



## Illinois Department of Revenue

Legal Services Office  
101 W. Jefferson St. MC 5-500  
Springfield, IL 62794

### SECOND NOTICE OF PROPOSED RULEMAKING

- 1) Agency: Illinois Department of Revenue
- 2) Title and Ill. Adm. Code Citation of Proposed Rulemaking: Parking Excise Tax, 86 Ill. Adm. Code 195
- 3) Date, Issue, and page number of the Illinois Register in which the First Notice was published: February 16, Issue 7, 48 Ill. Reg. 2377
- 4) Text and Location of any Changes Made to the Proposed Rulemaking During the First Notice Period:
  - A. On line 739, "[35 ILCS 525/10-25]" has been changed to "[35 ILCS 525/15]". This is the proper citation for the statutory text in 86 Ill. Adm. Code 125(f).
  - B. After line 598, insert: "4) Any and all markups, service fees, convenience fees, facilitation fees, cancellation fees, overtime fees, or other such charges related to or incidental to obtaining the use or privilege of using a parking space in a parking area or garage that are added to the customer's invoice by a booking intermediary shall for tax purposes be treated in the same manner as a service charges in the examples in subsection (m)."
- 5) Final Regulatory Flexibility Analysis:
  - A. Summary of the issues raised by affected small businesses during the First Notice Period: No issues were raised by small businesses.
  - B. Description of actions taken on any alternatives to the proposed rule suggested by small businesses during the First Notice Period, including reasons for rejecting alternatives not utilized: No alternatives to the proposed rulemaking were proposed during the first notice period.
- 6) Analysis of the Economic and Budgetary Effects of the Proposed Rulemaking: An analysis of the economic effects of the proposed rulemaking is attached.
- 7) Response to Recommendations Made by the Administrative Code Division for Changes in the Rule to Make It Comply with the Codification Scheme: All changes requested by the Administrative Code Division have been made.

- 8) Evaluation of the comments received by the agency from interested persons during the first notice period (but not including any questions raised by the Joint Committee in a preliminary review) including:
- A. Date of any public hearing held during the first notice period. Name of the person or group requesting a hearing: No public hearing was requested.
  - B. The names and addresses of all individuals or groups making comments or requesting the opportunity to make comments:
    - i. Lindsay Sonenthal, Assistant Corporation Counsel, City of Chicago, 121 N. LaSalle, Suite 600, Chicago, IL 60602
    - ii. Keith Staats, Executive Director, Illinois Chamber of Commerce Tax Institute, 125 S. Clark Street, Suite 1700, Chicago, IL 60603
  - C. A list of all specific criticisms and suggestions raised in the comments:
    - i. The City of Chicago suggests that Section 195.110(m) be amended to include an example when a convenience fee is charged by a booking intermediary in addition to a service charge, state that the convenience fee shall be treated in the same manner as the service fee, and state that the convenience fee is also subject to Parking Excise Tax. The Department has responded by adding a new paragraph (4) to Section 195.110(m).
    - ii. The comments of the Chamber of Commerce Tax Institute generally support the Department of Revenue's proposed rules.
  - D. The agency's evaluation of each of the specific criticisms and suggestions: The Department supports the City of Chicago's comments and has added language to Section 195.110(m). The Chamber's comments did not provide any specific criticisms or suggestions.
  - E. A statement that the agency has considered all comments received during the first notice period: The Department of Revenue has considered all comments received during the first notice period.
- 9) An analysis of the expected effects of the proposed rulemaking, including:
- A. Impact on the public: The rulemaking implements the amendments to the Parking Excise Tax Act (35 ILCS 525) enacted by Public Act 102-700, Article 100, effective July 1, 2023, and Public Act 103-9, Article 20,

effective July 1, 2023. The amendments to the Parking Excise Tax Act clarify the imposition, collection, and remittance of the tax when booking intermediaries facilitate the use of parking spaces on behalf of registered and unregistered operators of parking areas and garages.

Section 195.100 is amended to explain the obligation of a booking intermediary to collect and remit the parking excise tax when it facilitates the use of a parking space in an area or garage operated by an unregistered operator.

Section 195.105 is amended to eliminate the definition of "charge or fee paid for parking" and amend the definition of "operator".

Section 195.110 is amended to explain how the tax is imposed on operators before July 1, 2023, and to explain how the tax is imposed on booking intermediaries and registered and unregistered operators beginning January 1, 2024.

Section 195.120 is amended to explain how the tax is collected and remitted to the Department by operators before July 1, 2023, and to explain how the tax is collected and remitted to the Department by booking intermediaries and registered and unregistered operators beginning January 1, 2024.

Section 195.125 is amended to explain when and how operators must file returns with the Department before July 1, 2023, and to explain when and how booking intermediaries and registered and unregistered operators must file returns with the Department beginning January 1, 2024.

Section 195.130 is amended to explain the obligation of booking intermediaries to maintain books and records.

Section 195.135 is amended to explain the obligation of booking intermediaries to register with the Department.

Section 195.140 is amended to explain the Department's rights to revoke the certificate of registration of a booking intermediary.

Section 195.150 is amended to explain that certain enumerated provisions of the Retailers' Occupation Tax Act and all provisions of the Uniform Penalty and Interest Act apply, as far as practicable, to booking intermediaries required to be registered under Section 10-30 of the Act.

B. Changes in the agency's programs or structure resulting from

implementation of the rulemaking: None.

- C. Impact of proposed rule on small businesses. Methods used by Agency to comply with 5 ILCS 100/5-30, including reasons for rejecting any methods not utilized: All booking intermediaries, large and small, in the business of facilitating the rental of parking spaces to consumers are affected by the rulemaking. The rulemaking is consistent with the Parking Excise Tax Act and imposes no requirements beyond those required by the Act. Affected taxpayers are already subject to the Act and have been since July 1, 2023, the effective date of Public Act 102-700 and Public Act 103-9. This rulemaking simply implements the statute, and no additional skills are required to comply. The Department is currently implementing the Parking Excise Tax Act as required by the statute, and therefore, the methods described in 5 ILCS 100/30 are not legal or feasible in meeting the requirements of the Parking Excise Tax Act. The Department published the proposed rulemaking in the Illinois Register and on the Department's website.

10) A justification and rationale for the proposed rulemaking, including:

- A. Any changes in statutory language requiring the proposed rulemaking: Public Act 102-700, Article 100, effective July 1, 2023, and Public Act 103-9, Article 20, effective July 1, 2023.
- B. Any changes in agency policy, procedures, or structure requiring the proposed rulemaking: None
- C. Relationship to any relevant federal rules, regulations, or funding requirements: None
- D. Court orders or rulings which are related to the rulemaking: None
- E. A complete explanation of any other reasons for the proposed rulemaking: No other reasons exist.

11) Does this rulemaking include an incorporation by reference pursuant to Section 5-75 of the Illinois Administrative Procedure Act? No.

Agency Personnel Who Will Respond to Joint Committee Questions Regarding the Proposed Rulemaking:

Alexis K. Overstreet  
Deputy General Counsel  
Sales and Excise Taxes

Second Notice of Proposed Rulemaking

Page 5

86 Ill. Adm. Code 195

Legal Services Office  
Illinois Department of Revenue  
101 W. Jefferson  
Springfield, Illinois 62794  
[REV.GCO@illinois.gov](mailto:REV.GCO@illinois.gov)

Phone: (217) 782-2844