



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2078

Introduced 2/10/2011, by Sen. Kirk W. Dillard

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	
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 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, 2011, 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.

LRB097 10319 HLH 50527 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

1 distributed to municipalities as provided in this paragraph.
2 Each municipality shall receive the amount attributable to
3 sales for which Illinois addresses for titling or registration
4 purposes are given as being in such municipality. The remainder
5 of the money paid into the Local Government Tax Fund from such
6 sales shall be distributed to counties. Each county shall
7 receive the amount attributable to sales for which Illinois
8 addresses for titling or registration purposes are given as
9 being located in the unincorporated area of such county.

10 A portion of the money paid into the Local Government Tax
11 Fund from the 6.25% general rate (and, beginning July 1, 2000
12 and through December 31, 2000 and beginning again on July 1,
13 2011, the 1.25% rate on motor fuel and gasohol, and beginning
14 on August 6, 2010 through August 15, 2010, the 1.25% rate on
15 sales tax holiday items) on sales subject to taxation under the
16 Retailers' Occupation Tax Act and the Service Occupation Tax
17 Act, which occurred in municipalities, shall be distributed to
18 each municipality, based upon the sales which occurred in that
19 municipality. The remainder shall be distributed to each
20 county, based upon the sales which occurred in the
21 unincorporated area of such county.

22 For the purpose of determining allocation to the local
23 government unit, a retail sale by a producer of coal or other
24 mineral mined in Illinois is a sale at retail at the place
25 where the coal or other mineral mined in Illinois is extracted
26 from the earth. This paragraph does not apply to coal or other

1 mineral when it is delivered or shipped by the seller to the
2 purchaser at a point outside Illinois so that the sale is
3 exempt under the United States Constitution as a sale in
4 interstate or foreign commerce.

5 Whenever the Department determines that a refund of money
6 paid into the Local Government Tax Fund should be made to a
7 claimant instead of issuing a credit memorandum, the Department
8 shall notify the State Comptroller, who shall cause the order
9 to be drawn for the amount specified, and to the person named,
10 in such notification from the Department. Such refund shall be
11 paid by the State Treasurer out of the Local Government Tax
12 Fund.

13 As soon as possible after the first day of each month,
14 beginning January 1, 2011, upon certification of the Department
15 of Revenue, the Comptroller shall order transferred, and the
16 Treasurer shall transfer, to the STAR Bonds Revenue Fund the
17 local sales tax increment, as defined in the Innovation
18 Development and Economy Act, collected during the second
19 preceding calendar month for sales within a STAR bond district
20 and deposited into the Local Government Tax Fund, less 3% of
21 that amount, which shall be transferred into the Tax Compliance
22 and Administration Fund and shall be used by the Department,
23 subject to appropriation, to cover the costs of the Department
24 in administering the Innovation Development and Economy Act.

25 After the monthly transfer to the STAR Bonds Revenue Fund,
26 on or before the 25th day of each calendar month, the

1 Department shall prepare and certify to the Comptroller the
2 disbursement of stated sums of money to named municipalities
3 and counties, the municipalities and counties to be those
4 entitled to distribution of taxes or penalties paid to the
5 Department during the second preceding calendar month. The
6 amount to be paid to each municipality or county shall be the
7 amount (not including credit memoranda) collected during the
8 second preceding calendar month by the Department and paid into
9 the Local Government Tax Fund, plus an amount the Department
10 determines is necessary to offset any amounts which were
11 erroneously paid to a different taxing body, and not including
12 an amount equal to the amount of refunds made during the second
13 preceding calendar month by the Department, and not including
14 any amount which the Department determines is necessary to
15 offset any amounts which are payable to a different taxing body
16 but were erroneously paid to the municipality or county, and
17 not including any amounts that are transferred to the STAR
18 Bonds Revenue Fund. Within 10 days after receipt, by the
19 Comptroller, of the disbursement certification to the
20 municipalities and counties, provided for in this Section to be
21 given to the Comptroller by the Department, the Comptroller
22 shall cause the orders to be drawn for the respective amounts
23 in accordance with the directions contained in such
24 certification.

