

**Illinois Department of Revenue  
Regulations**

<b>Title 86 Part 280 Section 280.101 Nature of the Home Rule Municipal Service Occupation Tax</b>
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**TITLE 86: REVENUE**

**PART 280  
HOME RULE MUNICIPAL SERVICE OCCUPATION TAX**

**Section 280.101 Nature of the Home Rule Municipal Service Occupation Tax**

a) Authority to Impose Tax

Municipalities, as defined in Section 8-11-5 of the Illinois Municipal Code (Home Rule Municipal Service Occupation Tax Act (the Act) (Ill. Rev. Stat. 1989, ch. 24, par. 8-11-5) are authorized to impose a tax on persons engaged in the business of making sales of service within such municipality, at the same rate of tax imposed pursuant to Section 8-11-1 of the Act on the selling price of tangible personal property transferred by such serviceman either in the form of tangible personal property or in the form of real estate as an incident to such sale of service. If imposed, such tax shall only be imposed in 1/4% increments. On and after September 1, 1991, this additional tax shall 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 nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics. The tax imposed by a home rule municipality pursuant to the Act and this Part and all civil penalties that shall be assessed as an incident thereof, shall be collected and enforced by the Illinois Department of Revenue (Department).

b) Passing on the Tax

Servicemen are required to collect the Home Rule Municipal Service Occupation Tax (when applicable) from purchasing servicemen except when they can appropriately assume the accountability for self-assessing the tax under Subpart M purchasers of service in conformance with the requirements of the Service Occupation Tax (86 Ill. Adm. Code 140). The legal incidence of the Home Rule Municipal Service Occupation Tax is on the serviceman. Nevertheless, the General Assembly has authorized persons subject to any tax imposed pursuant to the authority granted in the Home Rule Municipal Service Occupation Tax Act to reimburse themselves for their serviceman's Home Rule Municipal Service 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 servicemen are authorized to collect under the Service Use Tax Act (Ill. Rev. Stat. 1989, ch. 120, pars. 439.31 et seq.), pursuant to such bracket schedules as the Department has prescribed. (See 86 Ill. Adm. Code 150.Table A)

c) Exclusion from "Selling Prices"

Any amount added by a serviceman to the selling price of tangible personal property sold to a serviceman for retransfer as an incident to service because of a Home Rule Municipal Service Occupation Tax, or because of the Service Occupation Tax and collected from the purchasing serviceman, shall not be regarded as a part of the selling prices which are subject to such Home Rule Municipal Service Occupation Tax.

(Source: Amended at 15 Ill. Reg. 6290, effective April 11, 1991)