuel and gasohol the tax under the Acts is imposed at the rate of 1.25% (now, 6.25%). Effective immediately.

LRB094 20437 BDD 58632 b

FISCAL NOTE ACT
MAY APPLY

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 State Finance Act is amended by changing
5 Sections 6z-18 and 6z-20 as follows:

6 (30 ILCS 105/6z-18) (from Ch. 127, par. 142z-18)

7 Sec. 6z-18. A portion of the money paid into the Local
8 Government Tax Fund from sales of food for human consumption
9 which is to be consumed off the premises where it is sold
10 (other than alcoholic beverages, soft drinks and food which has
11 been prepared for immediate consumption) and prescription and
12 nonprescription medicines, drugs, medical appliances and
13 insulin, urine testing materials, syringes and needles used by
14 diabetics, which occurred in municipalities, shall be
15 distributed to each municipality based upon the sales which
16 occurred in that municipality. The remainder shall be
17 distributed to each county based upon the sales which occurred
18 in the unincorporated area of that county.

19 A portion of the money paid into the Local Government Tax
20 Fund from the 6.25% general use tax rate on the selling price
21 of tangible personal property which is purchased outside
22 Illinois at retail from a retailer and which is titled or
23 registered by any agency of this State's government shall be
24 distributed to municipalities as provided in this paragraph.
25 Each municipality shall receive the amount attributable to
26 sales for which Illinois addresses for titling or registration
27 purposes are given as being in such municipality. The remainder
28 of the money paid into the Local Government Tax Fund from such
29 sales shall be distributed to counties. Each county shall
30 receive the amount attributable to sales for which Illinois
31 addresses for titling or registration purposes are given as
32 being located in the unincorporated area of such county.

1 A portion of the money paid into the Local Government Tax
2 Fund from the 6.25% general rate (and, beginning July 1, 2000
3 and through December 31, 2000 and beginning again on July 1,
4 2006, the 1.25% rate on motor fuel and gasohol) on sales
5 subject to taxation under the Retailers' Occupation Tax Act and
6 the Service Occupation Tax Act, which occurred in
7 municipalities, shall be distributed to each municipality,
8 based upon the sales which occurred in that municipality. The
9 remainder shall be distributed to each county, based upon the
10 sales which occurred in the unincorporated area of such county.

11 For the purpose of determining allocation to the local
12 government unit, a retail sale by a producer of coal or other
13 mineral mined in Illinois is a sale at retail at the place
14 where the coal or other mineral mined in Illinois is extracted
15 from the earth. This paragraph does not apply to coal or other
16 mineral when it is delivered or shipped by the seller to the
17 purchaser at a point outside Illinois so that the sale is
18 exempt under the United States Constitution as a sale in
19 interstate or foreign commerce.

20 Whenever the Department determines that a refund of money
21 paid into the Local Government Tax Fund should be made to a
22 claimant instead of issuing a credit memorandum, the Department
23 shall notify the State Comptroller, who shall cause the order
24 to be drawn for the amount specified, and to the person named,
25 in such notification from the Department. Such refund shall be
26 paid by the State Treasurer out of the Local Government Tax
27 Fund.

28 On or before the 25th day of each calendar month, the
29 Department shall prepare and certify to the Comptroller the
30 disbursement of stated sums of money to named municipalities
31 and counties, the municipalities and counties to be those
32 entitled to distribution of taxes or penalties paid to the
33 Department during the second preceding calendar month. The
34 amount to be paid to each municipality or county shall be the
35 amount (not including credit memoranda) collected during the
36 second preceding calendar month by the Department and paid into

1 the Local Government Tax Fund, plus an amount the Department
2 determines is necessary to offset any amounts which were
3 erroneously paid to a different taxing body, and not including
4 an amount equal to the amount of refunds made during the second
5 preceding calendar month by the Department, and not including
6 any amount which the Department determines is necessary to
7 offset any amounts which are payable to a different taxing body
8 but were erroneously paid to the municipality or county. Within
9 10 days after receipt, by the Comptroller, of the disbursement
10 certification to the municipalities and counties, provided for
11 in this Section to be given to the Comptroller by the
12 Department, the Comptroller shall cause the orders to be drawn
13 for the respective amounts in accordance with the directions
14 contained in such certification.

