

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Electricity Excise Tax Law
- 2) Code Citation: 86 Ill. Adm. Code 511
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
511.100	Amendment
511.110	Amendment
511.120	Amendment
511.125	New Section
511.140	Amendment
511.150	Amendment
511.200	Amendment
511.210	Amendment
511.220	Amendment
511.230	Amendment
511.300	Amendment
511.310	Amendment
511.320	Amendment
511.330	Amendment
511.340	New Section
511.350	New Section
511.360	New Section
- 4) Statutory Authority: Implementing and authorized by Section 2-14 of the Electricity Excise Tax Law [35 ILCS 640].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends sections of Part 511, Electricity Excise Tax Law, to update sections, reflect new statutory developments, and provide various technical changes.

Section 511.100 is amended to include additional statutory definitions.

Section 511.110 is amended to include additional statutory language regarding delivering suppliers' obligation to collect the tax.

Section 511.120 is amended to reflect the current obligations of delivering suppliers to make estimated tax payments and to make tax payments to the Department by electronic funds transfer.

A new Section 511.125 is added to address the taxation of electricity delivered at electric vehicle charging stations.

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Section 511.140 is amended to update the language on exclusions from tax, including the exclusions for Reimagining Energy Vehicle in Illinois ("REV Illinois") Act projects and Manufacturing Illinois Chips for Real Opportunity ("MICRO") Act projects enacted by P.A. 102-669 and P.A. 102-700, respectively.

Section 511.210 is amended to update the registration requirements for delivering suppliers.

Section 511.220 is amended to update the certificate of registration revocation provisions for delivering suppliers.

Section 511.230 is amended to make minor changes to returns and tax payment obligations for delivering suppliers.

Section 511.310 is amended to update the registration provisions for self-assessing purchasers.

Section 511.320 is amended to update the certificate of registration revocation provisions for self-assessing purchasers.

Section 511.330 is amended to make minor changes to returns and direct tax payment obligations for self-assessing purchasers.

A new Section 511.340 is added to address the obligations of delivering suppliers and self-assessing purchasers to maintain books and records.

A new Section 511.230 is added to identify the sections of the Retailers' Occupation Tax Act and Uniform Penalty and Interest Act that apply, as far as practicable, to the subject matter of Law to the same extent as if the provisions were included in the Law.

A new Section 511.360 is added to identify the penalties for violations of the Law and rules.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These rules do not create or enlarge a mandate as described in Section 3(b) of the State Mandates Act.
- 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:
- Alexis K. Overstreet
Deputy General Counsel
Sales and Excise Taxes
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
- (217) 782-2844
REV.GCO@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: It is not anticipated that small businesses, small municipalities, and not-for-profit corporations will be affected. This rulemaking simply implements new statutory developments and existing Department policies. No additional skills are required to comply. The amendments reflect the current administration and enforcement of the Electricity Excise Tax Law by the Department.
- B) Reporting, bookkeeping or other procedures required for compliance: No additional skills are required to comply.
- C) Types of professional skills necessary for compliance: No additional skills are required to comply.
- 14) Small Business Impact Analysis: It is not anticipated that there will be an adverse impact on small businesses
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2024

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

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

Section 511.110 Imposition of Tax

The Electricity Excise Tax Law imposes a tax on the privilege of using in this State electricity purchased for use or consumption (see 35 ILCS 640/2-4). The base and rate of the tax is dependent upon the type of supplier from which the electricity is obtained.

- a) **Electricity Purchased From Municipal Systems or Electric Cooperatives.** *A tax is imposed on the privilege of using in this State electricity purchased from a municipal system or electric cooperative, as defined in Article XVII of the Public Utilities Act, which has not made an election as permitted by either Section 17-200 (election to provide existing or future customers access to alternative retail electric suppliers) or Section 17-300 (election to be an alternative retail electric supplier) of the Public Utilities Act, at the lesser of 0.32 cents per kilowatt hour of all electricity distributed, supplied, furnished, sold, transmitted, and delivered by such municipal system or electric cooperative to the purchaser or 5% of each such purchaser's purchase price for all electricity distributed, supplied, furnished, sold, transmitted, and delivered by such municipal system or electric cooperative to the purchaser, whichever is the lower rate as applied to each purchaser in each billing period. [35 ILCS 640/2-4(b)]* Taxpayers who obtain their electricity or electric service from a supplier described in this Part may not elect to become a self-assessing purchaser as described in subsection (c) of this Section.

