



States' Biofuels Statutes

STATE OF ILLINOIS

This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [States' Biofuels Statutory Citations](#). These statutes are placed in reverse chronological order using the date of the most recent amendment to the statute. Many biofuels laws were enacted as amendments to previously passed laws.

Current through the 2013 Legislative Session of the Illinois General Assembly.

120/2-10. Rate of tax

§ 2-10. Rate of tax. Unless otherwise provided in this Section, the tax imposed by this Act is at the rate of 6.25% of gross receipts from sales of tangible personal property made in the course of business.

Beginning on July 1, 2000 and through December 31, 2000, with respect to motor fuel, as defined in Section 1.1 of the Motor Fuel Tax Law,¹ and gasohol, as defined in Section 3-40 of the Use Tax Act,² the tax is imposed at the rate of 1.25%.

Beginning on August 6, 2010 through August 15, 2010, with respect to sales tax holiday items as defined in Section 2-8 of this Act, the tax is imposed at the rate of 1.25%.

Within 14 days after the effective date of this amendatory Act of the 91st General Assembly, each retailer of motor fuel and gasohol shall cause the following notice to be posted in a prominently visible place on each retail dispensing device that is used to dispense motor fuel or gasohol in the State of Illinois: "As of July 1, 2000, the State of Illinois has eliminated the State's share of sales tax on motor fuel and gasohol through December 31, 2000. The price on this pump should reflect the elimination of the tax." The notice shall be printed in bold print on a sign that is no smaller than 4 inches by 8 inches. The sign shall be clearly visible to customers. Any retailer who fails to post or maintain a required sign through December 31, 2000 is guilty of a petty offense for which the fine shall be \$500 per day per each retail premises where a violation occurs.

With respect to gasohol, as defined in the Use Tax Act, the tax imposed by this Act applies to (i) 70% of the proceeds of sales made on or after January 1, 1990, and before July 1, 2003, (ii) 80% of the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2018, and (iii) 100% of the proceeds of sales made thereafter. If, at any time, however, the tax under this Act on sales of gasohol, as defined in the Use Tax Act, is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of gasohol made during that time.

With respect to majority blended ethanol fuel, as defined in the Use Tax Act, the tax imposed by this

Act does not apply to the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2018 but applies to 100% of the proceeds of sales made thereafter.

With respect to biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel, the tax imposed by this Act applies to (i) 80% of the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2018 and (ii) 100% of the proceeds of sales made thereafter. If, at any time, however, the tax under this Act on sales of biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of biodiesel blends with no less than 1% and no more than 10% biodiesel made during that time.

With respect to 100% biodiesel, as defined in the Use Tax Act, and biodiesel blends, as defined in the Use Tax Act, with more than 10% but no more than 99% biodiesel, the tax imposed by this Act does not apply to the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2018 but applies to 100% of the proceeds of sales made thereafter.

With respect to 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 nonprescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, the tax is imposed at the rate of 1%. For the purposes of this Section, until September 1, 2009: the term “soft drinks” means any complete, finished, ready-to-use, non-alcoholic drink, whether carbonated or not, including but not limited to soda water, cola, fruit juice, vegetable juice, carbonated water, and all other preparations commonly known as soft drinks of whatever kind or description that are contained in any closed or sealed bottle, can, carton, or container, regardless of size; but “soft drinks” does not include coffee, tea, non-carbonated water, infant formula, milk or milk products as defined in the Grade A Pasteurized Milk and Milk Products Act,³ or drinks containing 50% or more natural fruit or vegetable juice.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, “soft drinks” means non-alcoholic beverages that contain natural or artificial sweeteners. “Soft drinks” do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.

