

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
130.120	Amendment
130.320	Amendment
- 4) Statutory Authority: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Sections 2505-25 and 2505-795 of the Department of Revenue Law [20 ILCS 2505].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends Part 130, Retailers' Occupation Tax to enact changes made by P.A. 103-0009 which were not addressed in previous rulemaking.

Section 130.120 is amended to expand the exemption for materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft to include aircraft engines or power plants. Extends the exemption to December 31, 2029.

Section 130.320 is amended to incorporate various changes to dates as well as the percentages of proceeds subject to tax from sales of gasohol, majority blended ethanol fuel, and mid-range ethanol blends.

- 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
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Actions</u>	<u>Illinois Register Citations</u>
130.210	Amendment	48 Ill. Reg. 3576; March 15, 2024
130.215	Amendment	48 Ill. Reg. 3576; March 15, 2024
130.330	Amendment	48 Ill. Reg. 3576; March 15, 2024

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

130.1930	Amendment	48 Ill. Reg. 3576; March 15, 2024
130.1980	Amendment	48 Ill. Reg. 3576; March 15, 2024
130.2005	Amendment	48 Ill. Reg. 3576; March 15, 2024
130.2145	Amendment	48 Ill. Reg. 3576; March 15, 2024

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:

Thomas Grudichak
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: Businesses involved in the modification, replacement, repair, and maintenance of aircraft engines or power plants. Businesses involved in the sale of motor fuel.

B) Reporting, bookkeeping or other procedures required for compliance: Basic accounting and computer skills.

C) Types of professional skills necessary for compliance: Basic accounting and computer skills.

14) Small Business Impact Analysis:

A) Types of businesses subject to the proposed rule:

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

44-45 Retail Trade

B) Categories that the agency reasonably believes the rulemaking will impact, including:

- ii. regulatory requirements;
- iii. purchasing;
- viii. record keeping

15) Regulatory Agenda on which this rulemaking was summarized: January 2024

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

Section 130.120 Nontaxable Transactions

The tax does not apply to receipts from sales:

- a) of intangible personal property, such as shares of stocks, bonds, evidences of interest in property, corporate or other franchises and evidences of debt. These types of sales fall outside the scope of the Retailers' Occupation Tax Act;
- b) of real property, such as lands and buildings that are permanently attached to the land. These types of sales fall outside the scope of the Retailers' Occupation Tax Act;
- c) of tangible personal property for purposes of resale in any form as tangible personal property, provided that the purchaser (except in the case of an out-of-State purchaser who will always resell and deliver the property to his customers outside Illinois) has an active registration number or active resale number from the Department and gives the number to the vendor in connection with certifying to the vendor that the sale to the purchaser is nontaxable on the ground of being a sale for resale (see Subparts B and N of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- d) of personal services, where rendered as such (see various rules relating to particular service occupations); however, for information concerning the

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

tax on persons engaged in the business of making sales of service, see the Regulations pertaining to the Service Occupation Tax Act (86 Ill. Adm. Code 140). These types of sales fall outside the scope of the Retailers' Occupation Tax Act;

- e) that are within the protection of the Commerce Clause of the Constitution of the United States (see Subpart F of this Part). These types of sales fall outside the scope of the Retailers' Occupation Tax Act;
- f) that are isolated or occasional (see Section 130.110 of this Subpart). This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- g) of newspapers and magazines (see Section 130.2105 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- h) that are made to any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, or any not-for-profit corporation, society, association, foundation, institution or organization that has no compensated officers or employees and that is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this subsection only if the limited liability company is organized and operated exclusively for educational purposes (see Section 130.2005 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- i) that are made to any governmental body (see Section 130.2080 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- j) of low sulfur dioxide emission coal-fueled devices. This exemption existed prior to the enactment of Section 2-70 and will not sunset [35 ILCS 120/1a-1] (see Section 130.355 of this Part);
- k) *of fuel consumed or used in the operation of ships, barges or vessels that are used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering on this State if the fuel is delivered by the seller to the purchaser's barge, ship or vessel while it is*

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

afloat upon that bordering river [35 ILCS 120/2-5(24)] (see Section 130.315 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;