- b) **Other Suppliers.** *Except as provided in subsection (a) and (c), the tax is imposed on the privilege of using in this State electricity purchased for use or consumption and not for resale, other than by municipal corporations owning and operating a local transportation system for public service, at the following rates per kilowatt-hour delivered to the purchaser:*
 - 1) *For the first 2000 kilowatt-hours used or consumed in a month:
0.330 cents per kilowatt-hour;*
 - 2) *For the next 48,000 kilowatt-hours used or consumed in a month:
0.319 cents per kilowatt-hour;*
 - 3) *For the next 50,000 kilowatt-hours used or consumed in a month:
0.303 cents per kilowatt-hour;*
 - 4) *For the next 400,000 kilowatt-hours used or consumed in a month:
0.297 cents per kilowatt-hour;*

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 5) *For the next 500,000 kilowatt-hours used or consumed in a month: 0.286 cents per kilowatt-hour;*
- 6) *For the next 2,000,000 kilowatt-hours used or consumed in a month: 0.270 cents per kilowatt-hour;*
- 7) *For the next 2,000,000 kilowatt-hours used or consumed in a month: 0.254 cents per kilowatt-hour;*
- 8) *For the next 5,000,000 kilowatt-hours used or consumed in a month: 0.233 cents per kilowatt-hour;*
- 9) *For the next 10,000,000 kilowatt-hours used or consumed in a month: 0.207 cents per kilowatt-hour; and*
- 10) *For all electricity in excess of 20,000,000 kilowatt-hours used or consumed in a month: 0.202 cents per kilowatt-hour. c) In lieu of the foregoing rates in subsection (b), the tax is imposed on a self-assessing purchaser at the rate of 5.1% of the self-assessing purchaser's purchase price for all electricity distributed, supplied, furnished, sold, transmitted and delivered to the self-assessing purchaser in a month. [35 ILCS 640-2-4(a)]*
- d) *The tax required to be collected by any delivering supplier maintaining a place of business in this State, and any such tax collected by that person, shall constitute a debt owed by that person to this State, provided, that the delivering supplier shall be allowed credit for such tax related to deliveries of electricity the charges for which are written off as uncollectible, and provided further, that if such charges are thereafter collected, the delivering supplier shall be obligated to remit such tax. For purposes of this Section, any partial payment not specifically identified by the purchaser shall be deemed to be for the delivery of electricity. [35 ILCS 640/2-8]*

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 511.120 Electronic Fund Transfer and Estimated Payments

- a) Estimated payments
 - 1) *A taxpayer whose average monthly liability to the Department under the Law was \$10,000 or more during the preceding calendar*

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

year, excluding the month of highest liability and the month of lowest liability in such calendar year, and who is not operated by a unit of local government, shall make estimated payments to the Department on or before the 7th, 15th, 22nd and last day of the month during which tax liability to the Department is incurred in an amount not less than the lower of either 22.5% of such delivering supplier's actual tax liability for the month or 25% of such taxpayer's actual tax liability for the same calendar month of the preceding year. The amount of such quarter-monthly payments shall be credited against the final tax liability of such taxpayer's return for that month.

- 2) *An outstanding credit approved by the Department or a credit memorandum issued by the Department arising from such taxpayer's overpayment of the taxpayer's final tax liability for any month may be applied to reduce the amount of any subsequent quarter-monthly payment or credited against the final tax liability of such taxpayer's return for any subsequent month.*
- 3) *If any quarter-monthly payment is not paid at the time or in the amount required by this Section, such taxpayer shall be liable for penalty and interest on the difference between the minimum amount due as a payment and the amount of such payment actually and timely paid, except insofar as such taxpayer has previously made payments for that month to the Department in excess of the minimum payments previously due. [35 ILCS 640/2-9 and 2-11]*

b) Electronic funds transfer

- 1) *A taxpayer (other than an individual taxpayer) who has an annual tax liability of \$20,000 or more and an individual taxpayer who has an annual tax liability of \$200,000 or more shall make all payments of the tax to the Department by electronic funds transfer. For purposes of this subsection (b), the term "annual tax liability" means, except as provided in subsections (c) and (d) of Section 2505-210 of the Department of Revenue Law, the sum of the taxpayer's liabilities under the Law for the immediately preceding calendar year.*
- 2) *Before August 1 of each year, the Department will notify all taxpayers required to make payments by electronic funds transfer. All taxpayers required to make payments by electronic funds*

