

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Motor Fuel Tax
- 2) Code Citation: 86 Ill. Adm. Code 500
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
500.200	Amendment
500.202	Amendment
500.203	Amendment
- 4) Statutory Authority: Implementing the Motor Fuel Tax Law [35 ILCS 505] and authorized by Section 2505-20 of the Civil Administrative Code of Illinois. (Department of Revenue Law) [20 ILCS 2505].
- 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 Motor Fuel Tax. This rulemaking also incorporates changes made by P.A. 103-0592, effective June 7, 2024, and P.A. 103-0995, effective August 9, 2024. Section 500.200 is amended to clarify how to calculate the percentage increase in the Consumer Price Index for purposes of any motor fuel tax increase. Section 500.202 is amended to extend the leaking underground storage tank tax through December 31, 2029.
- 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

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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
Springfield, Illinois 62794

REV.GCO@illinois.gov
(217) 782-2844

- 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

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

Section 500.200 Basis and Rate of the Motor Fuel Tax

- a) ~~The Motor Fuel Tax~~ The Motor Fuel Tax is imposed "on the privilege of operating motor vehicles upon the public highways, including toll roads, ~~including toll roads,~~ and recreational-type watercraft upon the waters of this State". [35 ILCS 505/2]
- 1) Motor fuel used in such motor vehicles upon public highways and in such recreational watercraft on public waters is taxed according to the following rate schedule; ~~Motor fuel used in such motor vehicles upon public highways and in such recreational watercraft on such waters is taxed according to the following rate schedule;~~ provided that, beginning July 1, 2017, the tax on compressed natural gas is imposed in cents per gasoline gallon equivalent ("GGE"), rather than in cents per gallon, and the tax on liquefied natural gas and propane is imposed in cents per diesel gallon equivalent ("DGE"), rather than in cents per gallon. The tax imposed on all motor fuel under this subsection (a)(1) is as follows:

<u>Tax Period</u> Tax Period	<u>Rate</u> Rate
Until August 1, 1983	7½¢ per gallon
From August 1, 1983 through June 30, 1984	11¢ per gallon
From July 1, 1984 through June 30, 1985	12¢ per gallon
From July 1, 1985 through June 30, 1989	13¢ per gallon
From August 1, 1989 through December 31, 1989	16¢ per gallon
From January 1, 1990 through June 30, 2019	19¢ per gallon
From July 1, 2019 through June 30, 2020	38¢ per gallon
From July 1, 2020 through June 30, 2021	38.7¢ per gallon
From July 1, 2021 through December 31, 2022	39.2¢ per gallon

On January 1, 2023, the rate of tax imposed in this subsection (a)(1)~~subsection (a)(1)~~ shall be increased by an amount equal

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to the percentage increase, if any, in the Consumer Price Index for All Urban Consumers for all items published by the United States Department of Labor for the ~~12 months~~12-month period ending ~~in~~ September ~~of~~30, 2022. On July 1, 2023, and on July 1 of each subsequent year ~~thereafter~~thereafter, the rate of tax imposed under this subsection (a)(1)~~under this subsection (a)(1)~~ shall be increased by an amount equal to the percentage increase, if any, in the Consumer Price Index for All Urban Consumers, for all items, published by the United States Department of Labor for the 12 months ending in March of the year in which the increase takes place. ~~—~~The percentage increase in the Consumer Price Index shall be calculated as follows: (1) calculate the average Consumer Price Index for the full 12 months ending in March of the year in which the increase takes place; (2) calculate the average Consumer Price Index for the full 12 months ending in March of the year immediately preceding the year in which the increase takes place; (3) calculate the percentage increase, if any, in the current-year average determined under item (1) over the preceding-year average determined under item (2) The rate shall be rounded up to the nearest one-tenth of one cent. [35 ILCS 505/2(a)]

- 2) *Through June 30, 2019*~~Through June 30, 2019~~, the tax on the privilege of operating motor vehicles ~~that~~~~that~~ use diesel fuel shall be the rate according to ~~subsection (a)(1)~~~~subsection (a)~~ plus an additional 2½ cents per gallon. [35 ILCS 505/2(b)] ~~On or after July 1, 2017, the additional tax under this subsection (a)(2) applies to liquefied natural gas and propane and is imposed in cents per DGE.; provided that, on and after July 1, 2017, the additional tax under this subsection (a)(2) applies to liquefied natural gas and propane and is imposed in cents per DGE. Beginning~~~~On and after July 1, 2019, the tax on the privilege of operating motor vehicles that~~~~that~~ use diesel fuel, ~~including~~ liquefied natural gas, ~~or and~~ propane, shall be the rate according to ~~subsection (a)(1)~~~~subsection (a)(1)~~ plus an additional 7½ cents per gallon. [35 ILCS 505/2(b)] ~~This total combined rate is as follows: This total combined rate is as follows:~~