25 When certifying the amount of monthly disbursement to a
26 municipality or county under this Section, the Department shall

1 increase or decrease that amount by an amount necessary to
2 offset any misallocation of previous disbursements. The offset
3 amount shall be the amount erroneously disbursed within the 6
4 months preceding the time a misallocation is discovered.

5 The provisions directing the distributions from the
6 special fund in the State Treasury provided for in this Section
7 shall constitute an irrevocable and continuing appropriation
8 of all amounts as provided herein. The State Treasurer and
9 State Comptroller are hereby authorized to make distributions
10 as provided in this Section.

11 In construing any development, redevelopment, annexation,
12 preannexation or other lawful agreement in effect prior to
13 September 1, 1990, which describes or refers to receipts from a
14 county or municipal retailers' occupation tax, use tax or
15 service occupation tax which now cannot be imposed, such
16 description or reference shall be deemed to include the
17 replacement revenue for such abolished taxes, distributed from
18 the Local Government Tax Fund.

19 (Source: P.A. 96-939, eff. 6-24-10; 96-1012, eff. 7-7-10;
20 revised 7-22-10.)

21 (30 ILCS 105/6z-20) (from Ch. 127, par. 142z-20)

22 Sec. 6z-20. Of the money received from the 6.25% general
23 rate (and, beginning July 1, 2000 and through December 31, 2000
24 and beginning again on July 1, 2011, the 1.25% rate on motor
25 fuel and gasohol, and beginning on August 6, 2010 through

1 August 15, 2010, the 1.25% rate on sales tax holiday items) on
2 sales subject to taxation under the Retailers' Occupation Tax
3 Act and Service Occupation Tax Act and paid into the County and
4 Mass Transit District Fund, distribution to the Regional
5 Transportation Authority tax fund, created pursuant to Section
6 4.03 of the Regional Transportation Authority Act, for deposit
7 therein shall be made based upon the retail sales occurring in
8 a county having more than 3,000,000 inhabitants. The remainder
9 shall be distributed to each county having 3,000,000 or fewer
10 inhabitants based upon the retail sales occurring in each such
11 county.

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

21 Of the money received from the 6.25% general use tax rate
22 on tangible personal property which is purchased outside
23 Illinois at retail from a retailer and which is titled or
24 registered by any agency of this State's government and paid
25 into the County and Mass Transit District Fund, the amount for
26 which Illinois addresses for titling or registration purposes

1 are given as being in each county having more than 3,000,000
2 inhabitants shall be distributed into the Regional
3 Transportation Authority tax fund, created pursuant to Section
4 4.03 of the Regional Transportation Authority Act. The
5 remainder of the money paid from such sales shall be
6 distributed to each county based on sales for which Illinois
7 addresses for titling or registration purposes are given as
8 being located in the county. Any money paid into the Regional
9 Transportation Authority Occupation and Use Tax Replacement
10 Fund from the County and Mass Transit District Fund prior to
11 January 14, 1991, which has not been paid to the Authority
12 prior to that date, shall be transferred to the Regional
13 Transportation Authority tax fund.

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

22 As soon as possible after the first day of each month,
23 beginning January 1, 2011, upon certification of the Department
24 of Revenue, the Comptroller shall order transferred, and the
25 Treasurer shall transfer, to the STAR Bonds Revenue Fund the
26 local sales tax increment, as defined in the Innovation

1 Development and Economy Act, collected during the second
2 preceding calendar month for sales within a STAR bond district
3 and deposited into the County and Mass Transit District Fund,
4 less 3% of that amount, which shall be transferred into the Tax
5 Compliance and Administration Fund and shall be used by the
6 Department, subject to appropriation, to cover the costs of the
7 Department in administering the Innovation Development and
8 Economy Act.

