

Practitioner Meeting**October 27, 2017****Sales and Excise Tax****2017 Legislation/Regulations****LEGISLATION**

P.A. 100-0437 (SB 1434) – Rental Purchase Agreement Occupation and Use Tax – New tax effective January 1, 2018. Act establishes an occupation tax on persons engaged in the business of renting merchandise under a rental-purchase agreement at the rate of 6.25% of the gross receipts received by the business. Rental purchase agreements are agreements for the rental of merchandise 1) by a consumer for personal, family or household purposes; 2) for an initial period of 4 months or less that is automatically renewable with each payment after the initial period; and 3) that permit the consumer to become the owner of the merchandise. Corresponding Use Tax is imposed on consumer and collected by merchant maintaining a place of business in Illinois; if not collected by merchant, consumer must self-assess and remit tax. Act requires registration and electronic filing and payment. Regulations will be promulgated.

P.A. 100-0213 (SB 587) - Hotel Operators' Occupation Tax - Clarifies that the tax is imposed on retreat centers, conference centers and hunting lodges, in addition to other buildings in which the public may obtain living quarters. Provides 2 specific exemptions for hotel operators that are organized and operated exclusively for religious purposes and possess an active "E" number issued by the Department. First exemption applies when the hotel operator is renting rooms in furtherance of the purposes for which it is organized; second exemption applies when the hotel operator rents to other entities that are organized exclusively for religious purposes and possess an active "E" number issued by the Department and rent rooms in furtherance of the purposes for which they are organized. New legislation pertains to religious retreat centers operating hotels. Rentals outside the scope of these exemptions are subject to tax. However, Act provides that if all of the hotel operator's rentals are exempt as described above, it is exempt from all provisions of the Act (registration). Effective August 18, 2017. Regulations will be amended and a bulletin is planned.

P.A. 100-0321 (SB 1871) – establishes new rolling stock test for motor vehicles and trailers. To qualify under the new test, 1) the motor vehicle or trailer must be used to transport persons or property for hire; 2) the purchaser must certify that the motor vehicle or trailer will be utilized by an interstate carrier for hire that holds an active USDOT number with the Carrier Operation listed as "interstate" and the Operation Classification listed as "authorized for hire," "exempt for hire," or both "authorized for hire" and "exempt for hire;" and 3) for motor vehicles, the gross vehicle weight rating must exceed 16,000 pounds. Provisions are added that specify tax due on reversion to non-qualifying use. The new test is somewhat modified for motor vehicles or trailers used at airports to support the operation of aircraft moving in interstate commerce. Effective August 24, 2017. See Form RUT-7 and Instructions; Form RUT-7-A and instructions. Regulations will be amended.

P.A. 100-0009 (HB 2801) – Motor Fuel Tax Law. Requires LNG and propane to be sold in Diesel Gallon Equivalents ("DGEs"), which is a term defined in the bill. Increases the tax on these types of motor fuel from 19 cents per gallon to 21.5 cents per DGE. These changes conform the statute to IFTA reporting requirements. The bill also codifies Department's current practice (see Sections 500. 200 and 500.335)

of taxing CNG on an energy equivalency basis (per GGE) and requires that CNG be sold in GGEs. Tax on CNG continues to be imposed at 19 cents per GGE. Effective July 1, 2017. See Bulletins FY 2017-15, 2017-21. Regulations will be amended.

P.A. 100-22 (SB 0009) – Gasohol and alternative fuels; graphic arts exemption part of manufacturing machinery and equipment exemption. Removes the 20% sales tax exemption on sales of gasohol; extends the sunset on the 100% sales tax exemption for majority blended ethanol and 100% biodiesel and certain biodiesel blends (above 10% but no more than 99% biodiesel) from December 31, 2018 to December 31, 2023. Provides that the manufacturing machinery and equipment exemption is expanded to include graphic arts machinery and equipment. Effective July 1, 2017. Regulations will be amended. See also FY Bulletin 2018-01 and additional information on the Department’s website.