15 When certifying the amount of monthly disbursement to a
16 municipality or county under this Section, the Department shall
17 increase or decrease that amount by an amount necessary to
18 offset any misallocation of previous disbursements. The offset
19 amount shall be the amount erroneously disbursed within the 6
20 months preceding the time a misallocation is discovered.

21 The provisions directing the distributions from the
22 special fund in the State Treasury provided for in this Section
23 shall constitute an irrevocable and continuing appropriation
24 of all amounts as provided herein. The State Treasurer and
25 State Comptroller are hereby authorized to make distributions
26 as provided in this Section.

27 In construing any development, redevelopment, annexation,
28 preannexation or other lawful agreement in effect prior to
29 September 1, 1990, which describes or refers to receipts from a
30 county or municipal retailers' occupation tax, use tax or
31 service occupation tax which now cannot be imposed, such
32 description or reference shall be deemed to include the
33 replacement revenue for such abolished taxes, distributed from
34 the Local Government Tax Fund.

35 (Source: P.A. 90-491, eff. 1-1-98; 91-51, eff. 6-30-99; 91-872,
36 eff. 7-1-00.)

1 (30 ILCS 105/6z-20) (from Ch. 127, par. 142z-20)

2 Sec. 6z-20. Of the money received from the 6.25% general
3 rate (and, beginning July 1, 2000 and through December 31, 2000
4 and beginning again on July 1, 2006, the 1.25% rate on motor
5 fuel and gasohol) on sales subject to taxation under the
6 Retailers' Occupation Tax Act and Service Occupation Tax Act
7 and paid into the County and Mass Transit District Fund,
8 distribution to the Regional Transportation Authority tax
9 fund, created pursuant to Section 4.03 of the Regional
10 Transportation Authority Act, for deposit therein shall be made
11 based upon the retail sales occurring in a county having more
12 than 3,000,000 inhabitants. The remainder shall be distributed
13 to each county having 3,000,000 or fewer inhabitants based upon
14 the retail sales occurring in each such county.

15 For the purpose of determining allocation to the local
16 government unit, a retail sale by a producer of coal or other
17 mineral mined in Illinois is a sale at retail at the place
18 where the coal or other mineral mined in Illinois is extracted
19 from the earth. This paragraph does not apply to coal or other
20 mineral when it is delivered or shipped by the seller to the
21 purchaser at a point outside Illinois so that the sale is
22 exempt under the United States Constitution as a sale in
23 interstate or foreign commerce.

24 Of the money received from the 6.25% general use tax rate
25 on tangible personal property which is purchased outside
26 Illinois at retail from a retailer and which is titled or
27 registered by any agency of this State's government and paid
28 into the County and Mass Transit District Fund, the amount for
29 which Illinois addresses for titling or registration purposes
30 are given as being in each county having more than 3,000,000
31 inhabitants shall be distributed into the Regional
32 Transportation Authority tax fund, created pursuant to Section
33 4.03 of the Regional Transportation Authority Act. The
34 remainder of the money paid from such sales shall be
35 distributed to each county based on sales for which Illinois

1 addresses for titling or registration purposes are given as
2 being located in the county. Any money paid into the Regional
3 Transportation Authority Occupation and Use Tax Replacement
4 Fund from the County and Mass Transit District Fund prior to
5 January 14, 1991, which has not been paid to the Authority
6 prior to that date, shall be transferred to the Regional
7 Transportation Authority tax fund.

8 Whenever the Department determines that a refund of money
9 paid into the County and Mass Transit District Fund should be
10 made to a claimant instead of issuing a credit memorandum, the
11 Department shall notify the State Comptroller, who shall cause
12 the order to be drawn for the amount specified, and to the
13 person named, in such notification from the Department. Such
14 refund shall be paid by the State Treasurer out of the County
15 and Mass Transit District Fund.