Tax Period

Rate

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<u>Until August 1, 1983</u>	<u>7½¢ per gallon</u>
<u>From August 1, 1983 through June 30, 1984</u>	<u>13½¢ per gallon</u>
<u>From July 1, 1984 through June 30, 1985</u>	<u>14½¢ per gallon</u>
<u>From July 1, 1985 through July 31, 1989</u>	<u>15½¢ per gallon</u>
<u>From August 1, 1989 through December 31, 1989</u>	<u>18½¢ per gallon</u>
<u>From January 1, 1990 through June 30, 2019</u>	<u>21½¢ per gallon</u>
<u>From July 1, 2019 through June 30, 2020</u>	<u>45½¢ per gallon</u>
<u>From July 1, 2020 through June 30, 2021</u>	<u>46.2¢ per gallon</u>
<u>From July 1, 2021 through December 31, 2022</u>	<u>46.7¢ per gallon</u>
<u>On January 1, 2023, July 1, 2023, and on July 1 of each subsequent year thereafter, the total rate imposed under this subsection (a)(2) will be adjusted to reflect any increase under subsection (a)(1).</u>	

<i>Tax Period</i>	<i>Rate</i>
<i>Until August 1, 1983</i>	<i>7½¢ per gallon</i>
<i>From August 1, 1983 through June 30, 1984</i>	<i>13½¢ per gallon</i>
<i>From July 1, 1984 through June 30, 1985</i>	<i>14½¢ per gallon</i>
<i>From July 1, 1985 through July 31, 1989</i>	<i>15½¢ per gallon</i>
<i>From August 1, 1989 through December 31, 1989</i>	<i>18½¢ per gallon</i>
<i>From January 1, 1990 through June 30, 2019</i>	<i>21½¢ per gallon</i>
<i>From July 1, 2019 through June 30, 2020</i>	<i>45½¢ per gallon</i>
<i>From July 1, 2020 through June 30, 2021</i>	<i>46.2¢ per gallon</i>
<i>From July 1, 2021 through December 31, 2022</i>	<i>46.7¢ per gallon</i>

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~~On January 1, 2023, July 1, 2023, and on July 1 of each subsequent year thereafter, the total rate imposed under this subsection (a)(2) will be adjusted to reflect any increase under subsection (a)(1).~~

3) As used in this Section, "Consumer Price Index" means the index published by the Bureau of Labor Statistics of the United States Department of Labor that measures the average change in prices of goods and services purchased by all urban consumers, United States city average, all items, 1982-84 = 100. [35 ILCS 505/2]

b) ~~The Motor Fuel Use Tax~~ The Motor Fuel Use Tax ~~is imposed "upon the use of motor fuel upon highways, including toll ways, (including toll ways of this State) by commercial motor vehicles". The tax on such motor fuel shall be comprised of two parts::~~

1) A tax at the rate established in subsections (a)(1) and (a)(2); and A tax at the rate established in subsections (a)(1) and (a)(2); and

2) A rate shall be established by the Department as of January 1 of each year using the average "selling price", as defined in the Retailers' Occupation Tax Act, per gallon of motor fuel sold in this State during the previous 12 months and multiplying it by 6¼ ~~6.25%~~ to determine the cents per gallon rate. [35 ILCS 505/13a(2)](Section 13a(2) of the Law). The Department may use data derived from independent surveys conducted or accumulated by third parties to determine the average selling price per gallon of motor fuel. Third parties include, but are not limited to, commercial entities that collect data (available by contract or at no cost) regarding the selling price of motor fuel sold in this State on a per gallon basis.

c) Compressed Natural Gas ("CNG"). Compressed natural gas is subject to tax at the rate established in subsection (a)(1).

1) Calculation of Tax Through June 30, 2017. Because CNG cannot be measured in gallons, it must be converted to gallons using a conversion factor. For purposes of calculating tax under the Motor Fuel Tax Law, a gallon of CNG means a quantity of compressed

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natural gas equal to 126.67 cubic feet of natural gas at 60 degrees Fahrenheit and one atmosphere of pressure. In the alternative, it means a quantity of compressed natural gas that weighs 5.66 pounds.