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

transfer shall make those payments for a minimum of one year beginning on October 1. [20 ILCS 2505/2505-210]

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 511.125 Electric Vehicle (EV) Charging Stations

- a) A "delivering supplier" is any person engaged in the business of delivering electricity to persons for use or consumption and not for resale. Where more than one person participates in the delivery of electricity to a specific purchaser, it is the last of the suppliers engaged in delivering the electricity prior to its receipt by the purchaser. A company selling electricity to a person operating an electric vehicle (EV) charging station that is selling electricity at retail to consumers is making a sale for resale and is not responsible for collecting and remitting the tax. A person that operates an EV charging station selling electricity at retail to consumers is the last supplier engaged in delivering electricity and is the delivering supplier for purposes of the Law. Such persons must register with the Department and collect and remit the tax to the Department based on kilowatt-hours used or consumed by customers.
- b) To document that a sale to an operator of an EV charging station is a sale for resale, a company is obligated to obtain a valid Certificate of Resale from the operator. A Certificate of Resale is a statement signed by the purchaser that the electricity purchased is purchased for purposes of resale. In addition to the statement that the electricity is being purchased for resale, a Certificate of Resale must contain:
 - 1) the seller's name and address;
 - 2) the operator's name and address;
 - 3) a statement that the electricity is being purchased for resale;
 - 4) the operator's signature, or the signature of an authorized employee or agent of the operator, and date of signing; and
 - 5) the operator's registration number.
- c) Persons making sales for resale may accept a Form CRT-61, Certificate of Resale or a Certificate of Resale that complies with the foregoing requirements. A blanket Certificate of Resale can be used to document sales for resale if the requirements for a valid Certificate of Resale are

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

met. A seller may accept a blanket Certificate of Resale from an operator if all an operator's purchases are made for resale. If an operator of an EV charging station knows that a certain percentage of all purchases from a given seller will be made for purposes of resale, a seller may accept a percentage Certificate of Resale specifying that a certain portion of the sales made by such seller to the operator will be made for purposes of resale. The information on a Certificate of Resale must be kept current.

- d) The seller is obligated to obtain a valid Certificate of Resale. If a seller has a question about the validity of a registration number that is submitted to it on a Certificate of Resale, it can verify the validity of the registration number by using "Verify a Registered Business" on the Department's website.
- e) All sales and delivery are presumed subject to tax collection unless the Department notifies the delivering supplier that the purchaser has been registered as a self-assessing purchaser. Operators of EV charging stations must collect the tax from purchasers by adding the tax to the amount of the purchase price for delivering electricity to the purchaser. When an operator of an EV charging station does not collect the tax from a purchaser, other than a self-assessing purchaser, such purchaser must pay the tax directly to the Department. [35 ILCS 640/2-7; 86 Ill. Adm. Code 511.200]
- f) When an operator of an EV charging station provides free electricity to a person, the operator is purchasing electricity for use and consumption, and the delivering supplier must collect the tax from the operator.

EXAMPLE: EV Company provides charging stations that are available to users of electric vehicles. EV Company purchases the electricity it sells through its charging stations from a local utility. EV Company's customers are charged for the electricity based on the number of kilowatts consumed charging their electric vehicles. EV Company provides prospective consumers free use of the Company's charging stations for a trial period. EV Company is responsible for paying the tax on all electricity it provides for free to prospective customers.

(Source: Added at 48 Ill. Reg. _____, effective _____)

Section 511.140 Public Utility Retail Rate Credit

Public utilities that are required to purchase electricity from qualified solid waste energy facilities and incur liability as delivering suppliers are entitled to a credit against their

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Electricity Excise Tax liability in an amount determined under Section 8-403.1(d) of the Public Utilities Act (220 ILCS 5/8-403.1(d)). (See 35 ILCS 640/2-7(b).)