16 On or before the 25th day of each calendar month, the
17 Department shall prepare and certify to the Comptroller the
18 disbursement of stated sums of money to the Regional
19 Transportation Authority and to named counties, the counties to
20 be those entitled to distribution, as hereinabove provided, of
21 taxes or penalties paid to the Department during the second
22 preceding calendar month. The amount to be paid to the Regional
23 Transportation Authority and each county having 3,000,000 or
24 fewer inhabitants shall be the amount (not including credit
25 memoranda) collected during the second preceding calendar
26 month by the Department and paid into the County and Mass
27 Transit District Fund, plus an amount the Department determines
28 is necessary to offset any amounts which were erroneously paid
29 to a different taxing body, and not including an amount equal
30 to the amount of refunds made during the second preceding
31 calendar month by the Department, and not including any amount
32 which the Department determines is necessary to offset any
33 amounts which were payable to a different taxing body but were
34 erroneously paid to the Regional Transportation Authority or
35 county. Within 10 days after receipt, by the Comptroller, of
36 the disbursement certification to the Regional Transportation

1 Authority and counties, provided for in this Section to be
2 given to the Comptroller by the Department, the Comptroller
3 shall cause the orders to be drawn for the respective amounts
4 in accordance with the directions contained in such
5 certification.

6 When certifying the amount of a monthly disbursement to the
7 Regional Transportation Authority or to a county under this
8 Section, the Department shall increase or decrease that amount
9 by an amount necessary to offset any misallocation of previous
10 disbursements. The offset amount shall be the amount
11 erroneously disbursed within the 6 months preceding the time a
12 misallocation is discovered.

13 The provisions directing the distributions from the
14 special fund in the State Treasury provided for in this Section
15 and from the Regional Transportation Authority tax fund created
16 by Section 4.03 of the Regional Transportation Authority Act
17 shall constitute an irrevocable and continuing appropriation
18 of all amounts as provided herein. The State Treasurer and
19 State Comptroller are hereby authorized to make distributions
20 as provided in this Section.

21 In construing any development, redevelopment, annexation,
22 preannexation or other lawful agreement in effect prior to
23 September 1, 1990, which describes or refers to receipts from a
24 county or municipal retailers' occupation tax, use tax or
25 service occupation tax which now cannot be imposed, such
26 description or reference shall be deemed to include the
27 replacement revenue for such abolished taxes, distributed from
28 the County and Mass Transit District Fund or Local Government
29 Distributive Fund, as the case may be.

30 (Source: P.A. 90-491, eff. 1-1-98; 91-872, eff. 7-1-00.)

31 Section 10. The Use Tax Act is amended by changing Sections
32 3-10 and 9 as follows:

33 (35 ILCS 105/3-10) (from Ch. 120, par. 439.3-10)

34 Sec. 3-10. Rate of tax. Unless otherwise provided in this

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

21 Beginning on July 1, 2000 and through December 31, 2000 and
22 beginning again July 1, 2006, with respect to motor fuel, as
23 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
24 as defined in Section 3-40 of the Use Tax Act, the tax is
25 imposed at the rate of 1.25%.

26 With respect to gasohol, the tax imposed by this Act
27 applies to (i) 70% of the proceeds of sales made on or after
28 January 1, 1990, and before July 1, 2003, (ii) 80% of the
29 proceeds of sales made on or after July 1, 2003 and on or
30 before December 31, 2013, and (iii) 100% of the proceeds of
31 sales made thereafter. If, at any time, however, the tax under
32 this Act on sales of gasohol is imposed at the rate of 1.25%,
33 then the tax imposed by this Act applies to 100% of the
34 proceeds of sales of gasohol made during that time.

35 With respect to majority blended ethanol fuel, the tax
36 imposed by this Act does not apply to the proceeds of sales

1 made on or after July 1, 2003 and on or before December 31,
2 2013 but applies to 100% of the proceeds of sales made
3 thereafter.

4 With respect to biodiesel blends with no less than 1% and
5 no more than 10% biodiesel, the tax imposed by this Act applies
6 to (i) 80% of the proceeds of sales made on or after July 1,
7 2003 and on or before December 31, 2013 and (ii) 100% of the
8 proceeds of sales made thereafter. If, at any time, however,
9 the tax under this Act on sales of biodiesel blends with no
10 less than 1% and no more than 10% biodiesel is imposed at the
11 rate of 1.25%, then the tax imposed by this Act applies to 100%
12 of the proceeds of sales of biodiesel blends with no less than
13 1% and no more than 10% biodiesel made during that time.

