

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Electronic Filing of Returns or Other Documents
- 2) Code Citation: 86 Ill. Adm. Code 760
- 3) Section Numbers: 760.100 Proposed Action: 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 provides that persons who sell alcoholic liquor and are required to file a monthly statement of liquor purchases as provided in Section 3 of the Retailers' Occupation Tax Act and 86 Ill. Adm. Code 130.552, must file the monthly statement on an ST-1 Return that is filed by electronic means in accordance with the provisions of Part 760. This rulemaking is part of an effort to repeal the Department's telefile program for liquor retailers. These amendments provide that electronic filing is required for returns due on and after February 1, 2012. The rules provide, however, that a taxpayer may petition the Department 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 proposed amendment replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed amendment contain incorporations by reference? No
- 10) Are there any other proposed amendment(s) pending on this Part: Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
760.100	Amendment	35 Ill. Reg. 16437, October 14, 2011

- 11) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

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- 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:

Section 760.100 Electronic Returns

- a) The Department has mandatory electronic filing programs and voluntary programs for certain returns and other documents that are required to be filed with the Department. Upon acceptance into the program, the returns, schedules, and other documents listed in this Section may be electronically filed with the Department.
- b) An electronic return or other document consists of data transmitted to the Department electronically, and may include paper documents that contain information that cannot be electronically transmitted or are requested for verification. In total, electronic returns must contain the same information as traditionally filed paper documents.
- c) Mandatory Programs
 - 1) Beginning January 1, 2003, telecommunications providers who have average monthly tax billings for the immediately preceding calendar year that exceed \$1000 must file their tax returns and supporting schedules electronically. Paper documents that contain information that cannot be electronically provided or are

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requested for verification must be mailed to the Department. The following circumstances require paper documentation:

- A) When a final return is electronically filed, the taxpayer must also mail a statement explaining the reasons for a final return (e.g., business sold or discontinued).
 - B) When a return and payment are made in protest in accordance with Section 2a.1 of the State Officers and Employees Money Disposition Act [30 ILCS 230/2a.1], the corresponding notice must be mailed to the Department.
 - C) When the taxpayer wishes to notify the Department of a change of address, the taxpayer must notify the Department by telephone or by mailing such change to the Department.
- 2) Beginning January 1, 2003, cigarette distributors with 30 or more invoice transactions per month and who are not voluntarily filing returns and schedules by electronic means are required to file supporting schedule data with the Department on computer-generated magnetic media in a format prescribed by the Department.
 - 3) Beginning with calendar year 2011, each income tax return preparer who is required during the calendar year to file by electronic means any federal income tax return for any individual or individuals and who prepared more than 100 Illinois income tax returns for individuals during the preceding calendar year is required during the calendar year to file by electronic means any Illinois income tax returns he or she prepares for the same individual or individuals for the same taxable year for which the preparer filed a federal income tax return during that calendar year. This subsection (c)(3) does not require electronic filing of amended returns or of returns of trusts or estates, or of any return the Department has announced cannot be filed by electronic means.
 - 4) Beginning with returns required to be filed for taxable years ending on or after December 31, 2011, any taxpayer required to file its federal income tax return by electronic means is required to file its equivalent Illinois income tax return for the same taxable year by electronic means. This subsection (c)(4) does not require electronic filing of amended returns or of returns of individuals or estates, or to any return the Department has announced cannot be filed by electronic means.

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- 5) Beginning with returns due on and after February 1, 2012, any person that is engaged in the business of selling alcoholic liquor at retail through a liquor store, tavern or restaurant and is required to file the monthly statement required by Section 3 of the Retailers' Occupation Tax [35 ILCS 120/3] and 86 Ill. Adm. Code 130.552, shall file such statement on a Form ST-1 Return that is filed by electronic means in accordance with the provisions of this Part. Upon petition by a taxpayer, the Department may waive the electronic filing requirement if the taxpayer demonstrates that it does not have access to the Internet.
- d) Voluntary Programs
- 1) Taxpayers may volunteer to participate in any electronic filing program currently in effect for mandatory electronic filers.
 - 2) Form ST-1, Sales and Use Tax Return, and Form ST-2, Multiple Site attachment for Form ST-1, can be transmitted electronically under the provisions of this Part.
 - 3) Beginning January 1, 2003, original or amended liquor tax returns and schedules for Liquor Tax participants may be filed electronically under the provisions of this Part.
 - A) Paper documents that contain information that cannot be electronically provided or are requested for verification must be mailed to the Department. They include:
 - i) Copies of schedules, invoices or bills of lading requested for verification in accordance with Section 8-2 of the Liquor Control Act of 1934 [235 ILCS 5/8-2].
 - ii) Non-Beverage User permits.
 - B) Beginning January 1, 2003, persons filing liquor tax returns and schedules electronically must also make payments by means of electronic funds transfer. See Section 760.220 of this Part. By doing so, the taxpayer is entitled to a discount of 1.75% of the tax due, or \$1,250, whichever is less, provided that the electronic return and payment are made timely in accordance with this Part.
 - C) Liquor tax participants may file their returns and schedules using magnetic media in a format prescribed by the Department. Liquor tax participants

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that file returns and schedules on magnetic media are not entitled to the discount provided for in subsection (d)(3)(B) of this Section.

- 4) Beginning January 1, 2003, original or amended cigarette tax returns and schedules for Cigarette Tax participants may be filed electronically under the provisions of this Part.
- 5) Illustrations of When Paper Documents Must Be Filed
 - A) In the event a final return is electronically filed, the taxpayer must also mail a statement explaining the reasons for a final return (e.g., business sold or discontinued).
 - B) In the event a return and payment are made in protest in accordance with Section 2a.1 of the State Officers and Employees Money Disposition Act [30 ILCS 230/2a.1], the corresponding notice must be mailed to the Department.
 - C) In the event the taxpayer wishes to notify the Department of a change of address, the taxpayer must notify the Department by telephone or by mailing such change to the Department.

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