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 511.150 Exclusions From Tax

- a) Federal Government. Electricity Excise Tax is not imposed *with respect to any transaction in interstate commerce, or otherwise, to the extent to which such transaction may not, under the Constitution and statutes of the United States, be made the subject of taxation by this State.* [35 ILCS 640/2-4(c)] For example, the federal government is not taxable under the Electricity Excise Tax Law. However, the State of Illinois and any other state or local government is subject to tax under the Electricity Excise Tax Law. Examples of the federal government include, but are not limited to, entities such as: the three main branches of government, the Executive, Legislative and Judicial, and the U.S. Postal Service. A sale of electricity to the federal courthouse would be exempt; however, a sale to a federal judge for his own use would not be exempt.
- b) Entities that are exempt from taxation by federal statute are not subject to Electricity Excise Tax liability. For example, federal credit unions are not subject to Electricity Excise Tax liability pursuant to 12 USC 1768. Further, Amtrak is not subject to Electricity Excise Tax liability pursuant to 49 USC 24301(l).
- c) Businesses Located in Enterprise Zones. *The tax imposed by 35 ILCS 640/2-4 is not imposed with respect to any use of electricity by business enterprises certified under Section 9-222.1 of the Public Utilities Act, as amended, to the extent of such exemption and during the time specified by the Department of Commerce and Economic Opportunity ("DCEO").* [35 ILCS 640/2-4(c)]
- d) Businesses Certified as High Impact Businesses. *The tax imposed by 35 ILCS 640/2-4 is not imposed with respect to any use of electricity by business enterprises certified under Section 9-222.1A of the Public Utilities Act, as amended, to the extent of such exemption and during the time specified by the DCEO.* [35 ILCS 640/2-4(c)] In order to qualify for the tax exemption under Section 2-4 of the Electricity Excise Tax Law, the business enterprise must be certified as a High Impact Business by the DCEO and must be registered with the Department of Revenue as a self-assessing purchaser under Section 2-10 of the Electricity Excise Tax Law. [220 ILCS 5/9-222.1A]

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- e) Reimagining Energy and Vehicles in Illinois ("REV Illinois") Act Project sites. *The tax imposed by 35 ILCS 640/2-4 is not imposed with respect to any use of electricity at a REV Illinois Project site that has received a certification for tax exemption from DCEO pursuant to Section 95 of the Reimagining Energy and Vehicles in Illinois Act, to the extent of such exemption, which shall be no more than 10 years. [35 ILCS 640/2-4(d)] DCEO may certify a taxpayer with a REV Illinois credit for a Project that meets the qualifications under Section paragraphs (1), (2), and (4) of subsection (c) of Section 20 of the REV Illinois Act, subject to an agreement under the REV Illinois Act for an exemption from the tax imposed at the project site by Section 2-4 of the Electricity Excise Tax Law. To receive such certification, the taxpayer must be registered to self-assess that tax. The taxpayer is also exempt from any additional charges added to the taxpayer's utility bills at the project site as a pass-on of State utility taxes under Section 9-222 of the Public Utilities Act. The taxpayer must meet any other criteria for certification set by the DCEO. [20 ILCS 686/95]*
- f) Manufacturing Illinois Chips for Real Opportunity (MICRO) Act Projects sites. *The tax imposed by 35 ILCS 640/2-4 is not imposed with respect to any use of electricity at a project site that has received a certification for tax exemption from the DCEO pursuant to Section 110-95 of the Manufacturing Illinois Chips for Real Opportunity (MICRO) Act ("MICRO Act"), to the extent of such exemption, which shall be no more than 10 years. [35 ILCS 640/2-4(e)] DCEO may certify a taxpayer with a credit for a project that meets the qualifications under paragraphs (1), (2), and (4) of subsection (c) of Section 110-20 of the MICRO Act, subject to an agreement under the MICRO Act, for an exemption from the tax imposed at the project site by Section 2-4 of the Electricity Excise Tax Law. To receive such certification, the taxpayer must be registered to self-assess that tax. The taxpayer is also exempt from any additional charges added to the taxpayer's utility bills at the project site as a pass-on of State utility taxes under Section 9-222 of the Public Utilities Act. The taxpayer must meet any other criteria for certification set by the DCEO. [35 ILCS 45/110-95]*
- g) Delivering suppliers are required to maintain documentation in their books and records to support the exemptions described in this Section. In order to document the exemptions listed in subsections (c) through (f) of this Section, delivering suppliers must maintain the current certificate of eligibility issued by the DCEO to the businesses claiming the exemption.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 511.200 Collection of Tax by Delivering Supplier

The tax imposed by the Law shall be collected from the purchaser, other than a self-assessing purchaser where the delivering supplier or suppliers are notified by the Department that the purchaser has been registered as a self-assessing purchaser as described in Section 511.300 of this Part, by any delivering supplier maintaining a place of business in this State.

