

**Illinois Department of Revenue
Regulations**

Title 86 Part 695 Section 101 NATURE OF THE COUNTY MOTOR FUEL TAX

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

**PART 695
COUNTY MOTOR FUEL TAX**

Section 695.101 Nature of the County Motor Fuel Tax

- a) **Authority to Impose Tax**
Under the County Motor Fuel Tax Law ("Law") [55 ILCS 5/5-1035.1], the county board of the counties of DuPage, Kane, Lake, Will and McHenry may, by an ordinance or resolution adopted by the affirmative vote of a majority of the members elected or appointed to the county board, impose a tax upon all persons engaged in the business of selling motor fuel, as now or hereafter defined in the Motor Fuel Tax Law [35 ILCS 505], at retail for the operation of motor vehicles upon public highways or for the operation of recreational watercraft upon waterways. Kane County may exempt diesel fuel from the tax imposed pursuant to this Section. The initial tax rate may not be less than 4 cents per gallon of motor fuel sold at retail within the county for the purpose of use or consumption and not for the purpose of resale and may not exceed 8 cents per gallon of motor fuel sold at retail within the county for the purpose of use or consumption and not for the purpose of resale. The proceeds from the tax shall be used by the county solely for the purpose of operating, constructing and improving public highways and waterways, and acquiring real property and rights-of-way for public highways and waterways within the county imposing the tax. The County Motor Fuel Tax imposed under the Law is an occupation tax upon retailers of motor fuel and is administered by the Illinois Department of Revenue ("Department") in the same manner as the Retailers' Occupation Tax. The tax imposed by a county board under the County Motor Fuel Tax Law and this Part, and all civil penalties that may be assessed as an incident thereof, shall be collected and enforced by the Department.
- b) **Annual Rate Increase**
By June 1, 2020, and by June 1 of each year thereafter, the Department of Revenue will determine an annual rate increase to take effect on July 1 of that calendar year and continue through June 30 of the next calendar year. Not later than June 1 of each year, the Department of Revenue will publish on its website the rate that will take effect on July 1 of that calendar year. The rate shall be equal to the rate in effect increased by an amount equal to the percentage increase, if any, in the Consumer Price Index for All Urban Consumers for all items, published by the United States Department of Labor for the 12 months ending in March of each year. The rate shall be rounded to the nearest one-tenth of one cent. Each new rate may not exceed the rate in effect on June 30 of the previous year plus one cent. (Section (a-5) of the Law)
- 1) With respect to rate increases, if the rate in effect on June 30, 2020 is 4 cents per gallon, then the rate that takes effect on July 1, 2021 as a result of the annual rate increase may not exceed 5 cents per gallon. If, however, the county board adopts an ordinance or resolution to increase the rate on July 1, 2021 to 6 cents

per gallon, then the 6 cents per gallon rate shall take effect on July 1, 2021, notwithstanding that it exceeds the rate in effect on June 30, 2020 by more than one cent per gallon.

- 2) While the rate set by the county board by ordinance or resolution may not exceed 8 cents per gallon, the rate in effect thereafter may exceed 8 cents per gallon as a result of the annual rate increase provision.
- c) **Passing on the Tax**
The legal incidence of the Law is on the seller. Nevertheless, the General Assembly has authorized persons subject to any tax imposed pursuant to the authority granted in the Law to reimburse themselves for their County Motor Fuel 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 that 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).
 - d) **Exclusion from "Gross Receipts"**
Any amount added to the selling price of motor fuel by the seller because of a County Motor Fuel Tax, or because of the Illinois Retailers' Occupation Tax [35 ILCS 120], the Illinois Use Tax [35 ILCS 105], or any local occupation or use tax administered by the Department and collected from the purchaser, shall not be regarded as a part of the seller's gross receipts that are subject to such County Motor Fuel Tax.

(Source: Amended at 44 Ill. Reg. 8336, effective April 28, 2020)