9 After the monthly transfer to the STAR Bonds Revenue Fund,
10 on or before the 25th day of each calendar month, the
11 Department shall prepare and certify to the Comptroller the
12 disbursement of stated sums of money to the Regional
13 Transportation Authority and to named counties, the counties to
14 be those entitled to distribution, as hereinabove provided, of
15 taxes or penalties paid to the Department during the second
16 preceding calendar month. The amount to be paid to the Regional
17 Transportation Authority and each county having 3,000,000 or
18 fewer inhabitants shall be the amount (not including credit
19 memoranda) collected during the second preceding calendar
20 month by the Department and paid into the County and Mass
21 Transit District Fund, plus an amount the Department determines
22 is necessary to offset any amounts which were erroneously paid
23 to a different taxing body, and not including an amount equal
24 to the amount of refunds made during the second preceding
25 calendar month by the Department, and not including any amount
26 which the Department determines is necessary to offset any

1 amounts which were payable to a different taxing body but were
2 erroneously paid to the Regional Transportation Authority or
3 county, and not including any amounts that are transferred to
4 the STAR Bonds Revenue Fund. Within 10 days after receipt, by
5 the Comptroller, of the disbursement certification to the
6 Regional Transportation Authority and counties, provided for
7 in this Section to be given to the Comptroller by the
8 Department, the Comptroller shall cause the orders to be drawn
9 for the respective amounts in accordance with the directions
10 contained in such certification.

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

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

26 In construing any development, redevelopment, annexation,

1 preannexation or other lawful agreement in effect prior to
2 September 1, 1990, which describes or refers to receipts from a
3 county or municipal retailers' occupation tax, use tax or
4 service occupation tax which now cannot be imposed, such
5 description or reference shall be deemed to include the
6 replacement revenue for such abolished taxes, distributed from
7 the County and Mass Transit District Fund or Local Government
8 Distributive Fund, as the case may be.

9 (Source: P.A. 96-939, eff. 6-24-10; 96-1012, eff. 7-7-10;
10 revised 7-22-10.)

11 Section 10. The Use Tax Act is amended by changing Section
12 3-10 as follows:

13 (35 ILCS 105/3-10)

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 either the selling price or the fair market value, if any, of
17 the tangible personal property. In all cases where property
18 functionally used or consumed is the same as the property that
19 was purchased at retail, then the tax is imposed on the selling
20 price of the property. In all cases where property functionally
21 used or consumed is a by-product or waste product that has been
22 refined, manufactured, or produced from property purchased at
23 retail, then the tax is imposed on the lower of the fair market
24 value, if any, of the specific property so used in this State

1 or on the selling price of the property purchased at retail.
2 For purposes of this Section "fair market value" means the
3 price at which property would change hands between a willing
4 buyer and a willing seller, neither being under any compulsion
5 to buy or sell and both having reasonable knowledge of the
6 relevant facts. The fair market value shall be established by
7 Illinois sales by the taxpayer of the same property as that
8 functionally used or consumed, or if there are no such sales by
9 the taxpayer, then comparable sales or purchases of property of
10 like kind and character in Illinois.

11 Beginning on July 1, 2000 and through December 31, 2000 and
12 beginning again on July 1, 2011, with respect to motor fuel, as
13 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
14 as defined in Section 3-40 of the Use Tax Act, the tax is
15 imposed at the rate of 1.25%.

16 Beginning on August 6, 2010 through August 15, 2010, with
17 respect to sales tax holiday items as defined in Section 3-6 of
18 this Act, the tax is imposed at the rate of 1.25%.

19 With respect to gasohol, the tax imposed by this Act
20 applies to (i) 70% of the proceeds of sales made on or after
21 January 1, 1990, and before July 1, 2003, (ii) 80% of the
22 proceeds of sales made on or after July 1, 2003 and on or
23 before December 31, 2013, and (iii) 100% of the proceeds of
24 sales made thereafter. If, at any time, however, the tax under
25 this Act on sales of gasohol is imposed at the rate of 1.25%,
26 then the tax imposed by this Act applies to 100% of the

1 proceeds of sales of gasohol made during that time.

2 With respect to majority blended ethanol fuel, the tax
3 imposed by this Act does not apply to the proceeds of sales
4 made on or after July 1, 2003 and on or before December 31,
5 2013 but applies to 100% of the proceeds of sales made
6 thereafter.

