

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Section Numbers: Proposed Action:
130.552 Amendment
- 4) Statutory Authority: 35 ILCS 120/3; 20 ILCS 2505/2505-795
- 5) A Complete Description of the Subjects and Issues Involved:

This rulemaking is proposed as part of an effort to eliminate the Department's telefile program. These rules currently require liquor retailers to file a monthly statement of liquor purchases on an ST-1 return that is telefiled. This amendment eliminates the requirement to telefile the ST-1 return and instead requires that liquor retailers filing their monthly statement of liquor purchases include this statement on an ST-1 return that is electronically filed. The rules specify that this change will be effective for returns due on and after February 1, 2012. The statute mandating that liquor retailers file a monthly statement allows the Department to adopt rules requiring the statement to be filed either electronically or telephonically. Originally, the Department chose to require telephonic filing. However, the number of telephonic filers has dropped significantly, while the number of electronic filers has increased significantly. Due to these factors, as well as budgetary constraints, the Department has chosen to discontinue its telefile program. These rules implement that determination. The rules, provide, however, that a taxpayer may petition for a waiver of the electronic filing requirement. The Department has made this accommodation for taxpayers that demonstrate they do not have access to the Internet.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect: No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

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- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Jerilynn Troxell-Gorden
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217) 782-2844

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Liquor retailers will be affected by this rulemaking.
 - B) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping.
 - C) Types of professional skills necessary for compliance: Bookkeeping; computer skills.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not on the July 2011 Agenda because it was unanticipated at the time.

The full text of the Proposed Amendment begins on the next page:

SUBPART E: RETURNS

Section 130.552 Alcoholic Liquor Reporting

- a) Retailer Liquor Report. *Beginning on October 1, 2003, any person that is engaged in the business of selling alcoholic liquor at retail through a liquor store, tavern, or restaurant shall file a monthly statement with the Department listing the total amount paid for alcoholic liquor purchased during the preceding calendar month.* The statement shall be filed on such person's Form ST-1, Sales and Use Tax Return, by including the total amount shown on invoices for alcoholic liquor delivered during the preceding calendar month. For returns due through January 31, 2012, such ~~Such~~ Form ST-1 Return shall be filed using the Department's TeleFile program (86 Ill. Adm. Code 770). For returns due on and after February 1, 2012, such Form ST-1 Return shall be filed by electronic means under the Department's electronic filing program in accordance with regulations at 86 Ill. Adm. Code 760.100. Upon petition by a taxpayer, the Department

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may waive the electronic filing requirement if the taxpayer demonstrates that it does not have access to the Internet. *The requirements of this subsection (a) shall not apply to any person who is a licensed distributor, importing distributor, or manufacturer as those persons are described in Sections 1-3.08, 1-3.15, and 1-3.16 of the Liquor Control Act of 1934.* The requirements of this subsection (a) shall not apply to any person who is required to make quarter monthly payments on the 7th, 15th, 22nd, and last day of each month under Section 3 of the Retailers' Occupation Tax Act. [35 ILCS 120/3] For purposes of this subsection (a):

- 1) "Liquor store" means any legal entity that is operated primarily to sell alcoholic liquor at retail to the public. To meet the primary test, the selling price of all the alcoholic liquor sold during a calendar year must exceed 50% of the selling price of all retail sales for that calendar year.
 - 2) "Tavern" means any legal entity that is operated to sell alcoholic liquor at retail to the public for on-premises consumption.
 - 3) "Restaurant" means any legal entity that is operated to sell food and alcoholic liquor at retail to the public for on-premises consumption.
- b) Distributor Liquor Report. *Beginning on October 1, 2003, every distributor, importing distributor, and manufacturer of alcoholic liquor, as those persons are described in Sections 1-3.08, 1-3.15, and 1-3.16 of the Liquor Control Act of 1934, shall file, in an electronic format prescribed by the Department, a statement with the Department of Revenue, no later than the 10th day of the month for the preceding month during which transactions occurred showing the total amount of gross receipts from the sale of alcoholic liquor sold or distributed during the preceding calendar month to purchasers; identifying the purchaser to whom it was sold or distributed; the purchaser's tax registration number; and such other information reasonably required by the Department. A copy of the monthly statement shall be provided to the retailer no later than the 10th day of the month for the preceding calendar month during which such transactions occurred.* In lieu of such a statement, a distributor, importing distributor, or manufacturer of alcoholic liquor may:
- 1) List a cumulative total of that distributor's, importing distributor's, or manufacturer of alcoholic liquor's total sales of alcoholic liquor to a retailer within that current calendar month on all invoices provided to that retailer; or
 - 2) No later than the 10th day of the month, provide by electronic means a cumulative total of that distributor's, importing distributor's, or manufacturer of alcoholic liquor's total sales of alcoholic liquor to that retailer for the prior calendar month, if the retailer agrees prior to the distributor, importing distributor, or manufacturer using such a method. For purposes of this paragraph, the term "electronic

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means" includes, but is not limited to, the use of a secure Internet website, e-mail, or facsimile.

The statement required to be filed with the Department under this subsection (b) shall be filed no later than the 10th day of the month for the preceding calendar month in an electronic format prescribed by the Department. If the distributor, importing distributor, or manufacturer files its Form RL-26, Liquor Revenue Return, electronically, the statement required to be filed under this subsection (b) may be filed in conjunction with the electronic filing of the Liquor Revenue Return no later than the 15th day of the month for the preceding calendar month. [35 ILCS 120/3]

(Source: Amended at 36 Ill. Reg. _____, effective _____)