Until August 1, 2009, and notwithstanding any other provisions of this Act, “food for human consumption that is to be consumed off the premises where it is sold” includes all food sold through a vending machine, except soft drinks and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine. Beginning August 1, 2009, and notwithstanding any other provisions of this Act, “food for human consumption that is to be consumed off the premises where it is sold” includes all food sold through a vending machine, except soft drinks, candy, and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, “food for human consumption that is to be consumed off the premises where it is sold” does not include candy. For purposes of this Section, “candy” means a preparation of sugar, honey, or other natural or artificial

sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. “Candy” does not include any preparation that contains flour or requires refrigeration.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, “nonprescription medicines and drugs” does not include grooming and hygiene products. For purposes of this Section, “grooming and hygiene products” includes, but is not limited to, soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and sun tan lotions and screens, unless those products are available by prescription only, regardless of whether the products meet the definition of “over-the-counter-drugs”. For the purposes of this paragraph, “over-the-counter-drug” means a drug for human use that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The “over-the-counter-drug” label includes:

(A) A “Drug Facts” panel; or

(B) A statement of the “active ingredient(s)” with a list of those ingredients contained in the compound, substance or preparation.

Beginning on the effective date of this amendatory Act of the 98th General Assembly, “prescription and nonprescription medicines and drugs” includes medical cannabis purchased from a registered dispensing organization under the Compassionate Use of Medical Cannabis Pilot Program Act.

Credits: Formerly § 2. Resectioned in part § 2-10 and amended by P.A. 86-1475, Art. 5, § 5-5, eff. Jan. 10, 1991. Amended by P.A. 87-731, § 104, eff. July 1, 1992; P.A. 87-876, § 6, eff. Jan. 1, 1993; P.A. 89-359, § 20, eff. Aug. 17, 1995; P.A. 89-420, § 20, eff. June 1, 1996; P.A. 89-463, § 20, eff. May 31, 1996; P.A. 89-626, Art. 2, § 2-24, eff. Aug. 9, 1996; P.A. 90-605, § 20, eff. June 30, 1998; P.A. 90-606, § 20, eff. June 30, 1998. Re-enacted by P.A. 91-51, § 135, eff. June 30, 1999. Amended by P.A. 91-872, Fourth Sp. Sess., § 20, eff. July 1, 2000; P.A. 93-17, § 20, eff. June 11, 2003; P.A. 96-34, § 925, eff. July 13, 2009; P.A. 96-37, § 60-30, eff. July 13, 2009; P.A. 96-38, § 20, eff. July 13, 2009; P.A. 96-1000, § 210, eff. July 2, 2010; P.A. 96-1012, § 15, eff. July 7, 2010; P.A. 97-636, § 15-35, eff. June 1, 2012; P.A. 98-122, § 930, eff. Jan. 1, 2014.

105/3-10. Rate of tax

§ 3-10. Rate of tax. Unless otherwise provided in this Section, the tax imposed by this Act is at the rate of 6.25% of either the selling price or the fair market value, if any, of the tangible personal property. In all cases where property functionally used or consumed is the same as the property that was purchased at retail, then the tax is imposed on the selling price of the property. In all cases where property functionally used or consumed is a by-product or waste product that has been refined, manufactured, or produced from property purchased at retail, then the tax is imposed on the lower of the fair market value, if any, of the specific property so used in this State or on the selling price of the property purchased at retail. For purposes of this Section “fair market value” means the price at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. The fair market value shall be established

by Illinois sales by the taxpayer of the same property as that functionally used or consumed, or if there are no such sales by the taxpayer, then comparable sales or purchases of property of like kind and character in Illinois.

Beginning on July 1, 2000 and through December 31, 2000, with respect to motor fuel, as defined in Section 1.1 of the Motor Fuel Tax Law,¹ and gasohol, as defined in Section 3-40 of the Use Tax Act,² the tax is imposed at the rate of 1.25%.

Beginning on August 6, 2010 through August 15, 2010, with respect to sales tax holiday items as defined in Section 3-6 of this Act, the tax is imposed at the rate of 1.25%.

With respect to gasohol, the tax imposed by this Act applies to (i) 70% of the proceeds of sales made on or after January 1, 1990, and before July 1, 2003, (ii) 80% of the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2018, and (iii) 100% of the proceeds of sales made thereafter. If, at any time, however, the tax under this Act on sales of gasohol is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of gasohol made during that time.