- a) *All sales to a purchaser are presumed subject to tax collection unless the Department notifies the delivering supplier that the purchaser has been registered as a self-assessing purchaser for the accounts listed by the self-assessing purchaser as described in Section 511.300 of this Part. Upon receipt of notification by the Department, the delivering supplier is relieved of all liability for the collection and remittance of tax from the self-assessing purchaser for the accounts specifically listed by the self-assessing purchaser for which notification was provided by the Department. The delivering supplier is relieved of the liability for the collection of the tax from a self-assessing purchaser until such time as the delivering supplier is notified in writing by the Department that the purchaser's certification as a self-assessing purchaser is no longer in effect.*
- b) *Delivering suppliers shall collect the tax from purchasers by adding the tax to the amount of the purchase price received from the purchaser for delivering electricity for or to the purchaser. Where a delivering supplier does not collect the tax from a purchaser, other than a self-assessing purchaser, as provided in this Section, such purchaser shall pay the tax directly to the Department. [35 ILCS 640/2-7]*

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 511.210 Delivering Supplier Registration

- a) *A person who engages in business as a delivering supplier of electricity in this State shall register with the Department. Application for registration as a delivering supplier is made on Form REG-1, Illinois Business Registration Application.*
- b) *The Department may refuse to issue, reissue, or renew a certificate of registration authorized to be issued by the Department if a person who is named as the owner, a partner, a corporate officer, or, in the case of a*

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

limited liability company, a manager or member, of the applicant on the application for the certificate of registration, is or has been named as the owner, a partner, a corporate officer, or in the case of a limited liability company, a manager or member, on the application for the certificate of registration, permit, or license of a person that is in default for moneys due under the Law or any other tax or fee Act administered by the Department. For purposes of this Section only, in determining whether a person is in default for moneys due, the Department shall include only amounts established as a final liability within the 23 years prior to the date of the Department's notice of refusal to issue or reissue the certificate of registration, permit, or license. [20 ILCS 2505/2505-380(b)]

- c) *Any person aggrieved by any decision of the Department under this Section may, within 20 days after notice of such decision, protest and request a hearing, whereupon the Department shall give notice to such person of the time and place fixed for such hearing and shall hold a hearing in conformity with the provisions of the Law and then issue its final administrative decision in the matter to such person. In the absence of such a protest within 20 days, the Department's decision shall become final without any further determination being made or notice given. [35 ILCS 640/2-7.5]*

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 511.220 Revocation of Delivering Supplier Registration

- a) *The Department may, after notice and a hearing, revoke the certificate of registration of any person who violates any of the provisions of the Law. [35 ILCS 640/2-7.6]*
- b) *The Department has the power, after notice and an opportunity for a hearing, to revoke a certificate of registration issued by the Department if the holder of the certificate of registration fails to file a return, or to pay the tax, fee, penalty, or interest shown in a filed return, or to pay any final assessment of tax, fee, penalty, or interest, as required by the Law or any other tax or fee Act administered by the Department. [20 ILCS 2505/2505-380(a)]*
- c) *Before revocation of a certificate of registration, the Department shall, within 90 days after non-compliance and at least 7 days prior to the date of the hearing, give the person so accused notice in writing of the charge against the person, and on the date designated shall conduct a hearing upon this matter. The lapse of such 90-day period shall not preclude the*

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Department from conducting revocation proceedings at a later date if necessary. Any hearing held under this Section shall be conducted by the Director or by any officer or employee of the Department designated in writing by the Director. [35 ILCS 640/2-7.6]

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 511.230 Delivering Supplier Return

Return and payment of tax by delivering supplier.

- a) *Each delivering supplier who is required or authorized to collect the tax imposed by the Law shall make a return to the Department on or before the 15th day of each month for the preceding calendar month stating the following:*
- 1) *the delivering supplier's name and registration number;*
 - 2) *the address of the delivering supplier's principal place of business and the address of the principal place of business (if that is a different address) from which the delivering supplier engaged in the business of delivering electricity in this State;*
 - 3) *the total number of kilowatt-hours which the supplier delivered to or for purchasers during the preceding calendar month and upon the basis of which the tax is imposed;*
 - 4) *the amount of tax, computed on the number of kilowatt-hours in subsection (a)(3) at the rates stated in Section 511.110 of this Part;*
 - 5) *an adjustment for uncollectible amounts of tax in respect of prior period kilowatt-hour deliveries;*
 - 6) *the amount of credits to which the taxpayer is entitled on account of purchases made under Section 8-403.1 of the Public Utilities Act (220 ILCS 5/8-403.1);*
 - 7) *the gross receipts from sales of electricity that are taxed on a gross receipts basis under Section 511.110(a) of this Part and any non-taxable deductions from those gross receipts;*
 - 8) *the amount of any credits to be applied to the liability period of the return in addition to those listed in subsection (a)(6); and*