7 With respect to biodiesel blends with no less than 1% and
8 no more than 10% biodiesel, the tax imposed by this Act applies
9 to (i) 80% of the proceeds of sales made on or after July 1,
10 2003 and on or before December 31, 2013 and (ii) 100% of the
11 proceeds of sales made thereafter. If, at any time, however,
12 the tax under this Act on sales of biodiesel blends with no
13 less than 1% and no more than 10% biodiesel is imposed at the
14 rate of 1.25%, then the tax imposed by this Act applies to 100%
15 of the proceeds of sales of biodiesel blends with no less than
16 1% and no more than 10% biodiesel made during that time.

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

22 With respect to food for human consumption that is to be
23 consumed off the premises where it is sold (other than
24 alcoholic beverages, soft drinks, and food that has been
25 prepared for immediate consumption) and prescription and
26 nonprescription medicines, drugs, medical appliances,

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

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

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

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

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

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

1 this paragraph, "over-the-counter-drug" means a drug for human
2 use that contains a label that identifies the product as a drug
3 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
4 label includes:

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

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

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. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
17 eff. 7-13-09; 96-1000, eff. 7-2-10; 96-1012, eff. 7-7-10.)

18 Section 15. The Service Use Tax Act is amended by changing
19 Section 3-10 as follows:

20 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

21 Sec. 3-10. Rate of tax. Unless otherwise provided in this
22 Section, the tax imposed by this Act is at the rate of 6.25% of
23 the selling price of tangible personal property transferred as
24 an incident to the sale of service, but, for the purpose of

1 computing this tax, in no event shall the selling price be less
2 than the cost price of the property to the serviceman.

3 Beginning on July 1, 2000 and through December 31, 2000 and
4 beginning again on July 1, 2011, with respect to motor fuel, as
5 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
6 as defined in Section 3-40 of the Use Tax Act, the tax is
7 imposed at the rate of 1.25%.

8 With respect to gasohol, as defined in the Use Tax Act, the
9 tax imposed by this Act applies to (i) 70% of the selling price
10 of property transferred as an incident to the sale of service
11 on or after January 1, 1990, and before July 1, 2003, (ii) 80%
12 of the selling price of property transferred as an incident to
13 the sale of service on or after July 1, 2003 and on or before
14 December 31, 2013, and (iii) 100% of the selling price
15 thereafter. If, at any time, however, the tax under this Act on
16 sales of gasohol, as defined in the Use Tax Act, is imposed at
17 the rate of 1.25%, then the tax imposed by this Act applies to
18 100% of the proceeds of sales of gasohol made during that time.

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

25 With respect to biodiesel blends, as defined in the Use Tax
26 Act, with no less than 1% and no more than 10% biodiesel, the

1 tax imposed by this Act applies to (i) 80% of the selling price
2 of property transferred as an incident to the sale of service
3 on or after July 1, 2003 and on or before December 31, 2013 and
4 (ii) 100% of the proceeds of the selling price thereafter. If,
5 at any time, however, the tax under this Act on sales of
6 biodiesel blends, as defined in the Use Tax Act, with no less
7 than 1% and no more than 10% biodiesel is imposed at the rate
8 of 1.25%, then the tax imposed by this Act applies to 100% of
9 the proceeds of sales of biodiesel blends with no less than 1%
10 and no more than 10% biodiesel made during that time.

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

18 At the election of any registered serviceman made for each
19 fiscal year, sales of service in which the aggregate annual
20 cost price of tangible personal property transferred as an
21 incident to the sales of service is less than 35%, or 75% in
22 the case of servicemen transferring prescription drugs or
23 servicemen engaged in graphic arts production, of the aggregate
24 annual total gross receipts from all sales of service, the tax
25 imposed by this Act shall be based on the serviceman's cost
26 price of the tangible personal property transferred as an

1 incident to the sale of those services.