- l) of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce (see Section 130.340 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- m) except as otherwise provided in Section 130.605(b)(1)(C), of a motor vehicle in this State to a nonresident even though the motor vehicle is delivered to the nonresident in this State, if the motor vehicle is not to be titled in this State, and if a drive-away permit is issued to the motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code [625 ILCS 5/3-603], or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his home state (see Section 130.605). This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- n) until December 31, 2001, of merchandise in bulk when sold from a vending machine for 1¢; on and after January 1, 2002, of merchandise in bulk when sold from a vending machine for 50¢ or less (see 35 ILCS 120/1 and Section 130.2135 of this Part). These types of sales fall outside the scope of the Retailers' Occupation Tax Act;
- o) of food and beverages by a person who is the recipient of a grant or contract under Title VII of the Older Americans Act of 1965 (42 U.S.C. 3021) and serves meals to participants in the Federal Nutrition Program for the Elderly in return for contributions established in amount by the individual participant pursuant to a schedule of suggested fees as provided for in the Federal Act. This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- p) of farm chemicals (see Section 130.1955 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- q) of manufacturing machinery and equipment that qualifies for exemption under provisions of Section 130.330 of this Part. This exemption existed prior to the enactment of Section 2-70 and will not sunset;

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- r) of services included in gross receipts for purposes of the retailers' occupation tax and that are designated mandatory service charges by vendors of meals to the extent that the proceeds of the service charge are in fact turned over to the employees who would normally have received tips had the service charge policy not been introduced. Service charges that are used to fund or pay wages, labor costs, employee benefits or employer costs of doing business are taxable gross receipts. This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- s) *of tangible personal property sold to a purchaser if the purchaser is exempt from use tax by operation of federal law.* This exemption is statutorily exempt from the sunset provisions of Section 2-70. [35 ILCS 120/2-5(16)]
 - 1) For example, federal law prohibits sellers from charging tax to Amtrak when it purchases tangible personal property. However, federal law does not relieve the seller of retailers' occupation tax liability in these transactions. For that reason, the exemption set out in this subsection is necessary to relieve the seller of retailers' occupation tax liability when making sales of tangible personal property to Amtrak.
 - 2) The nontaxable transaction set out above is also applicable to local retailers' occupation tax imposed by municipalities, counties, the Regional Transportation Authority and Metro East Mass Transit District;
- t) *of farm machinery and equipment, both new and used including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture, or state or federal agricultural programs, including individual replacement parts for the machinery and equipment and including machinery and equipment purchased for lease* [35 ILCS 120/2-5(2)] (see Section 130.305). This exemption is statutorily exempt from the sunset provisions of Section 2-70;
- u) through June 30, 2003, and beginning again on September 1, 2004 through August 30, 2014, of *graphic arts machinery and equipment, including repair and replacement parts* [35 ILCS 120/2-5(4)] (see Section 130.325);

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- v) *a motor vehicle that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act. This exemption is statutorily exempt from the sunset provisions of Section 2-70. [35 ILCS 120/2-5(5)] Motor vehicles that qualify for this exemption are those that meet the definition of “automobile” under the Automobile Renting Occupation and Use Tax Act, including:*
 - 1) *any motor vehicle of the first division; or*
 - 2) *a motor vehicle of the second division which:*
 - A) *is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat;*
 - B) *is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code; or*
 - C) *has a Gross Vehicle Weight Rating, as defined in Section 1-124.5 of the Illinois Vehicle Code, of 8,000 pounds or less [35 ILCS 155/2];*
- w) *of personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois [35 ILCS 120/2-5(6)] (see Section 130.2006). This exemption existed prior to the enactment of Section 2-70 and will not sunset;*
- x) *of personal property sold to an Illinois county fair association for use in conducting, operating or promoting the county fair [35 ILCS 120/2-5(8)]. This exemption existed prior to the enactment of Section 2-70 and will not sunset;*
- y) *of personal property sold to any not-for-profit arts or cultural organization that establishes that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code (26 USCA 501) and that is organized and operated for the presentation or support of arts or cultural programming, activities, or services. On and after July 1, 2001, the qualifying*

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

organizations listed in this subsection (y) must also be organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations [35 ILCS 120/2-5(9)] (see Section 130.2004 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;