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 9) the signature of the taxpayer.
- b) In preparing the *return, the delivering supplier may use any reasonable method to derive reportable "kilowatt-hours" from the delivering supplier's records*. For example, one such method is basing reportable kilowatt-hours on the amount of electricity billed to customers during the preceding calendar month.
- c) *The delivering supplier making the return provided for in this Section shall pay to the Department the amount of tax imposed by the Electricity Excise Tax Law at the time of making such return.* [35 ILCS 640/2-9] Such return shall be made on the Department's Form RPU-13, Electricity Excise Tax Return. See Section 511.120 for an explanation when a delivering supplier must make estimated tax payments and must make all payments to the Department by electronic funds transfer.
- d) *Notwithstanding any other provision in the Law concerning the time within which a delivering supplier may file a return, any such delivering supplier who ceases to engage in a kind of business which makes the person responsible for filing returns under the Law shall file a final return under the Law with the Department not more than one month after discontinuing such business.* [35 ILCS 640/2-9]

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 511.300 Self-assessing Purchaser Election

- a) *Any purchaser for non-residential electric use may elect to register with the Department as a self-assessing purchaser and to pay the tax imposed by the Law directly to the Department, at the rate of 5.1% of the self-assessing purchaser's purchase price for all electricity distributed, supplied, furnished, sold, transmitted, and delivered to the self-assessing purchaser in a month, rather than paying the tax to such purchaser's delivering supplier.* [35 ILCS 640/2-10]
- b) *A purchaser may not elect to register to be a self-assessing purchaser for accounts where that purchaser's delivering supplier is a municipal system or electric cooperative, as defined in Article XVII of the Public Utilities Act, which has not made an election as permitted by either Section 17-200 (election to provide existing or future customers access to alternative retail electric suppliers) or Section 17-300 (election to be an alternative retail electric supplier) of the Act.* See Section 511.110 of this Part.

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- c) *The election by a purchaser to register as a self-assessing purchaser may not be revoked by the purchaser for at least 2 years after election. [35 ILCS 640/2-10]*

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 511.310 Self-assessing Purchaser Registration and Renewal, \$200 Fee

- a) *Any purchaser for non-residential electric use may elect to register with the Department as a self-assessing purchaser and to pay the tax imposed by 35 ILCS 640/2-4 directly to the Department, at the rate stated in that Section for self-assessing purchasers, rather than paying the tax to such purchaser's delivering supplier. [35 ILCS 640/2-10]* Application for a certificate of registration as a self-assessing purchaser shall be made to the Department upon Form REG-1, Illinois Business Registration Application, along with Schedule REG-1-D, Electricity Tax Self-Assessing Purchaser. Applicants must specify on Form REG-1 the date upon which the applicant wishes to become a self-assessing purchaser. Applicants must provide the properly completed application (Form REG-1 and Schedule REG-1-D) to the Department at least 30 days before the date they wish to become a self-assessing purchaser in order to give the Department sufficient time to process the application and forward a copy of the Schedule REG-1-D to the delivering suppliers listed on that Schedule.
- b) Applicants must identify on Schedule REG-1-D the delivering suppliers and each account with those delivering suppliers upon which the self-assessing purchaser has chosen to pay Electricity Excise Tax directly to the Department. The Department will then notify those delivering suppliers by sending a photocopy of the applicant's Schedule REG-1-D with a letter stating that the delivering supplier is no longer required to collect tax on those specified accounts. An applicant must complete separate Schedule REG-1-D for each delivering supplier if the applicant does not wish all of the applicant's account information disclosed to each delivering supplier.
- c) Self-assessing purchasers who want to add additional delivering supplier accounts or delete specific accounts must complete a new Schedule REG-1-D and submit it to the Department at the address listed on that Schedule at least 30 days before the date they wish to begin or cease self-assessing Electricity Excise Tax on those specified accounts. The

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Department will then notify those delivering suppliers by sending a photocopy of the applicant's revised Schedule REG-1-D.

