



## 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: Telecommunications Excise Tax, 86 Ill. Adm. Code 495.
- 3) Date, Issue, and page number of the Illinois Register in which the First Notice was published: 48 Ill. Reg. 8313; June 7, 2024
- 4) Text and Location of any Changes Made to the Proposed Rulemaking During the First Notice Period:

At lines 224-229, replace the following:

“Telecommunications that are purchased, used or sold by a telecommunications provider to enable users to connect to the Internet or to otherwise enable users to access content, information electronic mail, or other services offered over the Internet are exempt from tax due to the federal Internet Tax Freedom Act (47 U.S.C. 151) which preempts state and local governments from levying taxes on Internet access. 47 U.S.C. 151 note; 1101(a), and (d)(3)(D).”

With:

“Gross charges do not include charges for Internet access as defined in 47 U.S.C. 151.”

- 5) Final Regulatory Flexibility Analysis:
  - A. Summary of the issues raised by affected small businesses during the First Notice Period: Small business did not raise any issues during the First Notice Period.
  - 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: Not applicable.
- 6) Analysis of the Economic and Budgetary Effects of the Proposed Rulemaking: See 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: Public hearing was not requested.
  - B. The names and addresses of all individuals or groups making comments or requesting the opportunity to make comments:  
Nancy Riedel  
Sr. Director-State and Local Govt. Affairs, Tax Policy  
Verizon  
nancy.riedel@verizonwireless.com
  - C. A list of all specific criticisms and suggestions raised in the comments:  

“Thank you for the opportunity to submit comments on the proposed rule published in the June 7, 2024 edition of the Illinois Register modifying Title 86, Section 495.100 of the Illinois Administrative Code to comply with the Internet Tax Freedom Act, 47 U.S.C.A 151. We respectfully recommend striking the proposed change and the existing language in subsection m) of Section 495.100 Meaning of “Gross Charges” and simply replacing it with the following text: "m) Gross charges do not include charges for Internet access as defined in 47 U.S.C. sec. 151." We suggest this as the most complete reference to the Internet Tax Freedom Act to avoid any potential confusion due to inconsistencies. Thank you for your consideration.”
  - D. The agency's evaluation of each of the specific criticisms and suggestions:  
In response to the comment, the Department proposes the following language instead:  

“m) Gross charges do not include charges for Internet access as defined in 47 U.S.C. 151. For example, data plans provided by mobile or wireless telecommunications providers generally are subject to the federal moratorium.”
  - E. A statement that the agency has considered all comments received during the first notice period: Yes.

- 9) An analysis of the expected effects of the proposed rulemaking, including:
- A. Impact on the public: Certain charges are not included in gross charges and are not subject to the telecommunications excise tax. For instance, gross charges do not include charges for Internet access as defined in 47 USCA § 151. Gross charges also do not include charges to business enterprises certified under Section 9-222.1 of the Public Utilities Act, or under Section 95 of the Reimagining Energy and Vehicles in Illinois Act ("REV Illinois Act") (20 ILCS 686/1 et seq.), or under the Manufacturing Illinois Chips for Real Opportunity (MICRO) Act (35 ILCS 45/110-1 et seq.), to the extent of such exemption and during the period of time specified by the Department of Commerce and Economic Opportunity ("DCEO").
  - 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: Certain charges are not included in gross charges and are therefore not subject to the telecommunications excise tax. For instance, gross charges do not include charges for Internet access as defined in 47 USCA § 151. Gross charges also do not include charges to business enterprises certified under Section 9-222.1 of the Public Utilities Act, or under Section 95 of the Reimagining Energy and Vehicles in Illinois Act ("REV Illinois Act") (20 ILCS 686/1 et seq.), or under the Manufacturing Illinois Chips for Real Opportunity (MICRO) Act (35 ILCS 45/110-1 et seq.), to the extent of such exemption and during the period of time specified by the Department of Commerce and Economic Opportunity ("DCEO"). The Department is currently administering these exemptions as required by statute, and therefore, the methods described in 5 ILCS 100/30 are not legal or feasible in meeting the requirements of the Telecommunications 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: Section 495.100 is amended to comply with the Internet Tax Freedom Act, 47 USCA § 151. Statutory language regarding what is not included in gross charges is also inserted from the Telecommunications Excise Tax Act. This language, states among other things, that gross charges do not include charges to business enterprises certified under Section 9-222.1 of

the Public Utilities Act, or under Section 95 of the Reimagining Energy and Vehicles in Illinois Act ("REV Illinois Act") (20 ILCS 686/1 et seq.), or under the Manufacturing Illinois Chips for Real Opportunity (MICRO) Act (35 ILCS 45/110-1 et seq.), to the extent of such exemption and during the period of time specified by the Department of Commerce and Economic Opportunity ("DCEO").

- 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:

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