

**Illinois Department of Revenue
Regulations**

Title 86 Part 694 Section 694.101 Nature of the Non-Home Rule Municipal Service Occupation Tax

**TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE**

**PART 694
NON-HOME RULE MUNICIPAL SERVICE OCCUPATION TAX**

Section 694.101 Nature of the Non-Home Rule Municipal Service Occupation Tax

a) Authority to Impose Tax

On and after January 1, 2002, the corporate authorities of a non-home rule municipality are authorized by the Non-Home Rule Municipal Service Occupation Tax Act [65 ILCS 5/8-11-1.4] to impose the Non-Home Rule Municipal Service Occupation Tax on all persons engaged in the business of making sales of service in the municipality, if a proposition for the tax has been submitted to the electors of that municipality and approved by a majority of those voting on the question. If imposed, the tax shall be imposed at a rate of not more than, through December 31, 2005, ½%, and, beginning on January 1, 2006, 1%, of the selling price of all tangible personal property transferred by the servicemen either in the form of tangible personal property or in the form of real estate as an incident to a sale of service for expenditure on public infrastructure or property tax relief or both as defined in Section 8-11-1.2 of the Illinois Municipal Code. The tax may not be imposed on the sale of food for human consumption that 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. The tax imposed by the corporate authorities under the Non-Home Rule Municipal Service Occupation Tax Act and this Part, and all civil penalties that may be assessed as an incident of that Act and this Part, may be imposed only in ¼% increments and shall be collected and enforced by the Illinois Department of Revenue (Department).

b) Passing on the Tax

The legal incidence of the Non-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 Non-Home Rule Municipal Service Occupation Tax Act to reimburse themselves for their Non-Home Rule Municipal Service Occupation 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 servicemen are required to collect under the Service Use Tax Act [35 ILCS 110], pursuant to the bracket schedules the Department has prescribed (see 86 Ill. Adm. Code 150.Table A).

c) Exclusion from "Selling Price"

Any amount added by a serviceman to the selling price of tangible personal property as an incident to service because of a Non-Home Rule Municipal Service Occupation Tax,

or because of the Illinois Service Occupation Tax [35 ILCS 115], the Illinois Use Tax [35 ILCS 105], the Metro East Mass Transit District Service Occupation Tax [70 ILCS 3610/5.01], the Regional Transportation Authority Service Occupation Tax [70 ILCS 3615/4.03] or the County Water Commission Service Occupation Tax [70 ILCS 3720/4(c)], shall not be regarded as a part of the selling price that is subject to the Non-Home Rule Municipal Service Occupation Tax.

(Source: Amended at 32 Ill. Reg. 2834, effective February 8, 2008)