- 2) Calculation of Tax ~~on~~^{On} and ~~after~~^{After} July 1, 2017. CNG is required to be sold in GGEs (Section 8 of the Weights and Measures Act; 225 ILCS 470). Tax is calculated at the rate established in subsection (a)(1) in cents per GGE. A GGE of compressed natural gas is ~~A GGE of compressed natural gas is defined as 5.660 pounds of compressed natural gas. [35 ILCS 505/1.8B]-(Section 1.8B of the Law).~~

- d) Liquefied Natural Gas ("LNG") and Propane. Through June 30, 2017, tax on LNG and propane is calculated at only the rate established in subsection (a)(1) and is imposed at cents per liquid gallon. However, on and after July 1, 2017, LNG and propane are also subject to the additional tax under subsection (a)(2), calculated in cents per DGE. A DGE of liquefied natural gas or propane is ~~A DGE of liquefied natural gas or propane is defined as 6.06 pounds of liquefied natural gas~~^{LNG} or 6.41 pounds of propane. [35 ILCS 505/1.8A]-(Section 1.8A of the Law). On and after July 1, 2017, LNG and propane are subject to the following restrictions:
 - 1) LNG and propane are required to be sold in DGEs; ~~and~~.
 - 2) If propane is not sold in DGEs, however, the measured gallon volumetric units must be converted to DGEs to properly calculate tax. In this case, the propane used as motor fuel shall be sold in actual measured gallon volumetric units, which shall then sold must be multiplied by 0.651 to determine the DGEs that are subject to tax under the Motor Fuel Tax Law. [225 ILCS 470/8]-(Section 8 of the Weights and Measures Act [225 ILCS 470]).

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

Section 500.202 Basis and Rate of Tax Payable by Receivers

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- a) *Except as hereinafter provided, on and after January 1, 1990 and before January 1, ~~2030~~2025, a tax of three-tenths of a cent per gallon is imposed upon the privilege of being a receiver in this State of fuel for sale or use.*
- b) *The tax shall be paid by the receiver in this State who first sells or uses fuel. In the case of a sale, the tax shall be stated as a separate item on the invoice.*
- c) *For the purpose of the tax imposed by ~~this Section~~this Section, being a receiver of "motor fuel" as defined by Section 1.1 of ~~the Act~~the Act, and aviation fuels, home heating oil and kerosene, but excluding liquified petroleum gases, is subject to tax without regard to whether the fuel is intended to be used for operation of motor vehicles on the public highways and waters. However, no such tax shall be imposed upon the importation or receipt of aviation fuels and kerosene at airports with over ~~300,000 operations per year, for years prior to 1991, and over~~ 170,000 operations per year ~~beginning in 1991~~, located in a city of more than 1,000,000 inhabitants for sale to or use by holders of certificates of public convenience and necessity~~Certificates of Public Convenience and Necessity~~ or foreign air carrier permits, issued by the United States Department of Transportation, and their air carrier affiliates, or upon the importation or receipt of aviation fuels and kerosene at facilities owned or leased by those certificate or permit holders and used in their activities at an airport described above. In addition, no such tax shall be imposed upon the importation or receipt of diesel fuel or liquefied natural gas sold to or used by a rail carrier, registered pursuant to Section 18c-7201 of the Illinois Vehicle Code [625 ILCS 5] or otherwise recognized by the Illinois Commerce Commission as a rail carrier, to the extent used directly in railroad operations. In addition, no such tax shall be imposed when the sale is made with delivery to a purchaser outside ~~this~~the State or when the sale is made to a person holding a valid license as a receiver. In addition, no tax shall be imposed upon diesel fuel or liquefied natural gas consumed or used in the operation of ships, barges, or vessels, that are used primarily in or for the transportation of property in interstate commerce for hire on rivers bordering on this State, if the diesel fuel or liquefied natural gas is delivered by a licensed receiver to the purchaser's barge, ship, or vessel while it is afloat upon that bordering river. A specific notation thereof shall be made on the invoices or sales slips covering each sale. (~~Section 2a of the Law~~)*

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- d) *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 State. [35 ILCS 505/2a] "Aviation fuel" means jet fuel and aviation gasoline. [35 ILCS 505/2b]*

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

Section 500.203 Monthly Returns

- a) Distributor, supplier, and receiver monthly returns. Monthly Motor Fuel Tax returns of licensed distributors, ~~and~~ suppliers, and receivers must be compiled correctly on forms furnished by the Department and must be filed, accompanied by a remittance for the correct amount of tax due, by the 20th day of the month following the month for which the return is made. Receipt schedules showing monthly receipts of motor fuel must always accompany the monthly return, as well as all other applicable schedules. ~~Receivers subject to the tax imposed by Section 2a of the Law must file returns by the 20th of each calendar month for fuel purchased, acquired or received and sold, distributed or used during the preceding calendar month.~~ On and after January 1, 2016, original returns and payment of tax shall be made electronically in accordance with rules established at 86 Ill. Adm. Code 750 and 760. Amended returns, however, are required to be filed electronically only for those periods, as provided in this subsection, for which original returns are electronically required. All other amended returns must be filed on a paper return.