- z) *of personal property sold by a corporation, society, association, foundation, institution or organization that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise [35 ILCS 120/2-5(10)] (see Section 130.2008). This exemption existed prior to the enactment of Section 2-70 and will not sunset;*
- aa) *of legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America or the government of any foreign country and bullion [35 ILCS 120/2-5(18)], unless the items are transferred as jewelry and therefore subject to tax. This exemption existed prior to the enactment of Section 2-70 and will not sunset;*
- bb) *of photoprocessing machinery and equipment, including repair and replacement parts [35 ILCS 120/2-5(20)] (see Section 130.2000). This exemption existed prior to the enactment of Section 2-70 and will not sunset;*
- cc) *beginning July 1, 2003 and until July 1, 2028, of coal and aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Motor Vehicle Code. The Department, however, will not approve any claims or refunds on or after August 16, 2013, for taxes due or paid during the period beginning July 1, 2003 through August 16, 2013. [35 ILCS 120/2-5(21)] This exemption was to terminate by operation of the sunset provisions of Section 2-70 of the Retailers' Occupation Tax Act on August 15, 2018. Pursuant to P.A. 100-0594, effective June 29, 2018, the exemption provided in this*

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

subsection (cc) is extended until July 1, 2023. Pursuant to P.A. 102-0700, effective April 19, 2022, the exemption provided in this subsection (cc) is extended until July 1, 2028. [35 ILCS 120/2-5(21)] (see Sections 130.350 and 130.351);

- dd) *of fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers. Beginning July 1, 2013, the exemption applies to fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight that is engaged in foreign trade or is engaged in trade between the United States and any of its possessions and that transports at least one individual or package for hire from the city of origination to the city of final destination on the same aircraft, without regard to a change in the flight number of that aircraft. This exemption existed prior to the enactment of Section 2-70 of the Retailers' Occupation Tax Act and will not sunset. [35 ILCS 120/2-5(22)] (See Section 130.321.);*
- ee) *of semen used for artificial insemination of livestock for direct agricultural production. [35 ILCS 120/2-5(26)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and date of signing and a statement that the semen purchased will be used for artificial insemination of livestock for direct agricultural production. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit. This exemption existed prior to the enactment of the sunset provisions of Section 2-70 and will not sunset;*
- ff) *of a transaction in which the purchase order is received by a florist who is located outside Illinois, but who has a florist located in Illinois deliver the property to the purchaser or the purchaser's donee in Illinois [35 ILCS 120/2-5(23)]. This exemption existed prior to the enactment of Section 2-70 and will not sunset;*

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- gg) *of horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This exemption applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 for taxes paid during the period beginning May 30, 2000 and ending January 1, 2008 [35 ILCS 120/2-5(27)]. This exemption is statutorily exempt from the sunset provisions of Section 2-70;*
- hh) *effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001, of computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act [35 ILCS 120/2-5(36)] (see Section 130.2011). This exemption is statutorily exempt from the sunset provisions of Section 2-70;*
- ii) *effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001, of personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act [35 ILCS 120/2-5(37)] (see Section 130.2012). This exemption is statutorily exempt from the sunset provisions of Section 2-70;*
- jj) *of tangible personal property sold to a common carrier by rail or motor that receives the physical possession of the property in Illinois and that transports the property, or shares with another common carrier in the transportation of the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois [35 ILCS 120/2-5(17)]. This exemption existed prior to the enactment of Section 2-70 and will not sunset;*
- kk) Game Birds

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) beginning July 1, 1999 through August 15, 2011, of game or game birds purchased at:
 - A) a game breeding and hunting preserve area licensed by the Department of Natural Resources (see Section 3.27 of the Wildlife Code [520 ILCS 5/3.27]);
 - B) an exotic game hunting area licensed by the Department of Natural Resources (see Section 3.34 of the Wildlife Code [520 ILCS 5/3.34]); or
 - C) a hunting enclosure approved through rules adopted by the Department of Natural Resources;
 - 2) beginning August 16, 2011, of *game or game birds sold at a "game breeding and hunting preserve area" as that term is used in the Wildlife Code*. This exemption is statutorily exempt from the sunset provisions of Section 2-70;
- II) *beginning January 1, 2000, of personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This subsection (II) does not apply to fundraising events:*
- 1) *for the benefit of private home instruction; or*
 - 2) *for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity [35 ILCS 120/2-5(34)]. This exemption is statutorily exempt from the sunset provisions of Section 2-70;*
- mm) *of machinery or equipment used in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act. "High impact service facility" means a facility*

