



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: Motor Fuel Tax, 86 Ill. Adm. Code 500
- 3) Date, Issue, and page number of the Illinois Register in which the First Notice was published: November 1, 2024, Issue 44, 48 Ill. Reg. 15350
- 4) Text and Location of any Changes Made to the Proposed Rulemaking During the First Notice Period: Attached.
- 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 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: None.
- 6) Analysis of the Economic and Budgetary Effects of the Proposed Rulemaking: The Agency's Analysis of the Economic and Budgetary 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 requested.
 - B. The names and addresses of all individuals or groups making comments or requesting the opportunity to make comments:

The Department received an ex parte communication via email from Steve Andersson of Nekritz Amdor Andersson Group on November 7, 2024. Mr. Andersson contacted Aaron Gold-Stein, Director of Legislative Affairs at IDOT by email on November 6, 2024. Mr. Andersson inquired about proposed rules that had been published in the Illinois Register that “appear to exempt aviation fuels from certain taxes.” Mr. Andersson asked if IDOT had any background information on the proposal and explained his client was “hoping to get some generalized information to understand the issue better.” Mr. Gold-Stein then forwarded Mr. Andersson’s email to Richard Sgro, Director of Legislative Affairs for IDOR, on November 7, 2024 and asked if Mr. Sgro had fielded questions from Mr. Andersson yet. Mr. Gold-Stein stated, “From our perspective this appears to be based on existing exemptions for taxes on aviation fuel outside of the state sales tax on aviation fuel and in line with the State’s approved plan to FAA in terms of compliance with FAA policy on airport revenue use.” This ex parte communication was reported to the Executive Ethics Commission by the Department’s Ethics Officer on November 18, 2024. The Report of Ex Parte Communication, copies of emails documenting the communications, and a copy of the Memorandum to the Executive Ethics Commission are attached.

- C. A list of all specific criticisms and suggestions raised in the comments: Mr. Andersson did not request any specific action regarding the rulemaking and only sought clarification on behalf of his client. Mr. Andersson sought background information on the rulemaking including the purpose of the rulemaking for a general understanding.
 - D. The agency's evaluation of each of the specific criticisms and suggestions: Mr. Sgro consulted with Legal Services to confirm the purpose of the rulemaking. Mr. Sgro responded to Mr. Gold-Stein on November 7, 2024 confirming that “the rulemaking relates to legislation that passed a number of years ago, so it is nothing new.” Mr. Sgro also provided the description of the rulemaking published in the Illinois Register.
 - E. A statement that the agency has considered all comments received during the first notice period: The Department has reviewed and considered all comments made during the first notice period.
- 9) An analysis of the expected effects of the proposed rulemaking, including:
- A. Impact on the public: Persons engaged in the business of selling motor fuel and aviation fuel are impacted by this rulemaking. This rulemaking incorporates the changes made by P.A. 101-0010, effective June 5, 2019, and P.A. 101-604, effective December 13, 2019, exempting aviation fuel

from the Motor Fuel Tax. This rulemaking also incorporates changes made by P.A. 103-0592, effective June 7, 2024, and P.A. 103-0995, effective August 9, 2024. Section 500.200 is amended to clarify how to calculate the percentage increase in the Consumer Price Index for purposes of any motor fuel tax increase. Section 500.202 is amended to extend the leaking underground storage tank tax through December 31, 2029.

- 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: This rulemaking has no impact on small businesses. This rulemaking incorporates the changes made by P.A. 101-0010, effective June 5, 2019, and P.A. 101-604, effective December 13, 2019, exempting aviation fuel from the Motor Fuel Tax. This rulemaking also incorporates changes made by P.A. 103-0592, effective June 7, 2024, and P.A. 103-0995, effective August 9, 2024. Section 500.200 is amended to clarify how to calculate the percentage increase in the Consumer Price Index for purposes of any motor fuel tax increase. Section 500.202 is amended to extend the leaking underground storage tank tax through December 31, 2029. Affected taxpayers are already subject to these requirements, and no additional skills are required to comply. The Department is currently handling these sales 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 Motor Fuel Tax Law. 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 Acts 101-0010, 101-0604, 103-0592, and 103-0995.
- 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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