

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Metro East Mass Transit District Service Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 380
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
380.101	Amendment
380.105	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 Service 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

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- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Persons transferring aviation fuel as incident to a sale of service 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 380.101 Nature of the Metro East Mass Transit District Service Occupation Tax

- a) Authority to Impose Tax

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- 1) ~~The If a Retailer's Occupation Tax is imposed, the Board of Trustees of a Metro East Mass Transit District is authorized to impose a service occupation tax upon all persons engaged in the business of making sales of service, who, as an incident to making those sales of service, transfer tangible personal property within the District, either in the form of tangible personal property or in the form of real estate as an incident to a sale of service. The tax rate shall be ¼%, or ¾% as authorized under 70 ILCS 3610/5.01(d-5), of the selling price of tangible personal property so transferred within the district. on persons engaged in the business of making sales of service within the Metro East Mass Transit 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 ¼% of the selling price of tangible personal property transferred as an incident to such sale of service within the District.~~
- 2) ~~However, the rate of tax imposed in these Counties under this Section on sales of aviation fuel on or after December 1, 2019, shall be 0.25% in Madison County 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). 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 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(c)] "Aviation fuel" means jet fuel and aviation gasoline. [35 ILCS 115/9] "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)(2) only applies for~~

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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.

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(c)]

b) Passing on the Tax

The legal incidence of the ~~Metro East~~ Metro East Mass Transit District Service Occupation Tax ~~(Ill. Rev. Stat. 1989, ch. 111 $\frac{2}{3}$, par. 355.01)~~ is on the serviceman. Nevertheless, the General Assembly has authorized persons subject to this tax to reimburse themselves for their serviceman'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 tax that servicemen are authorized to collect under the Service Use Tax Act [35 ILCS 110], pursuant to such bracket schedules as the Department has prescribed. [70 ILCS 3610/5.01(c)] ~~persons subject to this tax to reimburse themselves for their serviceman's Metro East Mass Transit District 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 has prescribed. (See 86 Ill. Adm. Code 150.Table A).~~

c) Exclusion ~~from~~From "Selling Prices"

Any amount added by a ~~serviceman~~ supplier to the selling price of tangible personal property ~~sold to a serviceman for retransfer~~ as an incident to service because of a Metro East Mass Transit District Service Occupation Tax, ~~or because of the Service Occupation Tax, the Service Use Tax, or any other local occupation tax administered by the Department (Ill. Rev. Stat. 1989, ch. 120, pars. 439.101 et seq.) and reimbursing amounts collected pursuant to Home Rule County Service Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 34, par. 5-1007) and Home Rule Municipal Service Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 25-24, par. 8-11-5), Non-Home Rule Municipal Service Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 24, par. 8-11-1.4) and collected from the purchasing serviceman,~~ shall not be regarded as a part of the selling price that is ~~prices which are~~ subject to such Metro East Mass Transit District Service Occupation Tax.

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

Section 380.105 Registration and Returns

- a) A serviceman's registration under the Service Occupation Tax Act [35 ILCS 115] or the Retailers' Occupation Tax Act [35 ILCS 120] ~~(Ill. Rev. Stat. 1979, ch. 120, pars. 440 et seq.)~~ is sufficient for the purposes of Section 5.01(c) of the Local Mass Transit District Act. No special registration for a Metro East Mass Transit District Service Occupation Tax is required.
- b) Every taxpayer must file a return each month for each district to which the taxpayer ~~he~~ owes Metro East Mass Transit District Service Occupation Tax. However, the information required for the Metro East Mass Transit District Service Occupation Tax ~~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 Metro East Mass Transit District Service Occupation Tax information.
- c) Aviation fuel returns shall be filed in accordance with Section 9 of the Service 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(c)]

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