- d) *Payment of Non-refundable Biennial Fee. Upon receipt of the application for a certificate of registration in proper form and payment of a non-refundable biennial fee of \$200, the Department shall issue to the applicant a certificate of registration that permits the person to whom it was issued to pay the tax incurred under the Law directly to the Department for a period of 2 years. [35 ILCS 640/2-10]*
- e) *A certificate of registration under this Section shall be renewed upon application and payment of a non-refundable biennial \$200 fee, subject to revocation as provided by the Law, for additional 2-year periods from the date of its expiration unless otherwise notified by the Department. Application for renewal must be received at least 30 days prior to the expiration date of the registration in order to give the Department sufficient time to process the application and forward a copy of the Schedule REG-1-D to the delivering suppliers listed on that Schedule. If the Department does not receive the renewal application at least 30 days prior to the expiration date of the registration, the registration will be deemed revoked as provided in Section 511.320 of this Part. This process for issuing a 30-day notice is necessary in order to give the Department sufficient time to forward a copy of the notice of revocation to the applicable delivering suppliers so that the delivering suppliers can begin collecting tax on the date they are required.*
- f) *The Department may deny a certificate of registration to any applicant if the owner, any partner, any manager or member of a limited liability company, or a corporate officer of the applicant, is or has been the owner, a partner, a manager or member of a limited liability company, or a corporate officer, of another self-assessing purchaser that is in default for moneys due under the Electricity Excise Tax Law. [35 ILCS 640/2-10]*
- g) *The Department may refuse to issue, reissue, or renew a certificate of registration authorized to be issued by the Department if a person who is named as the owner, a partner, a corporate officer, or, in the case of a limited liability company, a manager or member, of the applicant on the application for the certificate of registration, is or has been named as the owner, a partner, a corporate officer, or in the case of a limited liability company, a manager or member, on the application for the certificate of registration, permit, or license of a person that is in default for moneys due under the Law or any other tax or fee Act administered by the Department. For purposes of this Section only, in determining whether a person is in*

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

default for moneys due, the Department shall include only amounts established as a final liability within the 23 years prior to the date of the Department's notice of refusal to issue or reissue the certificate of registration, permit, or license. [20 ILCS 2505/2505-380(b)]

- h) *Any person aggrieved by any decision of the Department under this Section may, within 20 days after notice of such decision, protest and request a hearing, whereupon the Department shall give notice to such person of the time and place fixed for such hearing and shall hold a hearing in conformity with the provisions of the Law and then issue its final administrative decision in the matter to such person. In the absence of such a protest within 20 days, the Department's decision shall become final without any further determination being made or notice given. Upon the expiration, revocation, or denial of a certificate of registration as a self-assessing purchaser, the Department of Revenue shall provide written notice of the expiration, revocation, or denial of the certificate to the self-assessing purchaser's delivering supplier or suppliers. [35 ILCS 640/2-10]*

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 511.320 Self-assessing Purchaser Revocation

- a) *The election by a purchaser to register as a self-assessing purchaser may not be revoked by the purchaser for at least 2 years after election.*
- b) *A self-assessing purchaser shall renew their registration every 2 years, or the registration shall be deemed to be revoked. If the Department does not receive the renewal application at least 30 days prior to the expiration date of the registration, the registration will be deemed revoked.*
- c) *A purchaser who revokes their registration as a self-assessing purchaser shall not thereafter be permitted to register as a self-assessing purchaser within the succeeding 2 years. [35 ILCS 640/2-10]*
- d) *The Department may, after notice and a hearing, revoke the certificate of registration of any self-assessing purchaser who violates any of the provisions of the Electricity Excise Tax Law. [35 ILCS 640/2-10.6]*
- e) *The Department has the power, after notice and an opportunity for a hearing, to revoke a certificate of registration issued by the Department if the holder of the certificate of registration fails to file a return, or to pay the tax, fee, penalty, or interest shown in a filed return, or to pay any final assessment of tax, fee, penalty, or interest, as required by the Law or any*

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

other tax or fee Act administered by the Department. [20 ILCS 2505/2505-380(a)]

- f) *Before revocation of a certificate of registration, the Department shall, within 90 days after non-compliance and at least 7 days prior to the date of the hearing, give the person so accused notice in writing of the charge against him or her, and on the date designated shall conduct a hearing upon this matter. The lapse of such 90-day period shall not preclude the Department from conducting revocation proceedings at a later date if necessary. Any such hearing held shall be conducted by the Director or by any officer or employee of the Department designated in writing by the Director.* [35 ILCS 640/2-10.6]

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 511.330 Self-assessing Purchaser Return and Direct Payment

