

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 150
- 3) Section Number: 150.105 Proposed Action:
Amendment
- 4) Statutory Authority: Implementing the Use Tax Act [35 ILCS 105] and authorized by Sections 2505-90 and 2505-795 of the Civil Administrative Code of Illinois. (Department of Revenue Law) [20 ILCS 2505].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends Part 105, Use Tax to enact changes made by P.A. 103-0009 which were not addressed in previous rulemaking.

Section 150.105 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? 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:

Thomas Grudichak
Illinois Department of Revenue
Legal Services Office
101 West Jefferson

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Springfield, Illinois 62794

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- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: 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:
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 Amendment begins on the next page:

Section 150.105 Rate and Base of Tax

- a) The rate of the use tax after December 31, 1989, is *6.25% of either the selling price or the fair market value, if any, of the tangible personal property involved.*
[35 ILCS 105/3-10]

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- 1) *In all cases where property functionally used or consumed is the same as the property that was purchased at retail, then the tax is imposed on the selling price of the property. [35 ILCS 105/3-10]*
 - 2) *In all cases where property functionally used or consumed is a by-product or waste product that has been refined, manufactured, or produced from property purchased at retail, then the tax is imposed on the lower of the fair market value, if any, of the specific property so used in this State or on the selling price of the property purchased at retail. [35 ILCS 105/3-10]*
 - 3) *For purposes of this Section "fair market value" means the price at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. The fair market value shall be established by Illinois sales by the taxpayer of the same property as that functionally used or consumed, or if there are no such sales by the taxpayer, then comparable sales or purchases of property of like kind and character in Illinois. [35 ILCS 105/3-10]*
 - 4) *If the property that is purchased at retail from a retailer is acquired outside Illinois and used outside Illinois before being brought to Illinois for use here and is nevertheless taxable under the Use Tax Act, the "selling price" on which the tax is computed shall be reduced by an amount which represents a reasonable allowance for depreciation for the period of such prior out-of-State use. [35 ILCS 105/3-10]*
- b) Effective January 1, 1990 and prior to July 1, 2003, sales of gasohol 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. 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 Use Tax Act on sales of gasohol is imposed at the rate of 1.25%, then the tax imposed by the Use Tax Act applies to 100% of the proceeds of sales of gasohol made during that time. [35 ILCS 105/3-10]*

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- c) On and after July 1, 2003 and on or before December 31, 2028, use tax does not apply to the proceeds of sales of majority blended ethanol fuel but applies to 100% of the proceeds of sales made thereafter. [35 ILCS 105/3-10]
- d) *With respect to biodiesel blends with no less than 1% and no more than 10% biodiesel, the tax imposed by the Use Tax Act 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 shall be as provided in Section 3-5.1 of the Use Tax Act, which is reflected in 86 Ill. Adm. Code 130.320. If, at any time, however, the tax under the Use Tax Act on sales of biodiesel blends 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 Use Tax Act 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 105/3-10]*
- e) *With respect to biodiesel and biodiesel blends with more than 10 but no more than 99% biodiesel, the tax imposed by the Use Tax Act 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, 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 86 Ill. Adm. Code 130.320. [35 ILCS 105/3-10]*
- f) *With respect to mid-range ethanol blends, the tax imposed by the Use Tax Act 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 thereafter. If, at anytime, however, the tax under the Use Tax Act on sales of mid-range ethanol blends is imposed at the rate of 1.25%, then the tax imposed by the Act applies to 100% of the proceeds of sales of mid-range ethanol blends made during that time. [35 ILCS 105/3-10]*

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