

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Special County Retailers' Occupation Tax for Public Safety
- 2) Code Citation: 86 Ill. Adm. Code 670
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
670.101	Amendment
670.105	Amendment
- 4) Statutory Authority: Implementing Section 5-1006.5 of the Special County Occupation Tax For Public Safety, Public Facilities, or Transportation 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 Retailers' 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 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:

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Section 670.101 Nature of the Special County Retailers' Occupation Tax ~~for~~ For Public Safety, Public Facilities, Mental Health, Substance Abuse, or Transportation

a) Authority to Impose Tax

- 1) The county board of any county may impose a tax upon all persons engaged in the business of selling of tangible personal property, other than personal property titled or registered with an agency of this State's government, at retail in the county on the gross receipts from sales made in the course of business to provide revenue to be used exclusively for public safety, public facility, mental health, substance abuse, or transportation purposes in that county. 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)]
- 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]. [55 ILCS 5/51006.5(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 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(a)] "Aviation fuel" means jet fuel and aviation gasoline. [35 ILCS 120/3]
- 4) The tax imposed by a county 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. [55 ILCS 5/5-1006.5(a)]

~~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~~

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~~business of selling tangible personal property, other than an item of tangible personal property titled or registered with this State's government, at retail in the county on the gross receipts from sales made in the course of such business to provide revenue to be used exclusively for public safety purposes in that county, if a proposition for the tax has been submitted to the electors of that county and approved by a majority of those voting on the question. "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. This additional tax may not be imposed on the sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food which 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 (Section 5-1006.5 of the Code). 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).~~

- b) **Passing on the Tax**
The legal incidence of the Special County Retailers' Occupation Tax ~~for~~For Public Safety, Public Facilities, Mental Health, Substance Abuse, or Transportation ("Special County Occupation Tax for Public Safety") is on the seller. Nevertheless, the General Assembly has authorized persons subject to this tax to reimburse themselves for their sellers' 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. [55 ILCS 5/5-1006.5(a)]~~persons subject to any tax imposed pursuant to the authority granted in the Special County Retailers' Occupation Tax For Public Safety Law to reimburse themselves for their sellers' Special County Retailers' 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 sellers are required to collect under the Use Tax Act [35 ILCS 105], pursuant to such bracket schedules as the Department has prescribed. (See 86 Ill. Adm. Code 150. Table A).~~
- c) **Exclusion from "Gross Receipts"**

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Any amount added to the selling price of tangible personal property by the seller because of a Special County Retailers' Occupation Tax For Public Safety, ~~or because of the Illinois~~ Retailers' Occupation Tax, the Use Tax, or any other local occupation tax administered by the Department or as Illinois Use Tax, and collected from the purchaser, shall not be regarded as a part of the seller's gross receipts that are subject to such Special County Retailers' Occupation Tax For Public Safety.

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

Section 670.105 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 1006.5(a) of the Special County ~~Retailers'~~ Occupation Tax 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 Retailers' Occupation Tax ~~for~~ Public Safety is required.
- b) Requirements as to Returns
- 1) The information required for the Special County Retailers' Occupation Tax ~~for~~ Public Safety Tax shall be furnished on the ~~taxpayer's~~ ~~retailer's~~ Retailers' Occupation Tax return form.
 - 2) If the retailer files ~~its~~ ~~Illinois~~ Retailers' Occupation Tax returns on the gross receipts basis, ~~the taxpayer~~ ~~he~~ must also report its Special County Retailers' Occupation Tax ~~for~~ Public Safety information in ~~its~~ returns on the ~~gross receipts~~ same basis. If the retailer files ~~its~~ ~~Illinois~~ Retailers' Occupation Tax returns on the gross sales basis, ~~it~~ ~~he~~ must also report Special County Retailers' Occupation Tax ~~for~~ Public Safety information in ~~its~~ returns on the gross sales basis.

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