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

used primarily for the sorting, handling and redistribution of mail, freight, cargo, or other parcels received from agents or employees of the handler or shipper for processing at a common location and redistribution to other employees or agents for delivery to an ultimate destination on an item-by-item basis, and which:

- 1) *will make an investment in a business enterprise project of \$100,000,000 or more;*
 - 2) *will cause the creation of at least 750 to 1,000 jobs or more in an enterprise zone established pursuant to the Illinois Enterprise Zone Act; and*
 - 3) *is certified by the Department of Commerce and Economic Opportunity as contractually obligated to meet the requirements specified in subsection (mm)(1) and (2) within the time period as specified by the certification. The certificate of eligibility for exemption shall be presented by the business enterprise to its supplier when making the initial purchase of machinery and equipment for which an exemption is granted by Section 1j of the Act, together with a certification by the business enterprise that such machinery and equipment is exempt from taxation under Section 1j of the Act and by indicating the exempt status of each subsequent purchase on the face of the purchase order [35 ILCS 120/1i]. This exemption existed prior to the enactment of Section 2-70 and will not sunset;*
- nn) *beginning August 23, 2001 and through June 30, 2016, of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or a licensed facility as defined in the ID/DD Community Care Act [210 ILCS 47], the MC/DD Act [210 ILCS 46], or the Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49]. [35 ILCS 120/2-5(35-5)];*

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- oo) *beginning July 1, 2007, of an aircraft, as that term is defined in Section 3 of the Illinois Aeronautics Act, if all of the following conditions are met:*
- 1) *the aircraft leaves this State within 15 days after the later of either the final billing for the sale of the aircraft or the approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection, as required by 14 CFR 91.407;*
 - 2) *the aircraft is not based or registered in this State after the sale of the aircraft; and*
 - 3) *the seller retains documents as required by the Department. [35 ILCS 120/2-5(25-7)] (See Section 130.605) This exemption is statutorily exempt from the sunset provisions of Section 2-70;*
- pp) *effective October 11, 2007, of tangible personal property sold to a public-facilities corporation, as described in 65 ILCS 5/11-65-10, for purposes of constructing or furnishing a municipal convention hall. If, before October 11, 2007, a municipality has incorporated a public-facilities corporation and the public-facilities corporation complies with the requirements set forth in Section 11-65-10, then this exemption applies to that public-facilities corporation. [65 ILCS 5/11-65-10, 15 and 25 and 35 ILCS 120/2-5(41)]. This exemption is statutorily exempt from the sunset provisions of Section 2-70;*
- qq) *beginning January 1, 2008, of tangible personal property used in the construction or maintenance of certain community water supplies [35 ILCS 120/2-5(39)]. This exemption is statutorily exempt from the sunset provisions of Section 2-70;*
- rr) **Aircraft Maintenance**
- beginning January 1, 2010 through December 31, 2029, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft. However, until January 1, 2024, this exemption excludes any materials, parts,*

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films.

- 1) *Beginning January 1, 2010 and continuing through December 31, 2023, this exemption applies only to the sale of qualifying tangible personal property to persons who modify, refurbish, complete, replace, or maintain an aircraft and who hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, have a Class IV Rating, and conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations.*
- 2) *From January 1, 2024 through December 31, 2029, the exemption applies only to the use of qualifying tangible personal property by:*
 - A) *persons who modify, refurbish, complete, repair, replace, or maintain aircraft and who*
 - i) *hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration,*
 - ii) *have a Class IV Rating, and*
 - iii) *conduct operations in accordance with Part 145 of the Federal Aviation Regulations; and*
 - B) *persons who engage in the modification, replacement, repair, and maintenance of aircraft engines or power plants without regard to whether or not those persons meet the qualifications of item (rr)(2)(A).*