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

19 With respect to food for human consumption that is to be
20 consumed off the premises where it is sold (other than
21 alcoholic beverages, soft drinks, and food that has been
22 prepared for immediate consumption) and prescription and
23 nonprescription medicines, drugs, medical appliances,
24 modifications to a motor vehicle for the purpose of rendering
25 it usable by a disabled person, and insulin, urine testing
26 materials, syringes, and needles used by diabetics, for human
27 use, the tax is imposed at the rate of 1%. For the purposes of
28 this Section, the term "soft drinks" means any complete,
29 finished, ready-to-use, non-alcoholic drink, whether
30 carbonated or not, including but not limited to soda water,
31 cola, fruit juice, vegetable juice, carbonated water, and all
32 other preparations commonly known as soft drinks of whatever
33 kind or description that are contained in any closed or sealed
34 bottle, can, carton, or container, regardless of size. "Soft
35 drinks" does not include coffee, tea, non-carbonated water,
36 infant formula, milk or milk products as defined in the Grade A

1 Pasteurized Milk and Milk Products Act, or drinks containing
2 50% or more natural fruit or vegetable juice.

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

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

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

17 Section 15. The Service Use Tax Act is amended by changing
18 Sections 3-10 and 9 as follows:

19 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

20 Sec. 3-10. Rate of tax. Unless otherwise provided in this
21 Section, the tax imposed by this Act is at the rate of 6.25% of
22 the selling price of tangible personal property transferred as
23 an incident to the sale of service, but, for the purpose of
24 computing this tax, in no event shall the selling price be less
25 than the cost price of the property to the serviceman.

26 Beginning on July 1, 2000 and through December 31, 2000 and
27 beginning again on July 1, 2006, with respect to motor fuel, as
28 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
29 as defined in Section 3-40 of the Use Tax Act, the tax is
30 imposed at the rate of 1.25%.

31 With respect to gasohol, as defined in the Use Tax Act, the
32 tax imposed by this Act applies to (i) 70% of the selling price
33 of property transferred as an incident to the sale of service
34 on or after January 1, 1990, and before July 1, 2003, (ii) 80%

1 of the selling price of property transferred as an incident to
2 the sale of service on or after July 1, 2003 and on or before
3 December 31, 2013, and (iii) 100% of the selling price
4 thereafter. If, at any time, however, the tax under this Act on
5 sales of gasohol, as defined in the Use Tax Act, is imposed at
6 the rate of 1.25%, then the tax imposed by this Act applies to
7 100% of the proceeds of sales of gasohol made during that time.

8 With respect to majority blended ethanol fuel, as defined
9 in the Use Tax Act, the tax imposed by this Act does not apply
10 to the selling price of property transferred as an incident to
11 the sale of service on or after July 1, 2003 and on or before
12 December 31, 2013 but applies to 100% of the selling price
13 thereafter.

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

26 With respect to 100% biodiesel, as defined in the Use Tax
27 Act, and biodiesel blends, as defined in the Use Tax Act, with
28 more than 10% but no more than 99% biodiesel, the tax imposed
29 by this Act does not apply to the proceeds of the selling price
30 of property transferred as an incident to the sale of service
31 on or after July 1, 2003 and on or before December 31, 2013 but
32 applies to 100% of the selling price thereafter.

33 At the election of any registered serviceman made for each
34 fiscal year, sales of service in which the aggregate annual
35 cost price of tangible personal property transferred as an
36 incident to the sales of service is less than 35%, or 75% in

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

7 The tax shall be imposed at the rate of 1% on food prepared
8 for immediate consumption and transferred incident to a sale of
9 service subject to this Act or the Service Occupation Tax Act
10 by an entity licensed under the Hospital Licensing Act, the
11 Nursing Home Care Act, or the Child Care Act of 1969. The tax
12 shall also be imposed at the rate of 1% on food for human
13 consumption that is to be consumed off the premises where it is
14 sold (other than alcoholic beverages, soft drinks, and food
15 that has been prepared for immediate consumption and is not
16 otherwise included in this paragraph) and prescription and
17 nonprescription medicines, drugs, medical appliances,
18 modifications to a motor vehicle for the purpose of rendering
19 it usable by a disabled person, and insulin, urine testing
20 materials, syringes, and needles used by diabetics, for human
21 use. For the purposes of this Section, the term "soft drinks"
22 means any complete, finished, ready-to-use, non-alcoholic
23 drink, whether carbonated or not, including but not limited to
24 soda water, cola, fruit juice, vegetable juice, carbonated
25 water, and all other preparations commonly known as soft drinks
26 of whatever kind or description that are contained in any
27 closed or sealed bottle, can, carton, or container, regardless
28 of size. "Soft drinks" does not include coffee, tea,
29 non-carbonated water, infant formula, milk or milk products as
30 defined in the Grade A Pasteurized Milk and Milk Products Act,
31 or drinks containing 50% or more natural fruit or vegetable
32 juice.