P.A. 100-303 (HB 0821) – Mandated electronic filing; retailer’s discount conditioned on filing as required; removal of registration requirement to provide last 4 digits of social security numbers of officers of publicly traded companies. Except for returns for motor vehicles, watercraft, aircraft and trailers that are required to be registered, retailers whose annual gross receipts average \$20,000 or more must file all returns electronically; provides for hardship waivers; retailers remitting the Tire User Fee are required to file electronically if they are required to file their ROT returns electronically. This provision is incorporated into a number of other tax acts administered by the Department. The bill provides that the retailer’s discount is allowed only if returns are filed in the manner required (e.g., if returns are required to be filed electronically but are not so filed, the discount will be disallowed). These changes are effective January 1, 2018. Bill also removes the requirement that officers of publicly traded corporations provide the last 4 digits of their social security numbers as a condition of registration (effective August 24, 2017). Regulations will be amended. See also FY Bulletin 2018-05-A.

P.A. 100-0302 (HB 0819) – Registration procedures. Bill amends Section 2a of the Retailers’ Occupation Tax to provide that registrations or renewals issued on or after July 1, 2017 to taxpayers who file returns on a monthly basis will expire after one year from the date of issuance; provides for subsequent automatic 1-year renewals, subject to revocation as provided for in the Act. Regulations will be amended.

P.A. 100-0020 (HB 1811) – Chicago Prepaid Wireless 911 Surcharge. Extends Chicago’s 9% surcharge through December 31, 2020 (previously only authorized through June 30, 2017); provides that on and after January 1, 2021, Chicago can only impose the surcharge at the rate of 7%. See FY Bulletin 2017-19.

P.A. 100-0465 (SB 1947) – Invest In Kids Act. Authorizes taxpayers, subject to specific limitations and requirements, to receive an income tax credit for qualified contributions made to scholarship granting organizations. Department plans to file emergency regulations to implement this tax credit program. See FY Bulletin 2018-07.

REGULATIONS

Regulations Adopted in 2017

1. Coin-Operated Amusement Device and Redemption Machine Act: Amended 86 Ill. Adm. Code 460.101, 460.105 (Nature and Scope of Tax; Illustrations of Taxable and Nontaxable Coin-Operated Amusement Devices and Redemption Machines, respectively) to mirror current statute and reflect modern games and payment mechanisms. Adopted at 41 Ill. Adm. Code 3495.

2. Retailers' Occupation Tax: Amended 86 Ill. Adm. Code 130.311 (Drugs, Medicines, Medical Appliances and Grooming and Hygiene Products) to reflect new exemption for feminine hygiene products and reduced 1% rate for certain Class 3 medical devices used for cancer treatment. Adopted at 41 Ill. Reg. 10721.
3. Retailers' Occupation Tax: Amended 86 Ill. Adm. Code 130.320 (Gasohol, Majority Blended Ethanol, Biodiesel Blends, and 100% Biodiesel) to reflect extension of sunset on exemptions for these alternative fuels. Adopted at 41 Ill. Reg. 10721.

Regulations currently at JCAR

1. Amendment of Section 130.1960 – Retailers' Occupation Tax – bad debt/private label credit card provisions added by P.A. 99-217. Second notice soon filed.
2. Amendment of Section 130.555, 130.701, 130.715 – Retailers' Occupation Tax – updates registration requirements and procedures applicable to sales through vending machines; reflects provisions of P.A. 97-0335 and 98-0974. Second notice soon filed.
3. Amendment of Section 130.120 – Retailers' Occupation Tax – updates the “laundry list” of exemptions in the Act. Second notice soon filed.
4. New Section 150.802 – Use Tax – establishment of nexus through trade show activities; sets out safe harbor for retailers at trade shows. Second notice not yet filed.

Draft Regulations

1. As noted in the “Legislation” section of this document, regulations are being amended to reflect recently enacted legislation.
2. New Part 475 – regulations implementing the Hydraulic Fracturing Tax Act.
3. Update of Telecommunications Excise Tax regulations.
4. Update of Cigarette Tax Act, Cigarette Use Tax Act and Tobacco Products Tax Act regulations.
5. Amendment of “Jurisdictional Questions” section of various local tax regulations (e.g., 86 Ill. Adm. Code 270.115) to reflect the provisions of P.A. 99-0126 (sourcing provisions applicable to sales of tangible personal property to a nominal lessee or bailee pursuant to a lease with a dollar or other nominal option to purchase).