

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: County Water Commission Service Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 640
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
640.101	Repeal
640.105	Repeal
640.110	Repeal
640.115	Repeal
640.120	Repeal
640.125	Repeal
640.130	Repeal
640.135	Repeal
- 4) Statutory Authority: Implementing Section 4(c) of the Water Commission Act of 1985 (Ill. Rev. Stat. 1989, ch. 111 2/3, par. 254(c)) and authorized by Section 39b3 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1989, ch. 127, par. 39b3).
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking repeals Part 640, County Water Commission Service Occupation Tax. Public Act 96-1389, effective June 29, 2010, terminated this tax on June 1, 2016.
- 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 repealer 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

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED REPEALER

rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Kimberly Rossini
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

(217) 782-7055
REV.GCO@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2023

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

Section 640.101 Nature and Rate of the County Water Commission Service Occupation Tax

- a) **Authority to Impose the Tax**
The Board of Commissioners of a County Water Commission is authorized to impose a tax upon all persons engaged in the business of making sales of service at a rate not to exceed ¼% of the selling price of tangible personal property transferred by such serviceman or person as an incident to a sale of service within the territory of the Commission as defined in Section 2 of the Water Commission Act of 1985. (Ill. Rev. Stat. 1987, ch. 111½, par. 252). Presently, the County Water Commission Service Occupation Tax is only imposed by the DuPage Water

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED REPEALER

Commission, and no other Commission has the authority to impose the tax.

- b) **Passing on the Tax**
The legal incidence of the County Water Commission Service Occupation Tax (Section 4 of the Water Commission Act of 1985, Ill. Rev. Stat. 1989, ch. 111 $\frac{2}{3}$ par. 254(c)) is on the serviceman. Nevertheless, the General Assembly has authorized persons subject to this tax to reimburse themselves for their serviceman's County Water Commission Service Occupation Tax liability by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax which servicemen are authorized to collect under the Service Use Tax Act (Ill. Rev. Stat. 1989, ch. 120, pars. 439.31 et seq.), pursuant to such bracket schedules as the Department of Revenue (Department) may prescribe (see 86 Ill. Adm. Code 150.TABLE A).
- c) **Exclusion from "Selling Prices"**
Any amount added by a supplier to the cost price of tangible personal property sold to a serviceman for retransfer as an incident to service because of the County Water Commission Service Occupation Tax or because of the Service Occupation Tax (Ill. Rev. Stat. 1989, ch. 120, pars. 439.101 et seq.) and reimbursing amounts collected pursuant to the Municipal Service Occupation Tax, the Home Rule Municipal Service Occupation Tax, the Home Rule County Service Occupation Tax and the Regional Transportation Authority Service Occupation Tax and collected from the purchasing serviceman, shall not be regarded as a part of the selling price which are subject to such County Water Commission Service Occupation Tax.
- d) **Ordinance Imposing Tax**
Any ordinance imposing a County Water Commission Service Occupation Tax or effecting a change in the rate thereof shall be effective on the first day of the calendar month next following the publication of such ordinance in a newspaper of general circulation in the territory and the filing of a certified copy of such ordinance with the State Department of Revenue, whereupon the Department of Revenue shall proceed to administer and enforce the County Water Commission Service Occupation Tax, Section 4 of the Water Commission Act of 1985 (Ill. Rev. Stat. 1989, ch. 111 $\frac{2}{3}$, par. 254) on behalf of the County Water Commission as of the effective date of the ordinance.

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED REPEALER

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

Section 640.105 Exemptions from the County Water Commission Service Occupation Tax

The County Water Commission Service Occupation Tax contains the same exemptions found in the Service Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 120, pars. 439.101 et seq.).

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

Section 640.110 Registration and Returns

- a) A serviceman's registration under the Service Occupation Tax Act or the Retailers' Occupation Tax Act (Ill. Rev. Stat. 1987, ch. 120, pars. 440 et seq.) is sufficient for the purposes of Section 4(c) of the Water Commission Act of 1985. No special registration for the County Water Commission Service Occupation Tax is required.
- b) Every serviceman must file a return each month if the serviceman is engaged in the business of selling tangible personal property incidental to providing a service in the territory of the Commission to which he owes County Water Commission Service Occupation Tax. However, the information required for the County Water Commission Service Occupation Taxes may be furnished on the taxpayer's Service Occupation Tax return form in the additional space that is provided on that form for reporting the County Water Commission Service Occupation Tax information.

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

Section 640.115 Claims to Recover Erroneously Paid Tax

- a) Incorporation by Reference

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED REPEALER

The provisions of Subpart N of the Service Occupation Tax (86 Ill. Adm. Code 140.Subpart N) shall apply to the extent specified in Section 640.125 of this Part.

- b) **Claims for Multiple Taxes**
If the claimant files a claim for refund on a transaction which was subject to State and local taxes administered by the Department, the claim need not be filed separately for each type of tax. A single claim for the total of all applicable taxes will suffice. The claim will be audited, heard, or otherwise processed as a single claim whenever possible. A single credit memorandum will be issued which may be used by the claimant or his authorized assignee to pay State or local tax liability

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

Section 640.120 Jurisdictional Questions

- a) If the Service Occupation Tax is collected on the transaction by the supplier from the purchasing serviceman for remittance to the Department by such supplier, the supplier shall also collect and remit County Water Commission Service Occupation Tax on the transaction if the supplier's place of business is located in the territory of the Commission.
- b) If the Service Occupation Tax on a transaction is being remitted directly to the Department by the serviceman rather than by a supplier, the serviceman shall also pay County Water Commission Service Occupation Tax to the Department on the same transaction if such serviceman's place of business is located in the territory of the Commission. This is true whether the serviceman bought the property in Illinois or outside Illinois.

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

Section 640.125 Incorporation of Service Occupation Tax Regulations by Reference

To avoid needless repetition, the substance and provisions of all Service Occupation Tax Regulations (86 Ill. Adm. Code 140), (whether characterized as Regulations, Articles, Subparts, Sections, or by some other designation), which are now in effect or

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED REPEALER

which may hereafter be amended or promulgated, except Subpart A as it pertains to rate and Subpart N as it pertains to the use of a credit memorandum to discharge State or Municipal Tax liability, are incorporated herein by reference and made a part hereof.

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

Section 640.130 Penalties, Interest and Procedures

All penalties (both civil and criminal), provisions concerning interest and procedures (such as the making of assessments, the venue and mode of conducting hearings, subpoenas, matters pertaining to judicial review and other procedural subjects), together with statutes of limitation, are the same under Section 4(c) of the Water Commission Act of 1985 as under the Service Occupation Tax Act.

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

Section 640.135 Effective Date

When a given County Water Commission Service Occupation Tax goes into effect, it applies to sales of service made in the course of the serviceman's engaging in the business of selling services within the territory of the Commission on or after the effective date of the ordinance imposing such tax. For this purpose, the date of the sale of service is deemed to be the date of the delivery, to the user, of the tangible personal property which the serviceman retransfers as an incident to service.

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