

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Metro-East Park and Recreation District Service Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 396
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
396.101	Amendment
396.105	Amendment
- 4) Statutory Authority: Implementing the Metro-East Park and Recreation District Act [70 ILCS 1605] and authorized by Section 2505-795 of the Civil Administrative Code of Illinois. (Department of Revenue Law) [20 ILCS 2505/2505-795].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking incorporates the technical changes made by P.A. 100-117, effective January 1, 2019, related to how these rules describe the exemption of low-rate items from these local taxes. It also reflects 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 Park and Recreation 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:

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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:

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Section 396.101 Nature of the Metro-East Park and Recreation District Service Occupation Tax

a) Authority to Impose Tax

- 1) The Board of Directors of the Metro-East Park and Recreation District are authorized by the Metro-East Park and Recreation Act to impose a service occupation tax upon all persons engaged, in the District, 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 as an incident to a sale of service. [70 ILCS 1605/30(b)] This tax shall be imposed only at the rate of one-tenth of one percent (0.1%).
- 2) This tax may not be imposed on tangible personal property taxed at the 1% rate under the Service Occupation Tax Act [35 ILCS 115]. [70 ILCS 1605/30(b)] For guidance on the types of tangible personal property taxed at the 1% rate, see 86 Ill. Adm. Code 130.310 and 130.311.
- 3) Beginning January 1, 2021, this tax is not imposed on sales of aviation fuel 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. [70 ILCS 1605/30(b)] "Aviation fuel" means jet fuel and aviation gasoline. [35 ILCS 115/9]
- 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 1605/30(b)]

~~If a Metro-East Park and Recreation District Retailers' Occupation Tax is imposed under 86 Ill. Adm. Code 395, the board of directors of the Metro-East Park and Recreation District shall also impose a tax on persons engaged in the business of making sales of service within the Metro-East Park and Recreation District, if a proposition for the tax has been submitted to the electors of the county that creates or joins the district and approved by a majority of those voting on the question. If imposed, the tax shall only be imposed at a rate of ¹/₁₀ of 1%. The tax may not be imposed on the sale of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic~~

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~~beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics. The tax imposed by the board of directors under the Metro-East Park and Recreation District Act and this Part, and all civil penalties that may be assessed as an incident of that Act and this Part, shall be collected and enforced by the Illinois Department of Revenue (Department).~~

- b) Passing on the Tax
The legal incidence of the Metro-East Park and Recreation District Service Occupation Tax is on the serviceman. Nevertheless, the General Assembly has authorized persons subject to this tax to reimburse themselves for their serviceman's 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], in accordance with such bracket schedules as the Department has prescribed. [70 ILCS 1605/30(b)]~~persons subject to this tax to reimburse themselves for their Metro-East Park and Recreation District Service Occupation 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].~~
- c) Exclusion from "Selling Price-Cost Price"
Any amount added by a serviceman to the selling price of tangible personal property as an incident to service because of the Metro-East Park and Recreation District Service Occupation Tax, or because of the Illinois Service Occupation Tax [35 ILCS 115], the Service Use Tax, or any other local occupation tax administered by the Department~~the Home Rule Municipal Service Occupation Tax [65 ILCS 5/8-11-5], the Non-Home Rule Municipal Service Occupation Tax [65 ILCS 5/8-11-1.4], or the Metro East Mass Transit District Service Occupation Tax [70 ILCS 3610/5.01],~~ shall not be regarded as a part of the selling price that is~~prices that are~~ subject to the Metro-East Park and Recreation District Service Occupation Tax.

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

Section 396.105 Registration and Returns

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- a) A serviceman's registration under the Service Occupation Tax Act [35 ILCS 115] or the ~~Illinois~~ Retailers' Occupation Tax Act [35 ILCS 120] is sufficient for the purposes of Section 30(b) of the Metro-East Park and Recreation District Act. No special registration for the Metro-East Park and Recreation District Service Occupation Tax is required.

- b) The information required for the Metro-East Park and Recreation District Service Occupation Tax shall be furnished on the taxpayer's ~~Illinois~~ Service Occupation Tax return form.

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