- 1) *Distributors of motor fuel shall file returns with the Department between the 1st and 20th of each calendar month, showing:*

- A) *an itemized statement of the number of invoiced gallons of motor fuel of the types specified in Section 5 of the Motor Fuel Law which were:*

- i) *purchased, acquired, or received during the preceding calendar month;*
- ii) *produced, refined, compounded, manufactured, or blended during the preceding calendar month;*

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- iii) *sold, distributed, exported, or used by the licensed distributor during the preceding calendar month;*
 - iv) *lost or destroyed during the preceding calendar month; and*
 - v) *on hand at the close of business for the preceding calendar month; and*
 - B) *such other reasonable information as the Department may require. [35 ILCS 505/5]*
 - 2) *Suppliers of special fuel shall file returns with the Department between the 1st and 20th of each calendar month, showing:*
 - A) *an itemized statement of the number of invoiced gallons of special fuel:*
 - i) *acquired, received, or purchased during the preceding calendar month;*
 - ii) *sold, distributed, exported, and used by the licensed supplier during the preceding calendar month;*
 - iii) *lost or destroyed during the preceding calendar month; and*
 - iv) *on hand at the close of business for the preceding calendar month; and*
 - B) *such other reasonable information as the Department may require. [35 ILCS 505/5a]*
 - 3) *Receivers required to pay the tax imposed by Section 2a of the Motor Fuel Tax Law shall file returns with the Department between the 1st and 20th of each calendar month showing:*
 - A) *all fuel purchased, acquired, or received and sold, distributed, or used during the preceding calendar month*

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including losses of fuel as the result of evaporation or shrinkage due to temperature variations, and

B) such other reasonable information as the Department may require. [35 ILCS 505/2b]

- b) *If a distributor's only activities with respect to motor fuel are either production of alcohol in quantities of less than 10,000 proof gallons per year or blending alcohol in quantities of less than 10,000 proof gallons per year that the distributor has produced, ~~the distributor~~ ~~the distributor~~ shall file returns on an annual basis with the return for a given year being due by January 20 of the following year. Distributors whose total production of alcohol (whether blended or not) exceeds 10,000 proof gallons per year, based on production during the preceding (calendar) year or as reasonably projected by the Department if one calendar year's record of production cannot be established, shall file returns between the 1st and 20th days of each calendar month as provided in subsection (a). [35 ILCS 505/5] Original returns and payment of tax made under this subsection (b) may be made electronically beginning January 1, 2016. Amended returns, however, may only be filed electronically for those periods, as provided in this subsection, for which original returns may be filed electronically. All other amended returns must be filed on a paper return. ~~When the distributor has not established one calendar year's record of production, annual production will be projected on the basis of actual production and estimates submitted by the distributor. (Section 5 of the Law)~~*
- c) *Reporting and payment requirements for persons who produce biodiesel fuel or biodiesel blends for self-use.* ~~Reporting and payment requirements for persons who produce biodiesel fuel or biodiesel blends for self-use.~~
- 1) *Beginning July 1, 2007, notwithstanding any other reporting provisions of ~~the Law~~ ~~the Law~~, if a private biodiesel fuel producer's total gallonage that is taxable under Sections 2 and 2a of ~~the Law~~ ~~and Section 310 of the Environmental Impact Fee Law~~ ~~the Law and Section 310 of the Environmental Impact Fee Law~~ is less than 5,000 gallons per year, then ~~the producer~~ ~~he or she~~ must file returns and make payment of the tax imposed by Sections 2 and 2a of ~~the Law~~ ~~and the fee imposed under Section 310 of the Environmental Impact Fee Law~~ ~~the Law and the fee imposed under Section 310 of the Environmental Impact Fee Law~~ on an annual basis. The*

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returns and payment of tax for a given year are due by January 20 of the following year. [35 ILCS 505/2d(a)] Original returns and payment of tax made under this subsection (c)(1) may be made electronically beginning January 1, 2016. Amended returns, however, may only be filed electronically for those periods, as provided in this subsection (c)(1), for which original returns may be filed electronically. All other amended returns must be filed on a paper return.