With respect to majority blended ethanol fuel, the tax imposed by this Act does not apply to the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2018 but applies to 100% of the proceeds of sales made thereafter.

With respect to biodiesel blends with no less than 1% and no more than 10% biodiesel, the tax imposed by this Act applies to (i) 80% of the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2018 and (ii) 100% of the proceeds of sales made thereafter. If, at any time, however, the tax under this Act on sales of biodiesel blends with no less than 1% and no more than 10% biodiesel is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of biodiesel blends with no less than 1% and no more than 10% biodiesel made during that time.

With respect to 100% biodiesel and biodiesel blends with more than 10% but no more than 99% biodiesel, the tax imposed by this Act does not apply to the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2018 but applies to 100% of the proceeds of sales made thereafter.

With respect to 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 nonprescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, the tax is imposed at the rate of 1%. For the purposes of this Section, until September 1, 2009: the term “soft drinks” means any complete, finished, ready-to-use, non-alcoholic drink, whether carbonated or not, including but not limited to soda water, cola, fruit juice, vegetable juice, carbonated water, and all other preparations commonly known as soft drinks of whatever kind or description that are contained in any closed or sealed bottle, can, carton, or container, regardless of size; but “soft drinks” does not include coffee, tea, non-carbonated water, infant formula, milk or milk products as defined in the Grade A Pasteurized Milk and Milk Products Act,³ or drinks containing 50% or more natural fruit or vegetable juice.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, “soft drinks” means

non-alcoholic beverages that contain natural or artificial sweeteners. “Soft drinks” do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.

Until August 1, 2009, and notwithstanding any other provisions of this Act, “food for human consumption that is to be consumed off the premises where it is sold” includes all food sold through a vending machine, except soft drinks and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine. Beginning August 1, 2009, and notwithstanding any other provisions of this Act, “food for human consumption that is to be consumed off the premises where it is sold” includes all food sold through a vending machine, except soft drinks, candy, and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, “food for human consumption that is to be consumed off the premises where it is sold” does not include candy. For purposes of this Section, “candy” means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. “Candy” does not include any preparation that contains flour or requires refrigeration.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, “nonprescription medicines and drugs” does not include grooming and hygiene products. For purposes of this Section, “grooming and hygiene products” includes, but is not limited to, soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and sun tan lotions and screens, unless those products are available by prescription only, regardless of whether the products meet the definition of “over-the-counter-drugs”. For the purposes of this paragraph, “over-the-counter-drug” means a drug for human use that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The “over-the-counter-drug” label includes:

- (A) A “Drug Facts” panel; or
- (B) A statement of the “active ingredient(s)” with a list of those ingredients contained in the compound, substance or preparation.

Beginning on the effective date of this amendatory Act of the 98th General Assembly, “prescription and nonprescription medicines and drugs” includes medical cannabis purchased from a registered dispensing organization under the Compassionate Use of Medical Cannabis Pilot Program Act.

If the property that is purchased at retail from a retailer is acquired outside Illinois and used outside Illinois before being brought to Illinois for use here and is taxable under this Act, the “selling price” on which the tax is computed shall be reduced by an amount that represents a reasonable allowance for depreciation for the period of prior out-of-state use.

Credits: Formerly § 3. Resectioned in part § 3-10 and amended by P.A. 86-1475, Art. 5, § 5-2, eff. Jan. 10, 1991. Amended by P.A. 87-731, § 101, eff. July 1, 1992; P.A. 88-45, Art. II, § 2-20, eff. July 6, 1993; P.A. 89-359, § 5, eff. Aug. 17, 1995; P.A. 89-420, § 5, eff. June 1, 1996; P.A. 89-463, § 5, eff.