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 3) *It is the intent of the General Assembly that the exemption applies continuously from January 1, 2010 through December 31, 2024; however, no claim for credit or refund is allowed for taxes paid as a result of the disallowance of this exemption on or after January 1, 2015 and prior to February 5, 2020. [35 ILCS 120/2-5(40)]*
- ss) *effective July 12, 2006, of building materials to be incorporated into real estate within a River Edge Redevelopment Zone in accordance with the River Edge Redevelopment Zone Act by remodeling, rehabilitating, or new construction may deduct receipts from those sales when calculating the tax imposed by the Act [35 ILCS 120/2-54] (see Section 130.1954). This exemption is statutorily exempt from the sunset provisions of Section 2-70;*
- tt) *of electricity delivered to customers by wire; natural or artificial gas that is delivered to customers through pipes, pipelines, or mains; and water that is delivered to customers through pipes, pipelines, or mains. These provisions are declaratory of existing law as to the meaning and scope of the Retailers' Occupation Tax Act [35 ILCS 120/2]. These types of sales fall outside the scope of the Retailers' Occupation Tax Act;*
- uu) *effective on January 1, 2002 through June 30, 2016, tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State [35 ILCS 120/2-5(38)] (see 86 Ill. Adm. Code 150.310);*
- vv) *beginning January 1, 2017, through December 31, 2026, of menstrual pads, tampons, and menstrual cups [35 ILCS 120/2-5(42)].*
- ww) *Beginning July 1, 2022, breast pumps, breast pump collection and storage supplies, and breast pump kits. This exemption is statutorily exempt from the sunset provisions of Section 2-70. As used in this subsection (ww):*

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) *"Breast pump" means an electrically controlled or manually controlled pump device designed or marketed to be used to express milk from a human breast during lactation, including the pump device and any battery, AC adapter, or other power supply unit that is used to power the pump device and is packaged and sold with the pump device at the time of sale.*
- 2) *"Breast pump collection and storage supplies" means items of tangible personal property designed or marketed to be used in conjunction with a breast pump to collect milk expressed from a human breast and to store collected milk until it is ready for consumption.*
- 3) *"Breast pump collection and storage supplies" includes, but is not limited to: breast shields and breast shield connectors; breast pump tubes and tubing adapters; breast pump valves and membranes; backflow protectors and backflow protector adaptors; bottles and bottle caps specific to the operation of the breast pump; and breast milk storage bags.*
- 4) *"Breast pump collection and storage supplies" does not include: (1) bottles and bottle caps not specific to the operation of the breast pump; (2) breast pump travel bags and other similar carrying accessories, including ice packs, labels, and other similar products; (3) breast pump cleaning supplies; (4) nursing bras, bra pads, breast shells, and other similar products; and (5) creams, ointments, and other similar products that relieve breastfeeding-related symptoms or conditions of the breasts or nipples, unless sold as part of a breast pump kit that is pre-packaged by the breast pump manufacturer or distributor.*
- 5) *"Breast pump kit" means a kit that: (1) contains no more than a breast pump, breast pump collection and storage supplies, a rechargeable battery for operating the breast pump, a breastmilk cooler, bottle stands, ice packs, and a breast pump carrying case; and (2) is pre-packaged as a breast pump kit by the breast pump manufacturer or distributor.*

[P.A. 102-700, Article 70, Section 70-20, effective April 19, 2022];

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- xx) *Tangible personal property sold by or on behalf of the State Treasurer pursuant to the Revised Uniform Unclaimed Property Act. This exemption is statutorily exempt from the sunset provisions of Section 2-70. [P.A. 102-1026, Section 20, effective May 27, 2022]*

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

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.320 Gasohol, Majority Blended Ethanol, Biodiesel Blends, and 100% Biodiesel

- a) Effective January 1, 1990 and prior to July 1, 2003, sales of *gasohol*, as defined in Section 3-40 of the *Use Tax Act*, are subject to tax, based upon 70% of the proceeds of sales. On and after July 1, 2003 and on or before July 1, 2017, tax shall be based upon 80% of the proceeds from sales of gasohol. On and after July 1, 2017, and prior to January 1, 2024, tax shall be based upon 100% of the proceeds of sales of gasohol. On and after January 1, 2024, and prior to January 1, 2029, tax shall be based upon 90% of the proceeds of sales of gasohol. On and after January 1, 2029, tax shall be based upon 100% of the proceeds of sales of gasohol. *Effective July 1, 2003, if at any time, the tax under the Retailers' Occupation Tax Act (ROTA) on sales of gasohol is imposed at the rate of 1.25%, then the tax imposed by the Act applies to 100% of the proceeds of sales of gasohol made during that time. [35 ILCS 120/2-10]*
- b) *With respect to majority blended ethanol fuel, as defined in Section 3-44 of the Use Tax Act, the tax imposed by the ROTA does not apply to the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2028, but applies to 100% of the proceeds of sales made thereafter. [35 ILCS 120/2-10]*
- c) *With respect to biodiesel blends, as defined in Section 3-42 of the Use Tax Act, with no less than 1% and no more than 10% biodiesel, the tax imposed by the ROTA applies to 80% of the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2018 and 100% of the proceeds of sales made after December 31, 2018 and before January 1, 2024. On and after January 1, 2024 and on or before December 31, 2030, the taxation of biodiesel, renewable diesel, and biodiesel blends*

