

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Metro-East Park and Recreation District Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 395
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
395.101	Amendment
395.105	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 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:

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:

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Section 395.101 Nature of the Metro-East Park and Recreation District Retailers' 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 District Act [70 ILCS 1605] to impose a tax upon all persons engaged in the business of selling tangible personal property, other than personal property titled or registered with an agency of this State's government, at retail in the District on the gross receipts from the sales made in the course of business. This tax shall be imposed only at the rate of one-tenth of one percent (0.1%).
- 2) This additional tax may not be imposed on tangible personal property taxed at the 1% rate under the Retailers' Occupation Tax Act [35 ILCS 120]. [70 ILCS 1605/30(a)] 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 sale 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(a)] "Aviation fuel" means jet fuel and aviation gasoline. [35 ILCS 120/3]
- 4) The tax imposed by the Board under this Section and all civil penalties that may be assessed as an incident of the tax shall be collected and enforced by the Department of Revenue. [70 ILCS 1605/30(a)]

~~The board of directors of the Metro-East Park and Recreation District are authorized by the Metro-East Park and Recreation District Act [70 ILCS 1605] to impose the Metro-East Park and Recreation District Retailers' Occupation Tax on all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property that is titled and registered by an agency of this State's government, at retail in the district on the gross receipts from sales made in the course of the business within the district, if a proposition for the tax has been submitted to the electors of the county that creates or joins the district and approved~~

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

~~by a majority of those voting on the question. If imposed, the tax shall only be imposed at a rate of $\frac{1}{40}$ 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 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 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 tax which sellers are required to collect under the Use Tax Act [35 ILCS 105], pursuant to such bracket schedules as the Department has prescribed. [70 ILCS 1605/30(a)] (See 86 Ill. Adm. Code 150. Table A).~~persons subject to any tax imposed pursuant to the authority granted in the Metro-East Park and Recreation District Act to reimburse themselves for their Metro-East Park and Recreation District Retailers' 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 sellers are required to collect under the Use Tax Act [35 ILCS 105].~~

c) Exclusion from "Gross Receipts"

Any amount added to the selling price of tangible personal property by the seller because of thea Metro-East Park and Recreation District Retailers' Occupation Tax, or because of the Illinois Retailers' Occupation Tax ~~[35 ILCS 120], the Use Tax, or any other local occupation tax administered by the Department~~the Illinois Use Tax [35 ILCS 105], the Home Rule Municipal Retailers' Occupation Tax [65 ILCS 5/8-11-1], the Metro-East Mass Transit District Retailers' Occupation Tax [70 ILCS 3610/5.01], or the Non-Home Rule Municipal Retailers' Occupation Tax Act [65 ILCS 5/8-11-1.3], and collected from the purchaser, shall not be regarded as a part

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

of the seller's gross receipts that are subject to the Metro-East Park and Recreation District Retailers' Occupation Tax.

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

Section 395.105 Registration and Returns

- 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 30(a) of the Metro-East Park and Recreation District Act. No special registration for the Metro-East Park and Recreation District Retailers' Occupation Tax is required.
- b) Requirements as to Returns
 - 1) The information required for the Metro-East Park and Recreation District Retailers' Occupation Tax shall be furnished on the Retailers' Occupation Tax return form filed by the retailer.
 - 2) If the retailer files ~~its~~ ~~Illinois~~ Retailers' Occupation Tax returns on the gross receipts basis, the retailer must also report Metro-East Park and Recreation District Retailers' Occupation Tax information on the ~~gross receipts~~ same basis. If the retailer files ~~its~~ ~~Illinois~~ Retailers' Occupation Tax returns on the gross sales basis, the retailer must also report Metro-East Park and Recreation District Tax information on the gross sales basis.

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