May 31, 1996; P.A. 89-626, Art. 2, § 2-21, eff. Aug. 9, 1996; P.A. 90-605, § 5, eff. June 30, 1998; P.A. 90-606, § 5, eff. June 30, 1998. Re-enacted by P.A. 91-51, § 115, eff. June 30, 1999. Amended by P.A. 91-872, Fourth Sp. Sess., § 5, eff. July 1, 2000; P.A. 93-17, § 5, eff. June 11, 2003; P.A. 96-34, § 910, eff. July 13, 2009; P.A. 96-37, § 60-20, eff. July 13, 2009; P.A. 96-38, § 5, eff. July 13, 2009; P.A. 96-1000, § 195, eff. July 2, 2010; P.A. 96-1012, § 10, eff. July 7, 2010; P.A. 97-636, § 15-20, eff. June 1, 2012; P.A. 98-122, § 915, eff. Jan. 1, 2014.

105/3-40. Gasohol

§ 3-40. Gasohol. As used in this Act, “gasohol” means motor fuel that is a blend of denatured ethanol and gasoline that contains no more than 1.25% water by weight. The blend must contain 90% gasoline and 10% denatured ethanol. A maximum of one percent error factor in the amount of denatured ethanol used in the blend is allowable to compensate for blending equipment variations. Any person who knowingly sells or represents as gasohol any fuel that does not qualify as gasohol under this Act is guilty of a business offense and shall be fined not more than \$100 for each day that the sale or representation takes place after notification from the Department of Agriculture that the fuel in question does not qualify as gasohol.

Credits: Formerly § 3. Resectioned in part § 3-40 and amended by P.A. 86-1475, Art. 5, § 5-2, eff. Jan. 10, 1991. Re-enacted by P.A. 91-51, § 115, eff. June 30, 1999. Amended by P.A. 93-724, § 5, eff. July 13, 2004.

105/3-41. Biodiesel

§ 3-41. Biodiesel. “Biodiesel” means a renewable diesel fuel derived from biomass that is intended for use in diesel engines.

Credits: Laws 1955, p. 2027, § 3-41, added by P.A. 93-17, § 5, eff. June 11, 2003.

105/3-42. Biodiesel blend

§ 3-42. Biodiesel blend. “Biodiesel blend” means a blend of biodiesel with petroleum-based diesel fuel in which the resultant product contains no less than 1% and no more than 99% biodiesel.

Credits: Laws 1955, p. 2027, § 3-42, added by P.A. 93-17, § 5, eff. June 11, 2003.

105/3-43. Biomass

§ 3-43. Biomass. “Biomass” means non-fossil organic materials that have an intrinsic chemical energy content. “Biomass” includes, but is not limited to, soybean oil, other vegetable oils, and ethanol.

Credits: Laws 1955, p. 2027, § 3-43, added by P.A. 93-17, § 5, eff. June 11, 2003.

105/3-44. Majority blended ethanol fuel

§ 3-44. Majority blended ethanol fuel. “Majority blended ethanol fuel” means motor fuel that contains not less than 70% and no more than 90% denatured ethanol and no less than 10% and no more than 30% gasoline.

Credits: Laws 1955, p. 2027, § 3-44, added by P.A. 93-17, § 5, eff. June 11, 2003.

110/3-10. Rate of tax

§ 3-10. Rate of tax. Unless otherwise provided in this Section, the tax imposed by this Act is at the rate of 6.25% of the selling price of tangible personal property transferred as an incident to the sale of service, but, for the purpose of computing this tax, in no event shall the selling price be less than the cost price of the property to the serviceman.

Beginning on July 1, 2000 and through December 31, 2000, with respect to motor fuel, as defined in Section 1.1 of the Motor Fuel Tax Law,¹ and gasohol, as defined in Section 3-40 of the Use Tax Act,² the tax is imposed at the rate of 1.25%.

With respect to gasohol, as defined in the Use Tax Act,³ the tax imposed by this Act applies to (i) 70% of the selling price of property transferred as an incident to the sale of service on or after January 1, 1990, and before July 1, 2003, (ii) 80% of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2018, and (iii) 100% of the selling price thereafter. If, at any time, however, the tax under this Act on sales of gasohol, as defined in the Use Tax Act, is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of gasohol made during that time.

With respect to majority blended ethanol fuel, as defined in the Use Tax Act, the tax imposed by this Act does not apply to the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2018 but applies to 100% of the selling price thereafter.