2 The tax shall be imposed at the rate of 1% on food prepared
3 for 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 MR/DD Community Care Act, or the
7 Child Care Act of 1969. The tax shall also be imposed at the
8 rate of 1% on food for human consumption that is to be consumed
9 off the premises where it is sold (other than alcoholic
10 beverages, soft drinks, and food that has been prepared for
11 immediate consumption and is not otherwise included in this
12 paragraph) and prescription and nonprescription medicines,
13 drugs, medical appliances, modifications to a motor vehicle for
14 the purpose of rendering it usable by a disabled person, and
15 insulin, urine testing materials, syringes, and needles used by
16 diabetics, for human use. For the purposes of this Section,
17 until September 1, 2009: the term "soft drinks" means any
18 complete, finished, ready-to-use, non-alcoholic drink, whether
19 carbonated or not, including but not limited to soda water,
20 cola, fruit juice, vegetable juice, carbonated water, and all
21 other preparations commonly known as soft drinks of whatever
22 kind or description that are contained in any closed or sealed
23 bottle, can, carton, or container, regardless of size; but
24 "soft drinks" does not include coffee, tea, non-carbonated
25 water, infant formula, milk or milk products as defined in the
26 Grade A Pasteurized Milk and Milk Products Act, or drinks

1 containing 50% or more natural fruit or vegetable juice.

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

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

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

1 pieces. "Candy" does not include any preparation that contains
2 flour or requires refrigeration.

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

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

20 If the property that is acquired from a serviceman is
21 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.

1 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
2 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

3 Section 20. The Service Occupation Tax Act is amended by
4 changing Section 3-10 as follows:

5 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

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

24 Beginning on July 1, 2000 and through December 31, 2000 and

1 beginning again on July 1, 2011, with respect to motor fuel, as
2 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
3 as defined in Section 3-40 of the Use Tax Act, the tax is
4 imposed at the rate of 1.25%.

5 With respect to gasohol, as defined in the Use Tax Act, the
6 tax imposed by this Act shall apply to (i) 70% of the cost
7 price of property transferred as an incident to the sale of
8 service on or after January 1, 1990, and before July 1, 2003,
9 (ii) 80% of the selling price of property transferred as an
10 incident to the sale of service on or after July 1, 2003 and on
11 or before December 31, 2013, and (iii) 100% of the cost price
12 thereafter. If, at any time, however, the tax under this Act on
13 sales of gasohol, as defined in the Use Tax Act, is imposed at
14 the rate of 1.25%, then the tax imposed by this Act applies to
15 100% of the proceeds of sales of gasohol made during that time.

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

22 With respect to biodiesel blends, as defined in the Use Tax
23 Act, with no less than 1% and no more than 10% biodiesel, the
24 tax imposed by this Act applies to (i) 80% of the selling price
25 of property transferred as an incident to the sale of service
26 on or after July 1, 2003 and on or before December 31, 2013 and

1 (ii) 100% of the proceeds of the selling price thereafter. If,
2 at any time, however, the tax under this Act on sales of
3 biodiesel blends, as defined in the Use Tax Act, with no less
4 than 1% and no more than 10% biodiesel is imposed at the rate
5 of 1.25%, then the tax imposed by this Act applies to 100% of
6 the proceeds of sales of biodiesel blends with no less than 1%
7 and no more than 10% biodiesel made during that time.

8 With respect to 100% biodiesel, as defined in the Use Tax
9 Act, and biodiesel blends, as defined in the Use Tax Act, with
10 more than 10% but no more than 99% biodiesel material, the tax
11 imposed by this Act does not apply to the proceeds of the
12 selling price of property transferred as an incident to the
13 sale of service on or after July 1, 2003 and on or before
14 December 31, 2013 but applies to 100% of the selling price
15 thereafter.

16 At the election of any registered serviceman made for each
17 fiscal year, sales of service in which the aggregate annual
18 cost price of tangible personal property transferred as an
19 incident to the sales of service is less than 35%, or 75% in
20 the case of servicemen transferring prescription drugs or
21 servicemen engaged in graphic arts production, of the aggregate
22 annual total gross receipts from all sales of service, the tax
23 imposed by this Act shall be based on the serviceman's cost
24 price of the tangible personal property transferred incident to
25 the sale of those services.

