

1 AN ACT to amend the Illinois Municipal Code by adding  
2 Section 8-11-21.

3 Be it enacted by the People of the State of Illinois,  
4 represented in the General Assembly:

5 Section 5. The Illinois Municipal Code is amended by  
6 adding Section 8-11-21 as follows:

7 (65 ILCS 5/8-11-21 new)

8 Sec. 8-11-21. Municipal gas use tax.

9 (a) The corporate authorities of any municipality in  
10 this State may impose a use tax on the act or privilege of  
11 using or consuming gas within the corporate limits of that  
12 municipality that is purchased in a sale at retail. The  
13 ultimate incidence of and liability for payment of the tax is  
14 on the retail purchaser and nothing in this Section shall be  
15 construed to impose a tax on the occupation of distributing,  
16 supplying, furnishing, selling, or transporting gas. The  
17 rate of the use tax on gas imposed on a retail purchaser by a  
18 municipality under this Section shall not exceed \$0.02 per  
19 therm of gas used or consumed.

20 (b) The use tax authorized by subsection (a) of this  
21 Section may be levied only if the municipality does not then  
22 have in effect an occupation tax imposed on persons engaged  
23 in the business of distributing, supplying, furnishing, or  
24 selling gas, as authorized by Section 8-11-2.

25 (c) The retail purchaser shall pay the use tax  
26 authorized by this Section, measured by the amount of therms  
27 of all gas delivered to the retail purchaser's premises, and  
28 the use tax shall be collected by the public utility  
29 maintaining a place of business in this State and making or  
30 effectuating the final delivery of the gas subject to the use  
31 tax to the retail purchaser. Any use tax required to be

1 collected pursuant to an ordinance authorized by this Section  
2 and any such tax collected by a public utility shall  
3 constitute a debt owed by the public utility to the  
4 municipality. Public utilities shall collect the tax from the  
5 retail purchaser by adding the tax to the gross charge for  
6 the act or privilege of delivering the gas, in the manner  
7 prescribed by the municipality. The tax authorized by this  
8 Section shall constitute a debt of the retail purchaser to  
9 the public utility that delivers the gas until paid and, if  
10 unpaid, is recoverable at law in the same manner as the  
11 original charge for the delivery services. If the public  
12 utility fails to collect the use tax from the taxpayer, then  
13 the taxpayer is required to pay the use tax directly to the  
14 municipality in the manner provided by the municipality. The  
15 municipality imposing the use tax shall provide for its  
16 administration and enforcement.

17 (d) For purposes of the use tax described by this  
18 Section:

19 "Person" means any individual, firm, trust, estate,  
20 partnership, association, joint stock company, joint  
21 venture, corporation, limited liability company,  
22 municipal corporation, or political subdivision of this  
23 State or a receiver, trustee, conservator, or other  
24 representative appointed by order of any court.

25 "Public utility" means a public utility as defined  
26 in Section 3-105 of the Public Utilities Act.

27 "Retail purchaser" means any person who purchases  
28 gas in a sale at retail.

29 "Sale at retail" means any sale of gas by a retailer  
30 to a person for use or consumption, and not for resale.  
31 For this purpose, the term "retailer" means any person  
32 engaged in the business of distributing, supplying,  
33 furnishing, or selling gas.

34 (e) Public utilities filing tax returns with a

1 municipality under this Section shall, at the time of filing  
2 the return, pay to the municipality the amount of the tax  
3 collected under this Section, less a commission of 3.00%,  
4 which is allowed to reimburse the public utility for the  
5 expenses incurred in keeping records, billing the customer,  
6 preparing and filing returns, remitting the tax, and  
7 supplying data to the municipality upon request. No  
8 commission may be claimed by a public utility for tax not  
9 timely remitted to the municipality.

10 (f) If a person who receives gas in a municipality that  
11 imposes a use tax on gas under this Section claims to be a  
12 reseller of the gas and not a retail purchaser, that person  
13 shall apply to the municipality for a resale number. The  
14 applicant shall state facts that show the municipality why  
15 the applicant is not liable for tax under any ordinance  
16 authorized by this Section on the use of gas and shall  
17 furnish such additional information as the municipality may  
18 reasonably require. Upon approval of the application, the  
19 municipality shall assign a resale number to the applicant  
20 and shall certify that number to the applicant. The  
21 municipality may cancel any number that is obtained through  
22 misrepresentation, that is used to use or consume gas which  
23 in fact is not for resale, or that no longer applies because  
24 of the person's having discontinued the making of resales.  
25 Except as otherwise provided in this Section, the act or  
26 privilege of using or consuming gas in this State shall not  
27 be made tax-free on the ground of being delivered for resale  
28 unless the person has an active resale number from the  
29 municipality and furnishes that number to the public utility  
30 in connection with certifying to the public utility that any  
31 delivery to that person is non-taxable because of being a  
32 delivery for resale.

33 (g) A municipality that imposes a use tax upon gas under  
34 this Section and whose territory includes all or part of

1 another unit of local government or a school district may, by  
2 ordinance, exempt the other unit of local government or  
3 school district from those taxes.

4 (h) A municipality that imposes a use tax upon gas under  
5 this Section may, by ordinance, (i) reduce the rate of the  
6 tax for persons 65 years of age or older or (ii) exempt  
7 persons 65 years of age or older from the tax. Taxes related  
8 to such rate reductions or exemptions shall be rebated from  
9 the municipality directly to persons qualified for the rate  
10 reduction or exemption as determined by the municipality's  
11 ordinance.