- 2) *If a private biodiesel fuel producer's total gallonage that is taxable under Sections 2 and 2a of ~~the Law and Section 310 of the Environmental Impact Fee Law~~ the Law and Section 310 of the Environmental Impact Fee Law is 5,000 or more gallons per year, then ~~the producer~~ he or she must file returns and make payment of the tax imposed by Sections 2 and 2a of ~~the Law and Section 310 of the Environmental Impact Fee Law~~ the Law and Section 310 of the Environmental Impact Fee Law on a monthly basis. The returns and payment of tax are due between the 1st and 20th days of each calendar month for the preceding calendar month. [35 ILCS 505/2d(b)] Original returns and payment of tax made under this subsection (c)(2) shall be made electronically beginning January 1, 2016. Amended returns, however, are required to be filed electronically for only those periods, as provided in this subsection (c)(2), for which original returns are electronically required. All other amended returns must be filed on a paper return. However, upon petition by a taxpayer, the Department may waive the electronic filing and payment requirement if the taxpayer demonstrates that it does not have the ability to file electronically.*
- 3) *Except for persons required to be licensed under Section 13a.4 of ~~the Law~~ the Law, a person who is subject to the provisions of this subsection (c) ~~this subsection (c)~~ is exempt from all bonding and licensure requirements otherwise imposed ~~under the Law~~ by the Law. Each person who is subject to the provisions of this Section ~~this Section~~ must keep records as required by Section 12 of ~~the Law~~ the Law. [35 ILCS 505/2d(c)]*
- 4) For purposes of this subsection (c):

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"Biodiesel blend" has the meaning set forth under Section 3-42 of the Use Tax Act [35 ILCS 105/3-42].

"Biodiesel fuel" has the meaning set forth under Section 3-41 of the Use Tax Act [35 ILCS 105/3-41].

"Biomass materials" has the meaning set forth under Section 3-43 of the Use Tax Act [35 ILCS 105/3-43].

"Private biodiesel fuel producer" means a person whose only activities with respect to motor fuel are:

the conversion of any biomass materials into biodiesel fuel that is produced exclusively for personal use and not for sale; or

the blending of biodiesel fuel, resulting in biodiesel blends that is produced exclusively for personal use and not for sale (Section 2d of the Law). [35 ILCS 505/2d(d)]

- d) ~~Magnetic Schedule~~ Support Data. ~~Beginning October 1, 1994 through December 31, 2015, data required by all support schedules for licensed distributors, suppliers, and receivers who are required to file a return must be filed using magnetic media. Schedule support data must be submitted on either 3½" diskette, 5¼" floppy disk, or 9" magnetic tape which is IBM or IBM compatible. For returns due on and after July 1, 2008, schedule support data must be submitted on either 3½" diskette, CDs in the Joliet format, or mainframe cartridges that are IBM or IBM compatible. Schedules that must be filed on magnetic media include Schedules A, SA, LA, E, SE, LE, GA-1, B, SB, LB, C, SC, LC, D, SD, DA, DB, DC, DD, DD-1, and LD. For returns due on and after July 1, 2008, Schedule M must also be filed on magnetic media. Schedules not required to be filed in this manner are Schedules F and J and, until returns due on and after July 1, 2008, Schedule M. Amended schedules must still be filed on Department forms or approved computer-generated forms. On and after January 1, 2016, all support schedules for original returns and amended returns shall be filed electronically as required by ~~86~~ Ill. Adm. Code, title 86, part 760. Support schedules for amended returns are required to be filed electronically for only those periods, as provided in this subsection, for~~

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~~which support schedules are electronically required. Support schedules for all other amended returns must be filed on paper forms.~~

- e) When returns are timely filed in the manner required by this Section, a supplier, distributor, or receiver may take a discount of ~~2% through June 30, 2003 and~~ 1.75% ~~thereafter~~ of the tax collected ~~as reimbursement to reimburse himself~~ for the expenses incurred in keeping records, preparing and filing returns, collecting and remitting the tax, and supplying data to the Department on request. This discount is not permitted for motor fuels ~~that~~ which are used or consumed by a supplier or distributor in ~~their~~ his or her own vehicles or for any other purpose. The discount, however, shall be applicable only to the amount of payment which accompanies a return that is filed timely in accordance with Sections 2b, 5, or 5a of the Law and the provisions of this Section. Returns that are required to be filed electronically pursuant to this Section but are not filed electronically shall be considered nonfiled and the discount shall be disallowed.
- f) A person whose license to act as a supplier, distributor, or receiver of motor fuel has been revoked or cancelled shall make a return and payment to the Department covering the period from the date of the last return to the date of the revocation of the license, which return shall be delivered to the Department not later than 10 days from the date of the revocation or termination of the license. The return and payment of tax must be made electronically as provided in this Section. ~~Tax on any~~ Any ~~tax-free~~ inventory remaining at the close of the reporting period must be paid in full.

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