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

shall be as provided in Section 3-5.1 of the Use Tax Act which is reflected in subsection (e) of this Section. If at any time, however, the tax under the ROTA on sales of biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel is imposed at the rate of 1.25%, then the tax imposed by the ROTA applies to 100% of the proceeds of sales of biodiesel blends with no less than 1% and no more than 10% biodiesel made during that time. [35 ILCS 120/2-10]

- d) *With respect to biodiesel, as defined in Section 3-41 of the Use Tax Act, and biodiesel blends, as defined in Section 3-42 of the Use Tax Act, with more than 10% but no more than 99% biodiesel, the tax imposed by the ROTA does not apply to the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2023. On and after January 1, 2024 and on or before December 31, 2030, the taxation of biodiesel, renewable diesel, and biodiesel blends shall be as provided in Section 3-5.1 of the Use Tax Act which is reflected in subsection (e) below. [35 ILCS 120/2-10]*
- e) Tax rate on biodiesel, renewable diesel, and biodiesel blends, on January 1, 2024 through December 31, 2030.
 - 1) *On and after January 1, 2024 and on or before December 31, 2030, the taxes imposed by the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, or the Retailers' Occupation Tax Act apply to 100% of the proceeds of sales of (i) biodiesel blends with no less than 1% and no more than 10% of biodiesel and (ii) any diesel fuel containing no less than 1% and no more than 10% of renewable diesel. [35 ILCS 105/3-5.1(a)]*
 - 2) *From January 1, 2024 through March 31, 2024, the taxes imposed by the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, or the Retailers' Occupation Tax Act do not apply to the proceeds of sales of any diesel fuel containing more than 10% biodiesel or renewable diesel. [35 ILCS 105/3-5.1(b)]*
 - 3) *From April 1, 2024 through November 30, 2024, the taxes imposed by the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, or the Retailers' Occupation Tax Act do not apply to the proceeds of sales of any diesel fuel containing more than 13% biodiesel or renewable diesel. [35 ILCS 105/3-5.1(c)]*

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 4) *From December 1, 2024 through March 31, 2025, the taxes imposed by the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, or the Retailers' Occupation Tax Act do not apply to the proceeds of sales of any diesel fuel containing more than 10% biodiesel or renewable diesel. [35 ILCS 105/3-5.1(d)]*
- 5) *From April 1, 2025 through November 30, 2025, the taxes imposed by the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, or the Retailers' Occupation Tax Act do not apply to the proceeds of sales of any diesel fuel containing more than 16% biodiesel or renewable diesel. [35 ILCS 105/3-5.1(e)]*
- 6) *From December 1, 2025 through March 31, 2026, the taxes imposed by the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, or the Retailers' Occupation Tax Act do not apply to the proceeds of sales of any diesel fuel containing more than 10% biodiesel or renewable diesel. [35 ILCS 105/3-5.1(f)]*
- 7) *On and after April 1, 2026 and on or before November 30, 2030, the taxes imposed by the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, or the Retailers' Occupation Tax Act do not apply to the proceeds of sales of any diesel fuel containing more than 19% biodiesel or renewable diesel; except that, from December 1 of calendar years 2026, 2027, 2028, and 2029 through March 31 of the following calendar year, and from December 1, 2030 through December 31, 2030, the taxes imposed by the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, or the Retailers' Occupation Tax Act do not apply to the proceeds of sales of any diesel fuel containing more than 10% biodiesel or renewable diesel. [35 ILCS 105/3-5.1(g)]*
- f) *With respect to mid-range ethanol blends, as defined in Section 3-44.3 of the Use Tax Act, the tax imposed by the ROTA applies to 80% of the proceeds of sales made on or after January 1, 2024 and on or before December 31, 2028 and 100% of the proceeds of sales made after December 31, 2028. If, at any time, however, the tax under the ROTA on sales of mid-range ethanol blends is imposed at the rate of 1.25%, then the tax imposed by the ROTA applies to 100% of the proceeds of sales of mid-range ethanol blends made during that time. [35 ILCS 120/2-10]*

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

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