33 Notwithstanding any other provisions of this Act, "food for
34 human consumption that is to be consumed off the premises where
35 it is sold" includes all food sold through a vending machine,
36 except soft drinks and food products that are dispensed hot

1 from a vending machine, regardless of the location of the
2 vending machine.

3 If the property that is acquired from a serviceman is
4 acquired outside Illinois and used outside Illinois before
5 being brought to Illinois for use here and is taxable under
6 this Act, the "selling price" on which the tax is computed
7 shall be reduced by an amount that represents a reasonable
8 allowance for depreciation for the period of prior out-of-state
9 use.

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

11 Section 20. The Service Occupation Tax Act is amended by
12 changing Sections 3-10 and 9 as follows:

13 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

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

32 Beginning on July 1, 2000 and through December 31, 2000 and
33 beginning again on July 1, 2006, with respect to motor fuel, as
34 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,

1 as defined in Section 3-40 of the Use Tax Act, the tax is
2 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 December 31, 2013, 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, 2013 but applies to 100% of the selling price
19 thereafter.

20 With respect to biodiesel blends, as defined in the Use Tax
21 Act, with no less than 1% and no more than 10% biodiesel, the
22 tax imposed by this Act applies to (i) 80% of the selling price
23 of property transferred as an incident to the sale of service
24 on or after July 1, 2003 and on or before December 31, 2013 and
25 (ii) 100% of the proceeds of the selling price thereafter. If,
26 at any time, however, the tax under this Act on sales of
27 biodiesel blends, as defined in the Use Tax Act, with no less
28 than 1% and no more than 10% biodiesel is imposed at the rate
29 of 1.25%, then the tax imposed by this Act applies to 100% of
30 the proceeds of sales of biodiesel blends with no less than 1%
31 and no more than 10% biodiesel made during that time.

32 With respect to 100% biodiesel, as defined in the Use Tax
33 Act, and biodiesel blends, as defined in the Use Tax Act, with
34 more than 10% but no more than 99% biodiesel material, the tax
35 imposed by this Act does not apply to the proceeds of the
36 selling price of property transferred as an incident to the

1 sale of service on or after July 1, 2003 and on or before
2 December 31, 2013 but applies to 100% of the selling price
3 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 aggregate
10 annual total gross receipts from all sales of service, the tax
11 imposed by this Act shall be based on the serviceman's cost
12 price of the tangible personal property transferred incident to
13 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 of
16 service subject to this Act or the Service Occupation Tax Act
17 by an entity licensed under the Hospital Licensing Act, the
18 Nursing Home Care Act, or the Child Care Act of 1969. The tax
19 shall also be imposed at the rate of 1% on food for human
20 consumption that is to be consumed off the premises where it is
21 sold (other than alcoholic beverages, soft drinks, and food
22 that has been prepared for immediate consumption and is not
23 otherwise included in this paragraph) and prescription and
24 nonprescription medicines, drugs, medical appliances,
25 modifications to a motor vehicle for the purpose of rendering
26 it usable by a disabled person, and insulin, urine testing
27 materials, syringes, and needles used by diabetics, for human
28 use. For the purposes of this Section, the term "soft drinks"
29 means any complete, finished, ready-to-use, non-alcoholic
30 drink, whether carbonated or not, including but not limited to
31 soda water, cola, fruit juice, vegetable juice, carbonated
32 water, and all other preparations commonly known as soft drinks
33 of whatever kind or description that are contained in any
34 closed or sealed can, carton, or container, regardless of size.
35 "Soft drinks" does not include coffee, tea, non-carbonated
36 water, infant formula, milk or milk products as defined in the

1 Grade A Pasteurized Milk and Milk Products Act, or drinks
2 containing 50% or more natural fruit or vegetable juice.

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

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

10 Section 25. The Retailers' Occupation Tax Act is amended by
11 changing Sections 2-10 and 3 as follows:

12 (35 ILCS 120/2-10) (from Ch. 120, par. 441-10)

13 Sec. 2-10. Rate of tax. Unless otherwise provided in this
14 Section, the tax imposed by this Act is at the rate of 6.25% of
15 gross receipts from sales of tangible personal property made in
16 the course of business.