26 The tax shall be imposed at the rate of 1% on food prepared

1 for immediate consumption and transferred incident to a sale of
2 service subject to this Act or the Service Occupation Tax Act
3 by an entity licensed under the Hospital Licensing Act, the
4 Nursing Home Care Act, the MR/DD Community Care Act, or the
5 Child Care Act of 1969. The tax shall also be imposed at the
6 rate of 1% on food for human consumption that is to be consumed
7 off the premises where it is sold (other than alcoholic
8 beverages, soft drinks, and food that has been prepared for
9 immediate consumption and is not otherwise included in this
10 paragraph) and prescription and nonprescription medicines,
11 drugs, medical appliances, modifications to a motor vehicle for
12 the purpose of rendering it usable by a disabled person, and
13 insulin, urine testing materials, syringes, and needles used by
14 diabetics, for human use. For the purposes of this Section,
15 until September 1, 2009: the term "soft drinks" means any
16 complete, finished, ready-to-use, non-alcoholic drink, whether
17 carbonated or not, including but not limited to soda water,
18 cola, fruit juice, vegetable juice, carbonated water, and all
19 other preparations commonly known as soft drinks of whatever
20 kind or description that are contained in any closed or sealed
21 can, carton, or container, regardless of size; but "soft
22 drinks" does not include coffee, tea, non-carbonated water,
23 infant formula, milk or milk products as defined in the Grade A
24 Pasteurized Milk and Milk Products Act, or drinks containing
25 50% or more natural fruit or vegetable juice.

26 Notwithstanding any other provisions of this Act,

1 beginning September 1, 2009, "soft drinks" means non-alcoholic
2 beverages that contain natural or artificial sweeteners. "Soft
3 drinks" do not include beverages that contain milk or milk
4 products, soy, rice or similar milk substitutes, or greater
5 than 50% of vegetable or fruit juice by volume.

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

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

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

- 14 (A) A "Drug Facts" panel; or
15 (B) A statement of the "active ingredient(s)" with a
16 list of those ingredients contained in the compound,
17 substance or preparation.
18 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
19 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

20 Section 25. The Retailers' Occupation Tax Act is amended by
21 changing Section 2-10 as follows:

22 (35 ILCS 120/2-10)

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

3 Beginning on July 1, 2000 and through December 31, 2000 and
4 beginning again on July 1, 2011, with respect to motor fuel, as
5 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
6 as defined in Section 3-40 of the Use Tax Act, the tax is
7 imposed at the rate of 1.25%.

8 Beginning on August 6, 2010 through August 15, 2010, with
9 respect to sales tax holiday items as defined in Section 2-8 of
10 this Act, the tax is imposed at the rate of 1.25%.

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

26 With respect to gasohol, as defined in the Use Tax Act, the

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

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

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

26 With respect to 100% biodiesel, as defined in the Use Tax

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

6 With respect to food for human consumption that is to be
7 consumed off the premises where it is sold (other than
8 alcoholic beverages, soft drinks, and food that has been
9 prepared for immediate consumption) and prescription and
10 nonprescription medicines, drugs, medical appliances,
11 modifications to a motor vehicle for the purpose of rendering
12 it usable by a disabled person, and insulin, urine testing
13 materials, syringes, and needles used by diabetics, for human
14 use, the tax is imposed at the rate of 1%. For the purposes of
15 this Section, until September 1, 2009: the term "soft drinks"
16 means any complete, finished, ready-to-use, non-alcoholic
17 drink, whether carbonated or not, including but not limited to
18 soda water, cola, fruit juice, vegetable juice, carbonated
19 water, and all other preparations commonly known as soft drinks
20 of whatever kind or description that are contained in any
21 closed or sealed bottle, can, carton, or container, regardless
22 of size; but "soft drinks" does not include coffee, tea,
23 non-carbonated water, infant formula, milk or milk products as
24 defined in the Grade A Pasteurized Milk and Milk Products Act,
25 or drinks containing 50% or more natural fruit or vegetable
26 juice.

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

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

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

1 flour or requires refrigeration.

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

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

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

19 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
20 eff. 7-13-09; 96-1000, eff. 7-2-10; 96-1012, eff. 7-7-10.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.