

ILLINOIS REGISTER

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DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Special County Service Occupation Tax for Public Safety
- 2) Code Citation: 86 Ill. Adm. Code 680
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
680.101	Amendment
680.105	Amendment
- 4) Statutory Authority: Implementing Section 5-1006.5 of the Special County Occupation Tax for Public Safety Law of the Counties Code [55 ILCS 5/5-1006.5] and authorized by Section 2505-95 of the Civil Administrative Code of Illinois. (Department of Revenue Law) [20 ILCS 2505/2505-95].
- 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 Special County Service Occupation Tax for Public Safety 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 680.101 Nature of the Special County Service Occupation Tax ~~for~~For Public Safety, Public Facilities, Mental Health, Substance Abuse, or Transportation**

a) Authority to Impose Tax

- 1) Pursuant to Section 5-1006.5 of the Counties Code, if a retailers' occupation tax has been imposed under the Special County Occupation Tax for Public Safety, Public Facilities, Mental Health, Substance Abuse, or Transportation Law ("Special County Occupation Tax for Public Safety Law"), a service occupation tax shall also be imposed at the same rate upon all persons engaged, in the county, in the business of making sales of service, who, as an incident to making those sales of service, transfer tangible personal property within the county as an incident to a sale of service. [55 ILCS 5/5-1006.5(b)] If imposed, this tax shall be imposed only in one-quarter percent (¼%) increments. [55 ILCS 5/5-1006.5(a)] For purposes of this Section, "public safety" includes, but is not limited to, crime prevention, detention, fire fighting, police, medical, ambulance, or other emergency services. [55 ILCS 5/5-1006.5(i)]~~The County Board of any county with a population in excess of 180,000 inhabitants, as determined by the most recent decennial census, is authorized by Section 5-1006.5 of the Counties Code [55 ILCS 5/5-1006.5] (the Code) to impose a tax on all persons engaged in the business of making sales of service in such county, at the same rate of tax imposed pursuant to Section 5-1006.5 of the selling price of all tangible personal property transferred by such serviceman either in the form of tangible personal property or in the form of real estate as an incident to such sale of service to provide revenue to be used exclusively for public safety purposes in that county. "Public safety" includes, but is not limited to, fire fighting, police, medical ambulance, or other emergency services. If imposed, such tax shall only be imposed in ¼% increments. The tax imposed by a county under the Code and this Part, and all civil penalties that may be assessed as an incident thereof, shall be collected and enforced by the Illinois Department of Revenue (Department).~~
- 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].

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[55 ILCS 5/5-1006.5(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 county. [55 ILCS 5/5-1006.5(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. [55 ILCS 5/5-1006.5(b)]*

b) Passing on the Tax

~~Service~~men are required to collect the Special County Service Occupation Tax For Public Safety (when applicable) from purchasers of service in conformance with the requirements of the Service Occupation Tax Regulations (86 Ill. Adm. Code 140). The legal incidence of the Special County Service Occupation Tax ~~for~~For Public Safety is on the serviceman. Nevertheless, the General Assembly has authorized persons subject to this tax ~~persons subject to any tax imposed pursuant to the authority granted in the Special County Service Occupation Tax For Public Safety Law 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 115], in accordance with such bracket schedules as the Department has prescribed. [55 ILCS 5/5-1006.5(b)]~~ to reimburse themselves for their servicemen's Special County Service Occupation Tax For Public Safety 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 [35 ILCS 110], pursuant to such bracket schedules as the Department has prescribed (See 86 Ill. Adm. Code 150. Table A).

c) Exclusion from "Selling Price~~Cost Prices~~"

Any amount added by a serviceman to the selling price of tangible personal property as an incident to service because of a Special County Service Occupation Tax ~~for~~For Public Safety, ~~or because of the Illinois~~

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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], the Metro East Mass Transit District Service Occupation Tax [70 ILCS 3610/5.01], the Regional Transportation Authority Service Occupation Tax [70 ILCS 3615/4.03] or the County Water Commission Service Occupation Tax [70 ILCS 3720/4(c)]~~, shall not be regarded as a part of the selling price ~~that~~which is subject to such Special County Service Occupation Tax ~~for~~For Public Safety.

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

**Section 680.105 Registration and Returns**

- 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 1006.5(b) of the Special County Service Occupation Tax for~~For~~ Public Safety, Public Facilities, Mental Health, Substance Abuse, or Transportation Law ("Special County Occupation Tax for Public Safety Law"). No special registration for at~~the~~ Special County Service Occupation Tax ~~for~~For Public Safety is required.
- b) The information required for the Special County Service Occupation Tax ~~for~~For Public Safety shall be furnished on the taxpayer's ~~Illinois~~ Service Occupation Tax return form.
- c) ~~The provisions of the Service Occupation Tax Regulations (86 Ill. Adm. Code 140) shall apply to the tax imposed pursuant to this Part.~~

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