With respect to biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel, the tax imposed by this Act applies to (i) 80% of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2018 and (ii) 100% of the proceeds of the selling price thereafter. If, at any time, however, the tax under this Act on sales of biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10%

biodiesel is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of biodiesel blends with no less than 1% and no more than 10% biodiesel made during that time.

With respect to 100% biodiesel, as defined in the Use Tax Act, and biodiesel blends, as defined in the Use Tax Act, with more than 10% but no more than 99% biodiesel, the tax imposed by this Act does not apply to the proceeds of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2018 but applies to 100% of the selling price thereafter.

At the election of any registered serviceman made for each fiscal year, sales of service in which the aggregate annual cost price of tangible personal property transferred as an incident to the sales of service is less than 35%, or 75% in the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production, of the aggregate annual total gross receipts from all sales of service, the tax imposed by this Act shall be based on the serviceman's cost price of the tangible personal property transferred as an incident to the sale of those services.

The tax shall be imposed at the rate of 1% on food prepared for immediate consumption and transferred incident to a sale of service subject to this Act or the Service Occupation Tax Act⁴ by an entity licensed under the Hospital Licensing Act,⁵ the Nursing Home Care Act,⁶ the ID/DD Community Care Act,⁷ the Specialized Mental Health Rehabilitation Act of 2013, or the Child Care Act of 1969.⁸ The tax shall also be imposed at the rate of 1% on 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 is not otherwise included in this paragraph) and prescription and nonprescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use. For the purposes of this Section, until September 1, 2009: the term "soft drinks" means any complete, finished, ready-to-use, non-alcoholic drink, whether carbonated or not, including but not limited to soda water, cola, fruit juice, vegetable juice, carbonated water, and all other preparations commonly known as soft drinks of whatever kind or description that are contained in any closed or sealed bottle, can, carton, or container, regardless of size; but "soft drinks" does not include coffee, tea, non-carbonated water, infant formula, milk or milk products as defined in the Grade A Pasteurized Milk and Milk Products Act,⁹ or drinks containing 50% or more natural fruit or vegetable juice.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "soft drinks" means non-alcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.

Until August 1, 2009, and notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed off the premises where it is sold" includes all food sold through a vending machine, except soft drinks and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine. Beginning August 1, 2009, and notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed off the premises where it is sold" includes all food sold through a vending machine, except soft drinks, candy, and food

products that are dispensed hot from a vending machine, regardless of the location of the vending machine.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, “food for human consumption that is to be consumed off the premises where it is sold” does not include candy. For purposes of this Section, “candy” means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. “Candy” does not include any preparation that contains flour or requires refrigeration.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, “nonprescription medicines and drugs” does not include grooming and hygiene products. For purposes of this Section, “grooming and hygiene products” includes, but is not limited to, soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and sun tan lotions and screens, unless those products are available by prescription only, regardless of whether the products meet the definition of “over-the-counter-drugs”. For the purposes of this paragraph, “over-the-counter-drug” means a drug for human use that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The “over-the-counter-drug” label includes:

(A) A “Drug Facts” panel; or

(B) A statement of the “active ingredient(s)” with a list of those ingredients contained in the compound, substance or preparation.

Beginning on the effective date of this amendatory Act of the 98th General Assembly, “prescription and nonprescription medicines and drugs” includes medical cannabis purchased from a registered dispensing organization under the Compassionate Use of Medical Cannabis Pilot Program Act.

If the property that is acquired from a serviceman is acquired outside Illinois and used outside Illinois before being brought to Illinois for use here and is taxable under this Act, the “selling price” on which the tax is computed shall be reduced by an amount that represents a reasonable allowance for depreciation for the period of prior out-of-state use.

