

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Salem Civic Center Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 690
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
690.101	Amendment
690.105	Amendment
- 4) Statutory Authority: Implementing Section 245-12 of the Salem Civic Center Law of 1997 [70 ILCS 200/245-12] 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 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 Salem Civic Center 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:

Kimberly Rossini
Illinois Department of Revenue

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(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

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

Section 690.101 Nature of the Salem Civic Center Retailers' Occupation Tax

- a) Authority to Impose Tax

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- 1) Pursuant to the Salem Civic Center Use and Occupation Tax Law [70 ILCS 200/245-12], the Salem Civic Center Authority ("Authority") shall be authorized to impose a retailers' occupation tax upon all persons engaged in the business of selling tangible personal property at retail in the metropolitan area, at the rate approved by referendum, on the gross receipts from the sales made in the course of such business within the metropolitan area. [70 ILCS 200/245-12(b)] If imposed, the rate shall be in one-quarter percent (¼%) increments not to exceed 1%. [70 ILCS 200/245-12(a)]~~The Authority is authorized by Section 11.5 of the Salem Civic Center Law [70 ILCS 335/11.5] (the Law) to impose a tax, the Salem Civic Center Retailers' Occupation Tax, on all persons engaged in the business of selling tangible personal property at retail in the metropolitan area on the gross receipts from sales made in the course of such business within the metropolitan area, if a proposition for the tax has been submitted to the electors of that metropolitan area and approved by a majority of those voting on the question. If imposed, such tax shall only be imposed in ¼% increments at a rate not to exceed 1%. The tax imposed by the Authority under the Law 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) 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 Authority. [70 ILCS 200/245-12(b)] "Aviation fuel" means jet fuel and aviation gasoline. [35 ILCS 120/3]
- 3) The tax imposed under this Section and all civil that may be assessed as an incident thereof shall be collected and enforced by the Department of Revenue. [70 ILCS 200/245-12(b)]

- b) Passing on the Tax
The legal incidence of the Salem Civic Center 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 may

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~~*be stated in combination, in a single amount, with State taxes that sellers are required to collect under the Use Tax Act [35 ILCS 105], in accordance with such bracket schedules as the Department has prescribed. [70 ILCS 200/245-12(b)] persons subject to any tax imposed pursuant to the authority granted in the Salem Civic Center Use and Occupation Tax Law to reimburse themselves for their Salem Civic Center Retailers' Occupation Tax 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"
Any amount added to the selling price of tangible personal property by the seller because of ~~the~~ Salem Civic Center 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 Non-Home Rule Municipal Retailers' Occupation Tax [65 ILCS 5/8-11-1.3], the Metro East Mass Transit District Retailers' Occupation Tax [70 ILCS 3610/5.01], the Regional Transportation Authority Retailers' Occupation Tax [70 ILCS 3615/4.03] or the County Water Commission Retailers' Occupation Tax [70 ILCS 3720/4(b)],~~ and collected from the purchaser, shall not be regarded as a part of the seller's gross receipts that are subject to ~~the~~ such Salem Civic Center Retailers' Occupation Tax.

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

Section 690.105 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 subsection (b) of the Salem Civic Center Use and Occupation Tax Law [70 ILCS 200/245-12]. No special registration for the Salem Civic Center Retailers' Occupation Tax is required.
- b) Requirements as to Returns

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- 1) The information required for the Salem Civic Center Retailers' Occupation Tax shall be furnished on the taxpayer's/retailer's Retailers' Occupation Tax return form.

- 2) If the retailer files ~~itshis Illinois~~ Retailers' Occupation Tax returns on the gross receipts basis, ~~ithe~~ must also report Salem Civic Center Retailers' Occupation Tax information in ~~itshis~~ returns on the gross receipts same basis. If the retailer files ~~itshis Illinois~~ Retailers' Occupation Tax returns on the gross sales basis, ~~ithe~~ must also report Salem Civic Center Retailers' Occupation Tax information in itshis returns on the gross sales basis.

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