- a) *When electricity is used or consumed by a self-assessing purchaser subject to the tax imposed by the Law who did not pay the tax to a delivering supplier maintaining a place of business within this State and required or authorized to collect the tax, that self-assessing purchaser shall, on or before the 15th day of each month, make a return to the Department for the preceding calendar month, stating all of the following:*
- 1) *The self-assessing purchaser's name, principal address, and registration number.*
 - 2) *The aggregate purchase price paid by the self-assessing purchaser for the distribution, supply, furnishing, sale, transmission and delivery of such electricity to or for the purchaser during the preceding calendar month, including budget plan and other purchaser-owned amounts applied during such month in payment of charges includible in the purchase price, and upon the basis of which the tax is imposed. In making the return the self-assessing purchaser may use any reasonable method to derive reportable "purchase price" from the self-assessing purchaser's records.*
 - 3) *Amount of tax, computed upon the purchase price as outlined in subsection (a)(2) at the rate stated in Section 511.110(c) of this Part.*
 - 4) *The amount of any credits to be applied to the liability period of the return.*

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 5) The signature of the taxpayer.
- b) *The self-assessing purchaser making the return provided for in this Section must, at the time of making such return, pay to the Department the amount of tax imposed by the Law. See Section 511.120 for an explanation when a self-assessing purchaser must make estimated tax payments and must make all payments to the Department by electronic funds transfer.*
- c) *Any self-assessing purchaser who ceases to be responsible for filing returns under the Law shall file a final return with the Department not more than one month thereafter. [35 ILCS 640/2-11] Such return shall be made on the Department's Form RPU-13, Electricity Excise Tax Return.*

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 511.340 Books and Records

- a) *Every delivering supplier maintaining a place of business in this State who is obligated to collect and remit the tax imposed on a purchaser by the Law, and every self-assessing purchaser who is obligated to pay the tax imposed by the Law directly to the Department, shall keep books, records, papers and other documents which are adequate to reflect the information which such supplier or such self-assessing purchaser, as the case may be, is required by Section 2-9 or Section 2-11 of the Electricity Excise Tax Law to report to the Department by filing returns with the Department.*
- b) *All books and records and other papers and documents required by the Law to be kept shall be kept in the English language and shall, at all times during business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees.*
- c) *Books and records reflecting purchase price paid and kilowatt-hours delivered, used or consumed during any period with respect to which the Department is authorized to establish liability as provided in 35 ILCS 640/2-12 shall be preserved until the expiration of such period unless the Department, in writing, authorizes their destruction or disposal at an earlier date. [35 ILCS 640/2-13]*

(Source: Added at 48 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Section 511.350 Applicability of Retailers' Occupation Tax Act

All of the provisions of Sections 4 (except that the time limitation provisions shall run from the date when the tax is due rather than from the date when gross receipts are received), 5 (except that the time limitation provisions on the issuances of notices of tax liability shall run from the date when the tax is due rather than from the date when gross receipts are received and except that in the case of a failure to file a return required by the Law, no notice of tax liability shall be issued on and after each July 1 and January 1 covering tax due with that return during any month or period more than 6 years before that July 1 or January 1, respectively, and except that the 30% penalty provided for in Section 5 shall not apply), 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i and 5j of the Retailers' Occupation Tax Act, and Sections 6, 8, 9, 10 and 11 of the Public Utilities Revenue Act, which are not inconsistent with this Law, and the Uniform Penalty and Interest Act shall apply, as far as practicable, to the subject matter of the Law to the same extent as if such provisions were included herein. References in such incorporated Sections of the Retailers' Occupation Tax Act and Public Utilities Revenue Act and to taxpayers and to persons engaged in the business of selling tangible personal property at retail means both purchasers and delivering suppliers maintaining a place of business in this State, as required by the particular context, when used in the Law. References in such incorporated Sections of the Retailers' Occupation Tax Act and Public Utilities Revenue Act to gross receipts and to gross receipts received means purchase price or kilowatt-hours used or consumed by the purchaser, as required by the particular context. [35 ILCS 640/2-12]

(Source: Added at 48 Ill. Reg. _____, effective _____)

Section 511.360 Violations

Any purchaser or delivering supplier who is required to but fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of the Law or any rule or regulation of the Department for the administration and enforcement of the Law, is guilty of a business offense and, upon conviction thereof, shall be fined not less than \$750 nor more than \$7,500. [35 ILCS 640/2-16]

(Source: Added at 48 Ill. Reg. _____, effective _____)