

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Metro East Mass Transit District Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 370
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
370.101	Amendment
370.105	Amendment
- 4) Statutory Authority: Authorized by and implementing Section 5.01 of the Local Mass Transit District Act [70 ILCS 3610].
- 5) A Complete Description of the Subjects and Issues Involved: 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 Metro East Mass Transit District Retailers' Occupation Tax and providing new references regarding the low-rate items.
- 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:

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

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

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- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Persons making sales of aviation fuel at retail are affected.
 - 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:
 - 42 Wholesale Trade
 - 44-45 Retail Trade
 - 48-49 Transportation and Warehousing
 - 92 Public Administration
 - B) Categories that the agency reasonably believes the rulemaking will impact, including:
 - viii. record keeping
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2024

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

Section 370.101 Nature of thea Metro East Mass Transit District Retailers' Occupation Tax

- a) Authority to Impose Tax

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

The Board of Trustees of a Metro East Mass Transit District is authorized to impose a retailers' occupation tax upon all persons engaged in the business of selling tangible personal property at retail in the district at a rate of ¼%, or ¾% as authorized under 70 ILCS 3610/5.01(d-5), of the gross receipts from the sales made in the course of such business within the district. ~~on persons engaged in the business of selling tangible personal property at retail within the district as defined in Section 2(i) of the Local Mass Transit District Act (Ill. Rev. Stat. 1989, ch. 111½, par. 352), at a rate of 1/4¼% of the gross receipts from such sales made in the course of such business within the district.~~

- 1) However, the rate of tax imposed under this Section on sales of aviation fuel on or after December 1, 2019 in Madison County shall be 0.25% unless the Metro-East Mass Transit District in Madison County has an "airport-related purpose" and any additional amount authorized under 70 ILCS 3610/5.01(d-5) is expended for airport-related purposes. If there is no airport-related purpose to which aviation fuel tax revenue is dedicated, then aviation fuel is excluded from any additional amount authorized under 70 ILCS 3610/5.01(d-5).
- 2) The rate in St. Clair County shall be 0.25% unless the Metro-East Mass Transit District in St. Clair County has an "airport-related purpose" and the additional 0.50% of the 0.75% tax on aviation fuel imposed in that County is expended for airport-related purposes. If there is no airport-related purpose to which aviation fuel tax revenue is dedicated, then aviation fuel is excluded from the additional 0.50% of the 0.75% tax.
- 3) The Board must comply with the certification requirements for airport-related purposes under Section 2-22 of the Retailers' Occupation Tax Act [35 ILCS 120]. [70 ILCS 3610/5.01(b)] "Aviation fuel" means jet fuel and aviation gasoline. [35 ILCS 120/3] "Airport-related purposes" has the meaning ascribed in Section 6z-20.2 of the State Finance Act [30 ILCS 105]. This exclusion for aviation fuel under subsection (a)(1) only applies for so long as the revenue use requirements of 49 U.S.C. 47107(b) and 49 U.S.C. 47133 are binding on the District.

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

4) *The tax imposed under this Section and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the Department of Revenue. [70 ILCS 3610/5.01(b)]*

b) Passing on the Tax

The legal incidence of a Metro East Mass Transit District Retailers' Occupation Tax is on the seller. Nevertheless, the General Assembly has authorized *persons subject to this tax to reimburse themselves for their seller's tax liability by separately stating the tax as an additional charge, which charge may be stated in combination, in a single amount, with State taxes that sellers are required to collect under the Use Tax Act [35 ILCS 105], in accordance with such bracket schedules as the Department has prescribed. [70 ILCS 3610/5.01(b)]*~~persons subject to this tax to reimburse themselves for their sellers' Metro East Mass Transit District Retailers' 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 sellers are required to collect under the Use Tax Act and the additional charge authorized under the provisions of the Non-Home Rule Municipal Retailers' Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 24, par. 8-11-1.3), Home Rule Municipal Retailers' Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 24, par. 8-11-1) or Home Rule County Retailers' Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 34, par. 5-1006, pursuant to such bracket schedules as the Department may has prescribed. (See 86 Ill. Adm. Code 150.Table A).~~

c) Exclusion ~~from~~From "Gross Receipts"

Any amount added to the selling price of tangible personal property by the seller because of a Metro East Mass Transit District Retailers' Occupation Tax, ~~or because of the Retailers' Occupation Tax (Ill. Rev. Stat. 1989, ch. 120, pars. 440 et seq.), the Use Tax, or any other local occupation tax administered by the Department because of the Non-Home Rule Municipal Retailers' Occupation Tax, Home Rule Municipal or Home Rule County Retailers' Occupation Tax, or as Illinois Use Tax (Ill. Rev. Stat. 1989, ch. 120, par. 439.1 et seq.),~~ and collected from the purchaser, shall not be regarded as a part of the seller's gross receipts that are subject to such Metro East Mass Transit District Retailers' Occupation Tax.

(Source: Amended at 49 Ill. Reg. _____, effective _____)

Section 370.105 Registration and Returns

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- a) Separate Registration not Required
A retailer's registration under the ~~Illinois~~ Retailers' Occupation Tax Act [35 ILCS 120] is sufficient for the purposes of Section 5.01(b) of the Local Mass Transit District Act~~Metro East Mass Transit District~~. No special registration for a Metro East Mass Transit District Retailers' Occupation Tax is required.
- b) Requirements as to Returns
- 1) Every retailer must file a return each month for each district ~~that~~which has a Metro East Mass Transit District Retailers' Occupation Tax in effect that month if the retailer is engaged in the business of selling tangible personal property at retail within that district: Provided that if the retailer is permitted to file ~~its~~this Illinois Retailers' Occupation Tax returns quarterly, ~~the taxpayer's~~this Metro East Mass Transit District Retailers' Occupation Tax returns shall also be filed quarterly; and provided that if the retailer is permitted to file ~~its~~this Illinois Retailers' Occupation Tax returns annually, ~~the taxpayer's~~this Metro East Mass Transit District Retailers' Occupation Tax returns shall also be filed annually. However, the information required for the Metro East Mass Transit District Retailers' Occupation ~~Tax~~Taxes may be furnished on the ~~taxpayer's~~retailer's Illinois Retailers' Occupation Tax return form in the additional space that is provided on that form for reporting Metro East Mass Transit District Retailers' Occupation Tax information.
 - 2) If the retailer files ~~its~~this Illinois Retailers' Occupation Tax returns on the gross receipts basis, ~~the retailer~~he must also report Metro East Mass Transit District Retailers' Occupation Tax information in ~~its~~this returns on the ~~gross receipts~~same basis. If the retailer files ~~its~~this Illinois Retailers' Occupation Tax returns on the gross sales basis, ~~the retailer~~he must also report Metro East Mass Transit District Retailers' Occupation Tax information in ~~its~~this returns on the gross sales basis.
 - 3) Retailers required to make payment on the 7th, 15th, 22nd, and last day of the month during which liability is incurred as provided in Section 3 of the Retailers' Occupation Tax Act, are not required to

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

make such quarter-monthly payments of Metro East Mass Transit District Retailers' Occupation Tax.

- 4) Aviation fuel tax returns shall be filed in accordance with Section 3 of the Retailers' Occupation Tax Act and 86 Ill. Adm. Code 130.541, except that the retailer's discount is not allowed for taxes paid on aviation fuel that are subject to the revenue use requirements of 49 U.S.C. 47107(b) and 49 U.S.C. 47133. [70 ILCS 3610/5.01(b)]

(Source: Amended at 49 Ill. Reg. _____, effective _____)