Credits: Formerly § 3. Resectioned in part § 3-10 and amended by P.A. 86-1475, Art. 5, § 5-3, eff. Jan. 10, 1991. Amended by P.A. 87-731, § 102, eff. July 1, 1992; P.A. 87-876, § 4, eff. Jan. 1, 1993; P.A. 88-45, Art. II, § 2-21, eff. July 6, 1993; P.A. 89-359, § 10, eff. Aug. 17, 1995; P.A. 89-420, § 10, eff. June 1, 1996; P.A. 89-463, § 10, eff. May 31, 1996; P.A. 89-626, Art. 2, § 2-22, eff. Aug. 9, 1996; P.A. 90-605, § 10, eff. June 30, 1998; P.A. 90-606, § 10, eff. June 30, 1998. Re-enacted by P.A. 91-51, § 120, eff. June 30, 1999. Amended by P.A. 91-541, § 15, eff. Aug. 13, 1999; P.A. 91-872, Fourth Sp. Sess., § 10, eff. July 1, 2000; P.A. 93-17, § 10, eff. June 11, 2003; P.A. 96-34, § 915, eff. July 13, 2009; P.A. 96-37, § 60-15, eff. July 13, 2009; P.A. 96-38, § 10, eff. July 13, 2009; P.A. 96-339, § 90-55, eff. July 1, 2010; P.A. 96-1000, § 200, eff. July 2, 2010; P.A. 97-38, § 90-55, eff. June 28, 2011; P.A. 97-227, § 38, eff. Jan. 1, 2012; P.A. 97-636, § 15-25, eff. June 1, 2012; P.A. 98-104, § 6-145, eff. July 22, 2013; P.A. 98-122, § 920, eff. Jan. 1, 2014.

115/3-10. Rate of tax

§ 3-10. Rate of tax. Unless otherwise provided in this Section, the tax imposed by this Act is at the rate of 6.25% of the “selling price”, as defined in Section 2 of the Service Use Tax Act,¹ of the tangible personal property. For the purpose of computing this tax, in no event shall the “selling price” be less than the cost price to the serviceman of the tangible personal property transferred. The selling price of each item of tangible personal property transferred as an incident of a sale of service may be shown as a distinct and separate item on the serviceman’s billing to the service customer. If the selling price is not so shown, the selling price of the tangible personal property is deemed to be 50% of the serviceman’s entire billing to the service customer. When, however, a serviceman contracts to design, develop, and produce special order machinery or equipment, the tax imposed by this Act shall be based on the serviceman’s cost price of the tangible personal property transferred incident to the completion of the contract.

Beginning on July 1, 2000 and through December 31, 2000, with respect to motor fuel, as defined in Section 1.1 of the Motor Fuel Tax Law,² and gasohol, as defined in Section 3-40 of the Use Tax Act,³ the tax is imposed at the rate of 1.25%.

With respect to gasohol, as defined in the Use Tax Act, the tax imposed by this Act shall apply to (i) 70% of the cost price of property transferred as an incident to the sale of service on or after January 1, 1990, and before July 1, 2003, (ii) 80% of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2018, and (iii) 100% of the cost price thereafter. If, at any time, however, the tax under this Act on sales of gasohol, as defined in the Use Tax Act, is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of gasohol made during that time.

With respect to majority blended ethanol fuel, as defined in the Use Tax Act, the tax imposed by this Act does not apply to the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2018 but applies to 100% of the selling price thereafter.

With respect to biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel, the tax imposed by this Act applies to (i) 80% of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2018 and (ii) 100% of the proceeds of the selling price thereafter. If, at any time, however, the tax under this Act on sales of biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of biodiesel blends with no less than 1% and no more than 10% biodiesel made during that time.

With respect to 100% biodiesel, as defined in the Use Tax Act, and biodiesel blends, as defined in the Use Tax Act, with more than 10% but no more than 99% biodiesel material, the tax imposed by this Act does not apply to the proceeds of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2018 but applies to 100% of the selling price thereafter.

At the election of any registered serviceman made for each fiscal year, sales of service in which the aggregate annual cost price of tangible personal property transferred as an incident to the sales of service is less than 35%, or 75% in the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production, of the aggregate annual total gross receipts from all sales of service, the tax imposed by this Act shall be based on the serviceman's cost price of the tangible personal property transferred incident to the sale of those services.