17 Beginning on July 1, 2000 and through December 31, 2000 and
18 beginning again on July 1, 2006, with respect to motor fuel, as
19 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
20 as defined in Section 3-40 of the Use Tax Act, the tax is
21 imposed at the rate of 1.25%.

22 Within 14 days after the effective date of this amendatory
23 Act of the 91st General Assembly, each retailer of motor fuel
24 and gasohol shall cause the following notice to be posted in a
25 prominently visible place on each retail dispensing device that
26 is used to dispense motor fuel or gasohol in the State of
27 Illinois: "As of July 1, 2000, the State of Illinois has
28 eliminated the State's share of sales tax on motor fuel and
29 gasohol through December 31, 2000. The price on this pump
30 should reflect the elimination of the tax." The notice shall be
31 printed in bold print on a sign that is no smaller than 4
32 inches by 8 inches. The sign shall be clearly visible to
33 customers. Any retailer who fails to post or maintain a
34 required sign through December 31, 2000 is guilty of a petty

1 offense for which the fine shall be \$500 per day per each
2 retail premises where a violation occurs.

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

13 With respect to majority blended ethanol fuel, as defined
14 in the Use Tax Act, the tax imposed by this Act does not apply
15 to the proceeds of sales made on or after July 1, 2003 and on or
16 before December 31, 2013 but applies to 100% of the proceeds of
17 sales made thereafter.

18 With respect to biodiesel blends, as defined in the Use Tax
19 Act, with no less than 1% and no more than 10% biodiesel, the
20 tax imposed by this Act applies to (i) 80% of the proceeds of
21 sales made on or after July 1, 2003 and on or before December
22 31, 2013 and (ii) 100% of the proceeds of sales made
23 thereafter. If, at any time, however, the tax under this Act on
24 sales of biodiesel blends, as defined in the Use Tax Act, with
25 no less than 1% and no more than 10% biodiesel is imposed at
26 the rate of 1.25%, then the tax imposed by this Act applies to
27 100% of the proceeds of sales of biodiesel blends with no less
28 than 1% and no more than 10% biodiesel made during that time.

29 With respect to 100% biodiesel, as defined in the Use Tax
30 Act, and biodiesel blends, as defined in the Use Tax Act, with
31 more than 10% but no more than 99% biodiesel, the tax imposed
32 by this Act does not apply to the proceeds of sales made on or
33 after July 1, 2003 and on or before December 31, 2013 but
34 applies to 100% of the proceeds of sales made thereafter.

35 With respect to food for human consumption that is to be
36 consumed off the premises where it is sold (other than

1 alcoholic beverages, soft drinks, and food that has been
2 prepared for immediate consumption) and prescription and
3 nonprescription medicines, drugs, medical appliances,
4 modifications to a motor vehicle for the purpose of rendering
5 it usable by a disabled person, and insulin, urine testing
6 materials, syringes, and needles used by diabetics, for human
7 use, the tax is imposed at the rate of 1%. For the purposes of
8 this Section, the term "soft drinks" means any complete,
9 finished, ready-to-use, non-alcoholic drink, whether
10 carbonated or not, including but not limited to soda water,
11 cola, fruit juice, vegetable juice, carbonated water, and all
12 other preparations commonly known as soft drinks of whatever
13 kind or description that are contained in any closed or sealed
14 bottle, can, carton, or container, regardless of size. "Soft
15 drinks" does not include coffee, tea, non-carbonated water,
16 infant formula, milk or milk products as defined in the Grade A
17 Pasteurized Milk and Milk Products Act, or drinks containing
18 50% or more natural fruit or vegetable juice.

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

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

26 Section 99. Effective date. This Act takes effect upon
27 becoming law.