The tax shall be imposed at the rate of 1% on food prepared for immediate consumption and transferred incident to a sale of service subject to this Act or the Service Occupation Tax Act⁴ by an entity licensed under the Hospital Licensing Act,⁵ the Nursing Home Care Act,⁶ the ID/DD Community Care Act, the Specialized Mental Health Rehabilitation Act of 2013, or the Child Care Act of 1969.⁷ The tax shall also be imposed at the rate of 1% on 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 is not otherwise included in this paragraph) and prescription and nonprescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use. For the purposes of this Section, until September 1, 2009: the term "soft drinks" means any complete, finished, ready-to-use, non-alcoholic drink, whether carbonated or not, including but not limited to soda water, cola, fruit juice, vegetable juice, carbonated water, and all other preparations commonly known as soft drinks of whatever kind or description that are contained in any closed or sealed can, carton, or container, regardless of size; but "soft drinks" does not include coffee, tea, non-carbonated water, infant formula, milk or milk products as defined in the Grade A Pasteurized Milk and Milk Products Act,⁸ or drinks containing 50% or more natural fruit or vegetable juice.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "soft drinks" means non-alcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.

Until August 1, 2009, and notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed off the premises where it is sold" includes all food sold through a vending machine, except soft drinks and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine. Beginning August 1, 2009, and notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed off the premises where it is sold" includes all food sold through a vending machine, except soft drinks, candy, and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "food for human consumption that is to be consumed off the premises where it is sold" does not include candy. For purposes of this Section, "candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include any preparation that contains flour or requires refrigeration.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, “nonprescription medicines and drugs” does not include grooming and hygiene products. For purposes of this Section, “grooming and hygiene products” includes, but is not limited to, soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and sun tan lotions and screens, unless those products are available by prescription only, regardless of whether the products meet the definition of “over-the-counter-drugs”. For the purposes of this paragraph, “ over-the-counter-drug” means a drug for human use that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The “over-the-counter-drug” label includes:

(A) A “Drug Facts” panel; or

(B) A statement of the “active ingredient(s)” with a list of those ingredients contained in the compound, substance or preparation.

Beginning on the effective date of this amendatory Act of the 98th General Assembly, “prescription and nonprescription medicines and drugs” includes medical cannabis purchased from a registered dispensing organization under the Compassionate Use of Medical Cannabis Pilot Program Act.

Credits: Formerly § 3. Resectioned in part § 3-10 and amended by P.A. 86-1475, Art. 5, § 5-4, eff. Jan. 10, 1991. Amended by P.A. 87-731, § 103, eff. July 1, 1992; P.A. 87-876, § 5, eff. Jan. 1, 1993; P.A. 89-359, § 15, eff. Aug. 17, 1995; P.A. 89-420, § 15, eff. June 1, 1996; P.A. 89-463, § 15, eff. May 31, 1996; P.A. 89-626, Art. 2, § 2-23, eff. Aug. 9, 1996; P.A. 90-605, § 15, eff. June 30, 1998; P.A. 90-606, § 15, eff. June 30, 1998. Re-enacted P.A. 91-51, § 125, eff. June 30, 1999. Amended by P.A. 91-541, § 20, eff. Aug. 13, 1999; P.A. 91-872, Fourth Sp. Sess., § 15, eff. July 1, 2000; P.A. 93-17, § 15, eff. June 11, 2003; P.A. 96-34, § 920, eff. July 13, 2009; P.A. 96-37, § 60-25, eff. July 13, 2009; P.A. 96-38, § 15, eff. July 13, 2009; P.A. 96-339, § 90-60, eff. July 1, 2010; P.A. 96-1000, § 205, eff. July 2, 2010; P.A. 97-38, § 90-60, eff. June 28, 2011; P.A. 97-227, § 39, eff. Jan. 1, 2012; P.A. 97-636, § 15-30, eff. June 1, 2012; P.A. 98-104, § 6-150, eff. July 22, 2013; P.A. 98-122, § 925, eff. Jan. 1, 2014.