



Board of Commissioners of Cook County

118 North Clark Street
Chicago, IL

Legislation Details (With Text)

File #:	23-5695	Version:	1	Name:	Gas and Diesel Amendment Board Item 11.2023
Type:	Ordinance Amendment	Status:		Status:	Approved
File created:	11/2/2023	In control:		In control:	Finance Committee
On agenda:	11/16/2023	Final action:		Final action:	12/14/2023
Title:	PROPOSED ORDINANCE AMENDMENT				

GASOLINE AND DIESEL FUEL TAX

NOW THEREFORE BE IT ORDAINED, by the Cook County Board of Commissioners that Chapter 74 - Taxation, Article XII. Gasoline and Diesel Fuel Tax, Sections 74-470 through 74-509 be amended as follows:

Article XII. Gasoline and Diesel Fuel Tax

Sec. 74-470. Short title.

This Article shall be known and may be cited as the Cook County Retail Sale of Gasoline and Diesel Fuel Tax Ordinance.

Sec. 74-471. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Blended fuel means a mixture composed of gasoline or diesel fuel and another liquid, other than a de minimis amount of a product such as carburetor detergent or oxidation inhibitor, that can be used as a fuel in a highway vehicle.

Biodiesel Fuel means a fuel made wholly or partly from vegetable oils, animal fats or any other renewable resource or naturally occurring material, for use in a diesel engine. This definition does not include home heating oil or railroad locomotive fuel.

Consumer means end user.

Department means the Department of Revenue.

Diesel fuel means any petroleum product intended for use or offered for sale as a fuel for engines in which the fuel is injected into the combustion chamber and ignited by pressure without electric spark. This definition does not include home heating oil or railroad locomotive fuel.

Distributor means any person who either produces, refines, blends, compounds, or manufactures motor fuel in this County, or transports or has transported gasoline or motor fuel into this County, or receives motor fuel in Cook County on which this tax has not been paid. Distributors who own terminals and sell fuel at the wholesale level are subject to this Article.

Fuel alcohol means methanol or fuel grade ethanol.

Gasoline means all products sold as gasoline, which also includes aviation gasoline and gasohol, or any product which consists of gasoline blended with alcohol. This definition does not include propane, kerosene or jet fuel.

Gas distributor means any person who either produces, refines, blends, compounds, or manufactures

gasoline or diesel fuel in this County or transports or has transported gasoline or diesel fuel into this County or receives gasoline, diesel fuel or biodiesel fuel in Cook County on which this tax has not been paid.

GDiesel Fuel means fuel made wholly or partly from Ultralow Sulfur Diesel and Natural Gas intended for use or offered for sale as a fuel for a diesel engine. This definition does not include home heating oil or rail locomotive fuel.

Motor fuel means all volatile and inflammable liquids produced, blended or compounded for the purpose of, or which are suitable or practicable for, operating motor vehicles. Among other things, Motor Fuel includes gasoline, liquid alternative fuels, diesel fuel, biodiesel fuel, gdiesel fuel, blended fuel, dyed diesel fuel, fuel alcohol, compressed natural gas, liquefied natural gas, and any derivatives of those not expressly exempted in this Article.

Person means any individual, corporation, Limited Liability Corporation, organization, firm, joint venture, joint stock company, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity.

Retail dealer means any person who engages in the business of selling gasoline, diesel fuel, biodiesel fuel or gdiesel motor fuel in the County to a purchaser for use or consumption and not for resale in any form.

Sale, resale and selling means any transfer of ownership or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever. In every case where gasoline, diesel fuel, biodiesel, or gdiesel motor fuel are exchanged, given or otherwise disposed of, it shall be deemed to have been sold.

Sec. 74-472. Tax imposed.

(a) Tax rate. A tax is hereby imposed on the retail sale in Cook County of gasoline, diesel fuel, biodiesel fuel, and gdiesel motor fuel at the rate of \$0.06 per gallon or fraction thereof. The tax is to be paid by the purchaser consumer, and nothing in this Article shall be construed to impose a tax upon the occupation of distributors, suppliers or retail dealers distributing, supplying, furnishing, selling, or transporting motor fuel.

(b) The incidence of and liability for payment of the tax levied in this Article is to be borne by the consumer of the gasoline, diesel fuel, biodiesel fuel and gdiesel motor fuel. Therefore, it shall be deemed a violation of this Article for any Distributor or Retail dealer to fail to include the tax in the retail sale price of gasoline, diesel fuel, biodiesel fuel, gdiesel motor fuel or to otherwise absorb the tax.

(c) Taxable transactions. Except as provisions are made in this Article for the collection of the tax levied in this Article upon the sale of gasoline, diesel fuel, biodiesel fuel and gdiesel motor fuel in the possession of Distributors or Retail dealers on the effective date of the ordinance from which this Article is derived, the tax levied in this Article shall be collected by each Distributor or supplier who sells gasoline, diesel fuel, biodiesel fuel, or gdiesel motor fuel to:

(1) A Retail dealer doing business in the County;

(2) A consumer who purchases gasoline, diesel fuel, biodiesel fuel or gdiesel motor fuel directly from a Gas Distributor for delivery in the County; or

(3) Another Gas Distributor doing business in the County that is not holding a valid registration certificate. registered with the Department.

[(d) Reserved.]

(e) Any Gas Distributor or supplier of gasoline, diesel fuel, biodiesel fuel or gdiesel motor fuel shall pay the tax levied by this Article to the Department. Any person receiving payment of this tax

shall be a trustee for the County.

(f) If the retail dealer shall receive gasoline, diesel fuel, biodiesel fuel or gdiesel fuel upon which no tax has been collected by the distributor or supplier, and then the retail dealer shall collect such tax and remit it directly to the Department within 30 days of the receipt of such gasoline or diesel fuel. Evaporation. Distributor's losses of fuel during pipeline transportation as the result of evaporation or shrinkage due to temperature variations may not exceed 1% of the total gallons in storage at the beginning of the month, plus the receipts of gallonage during the month, minus the gallonage remaining in storage at the end of the month. Any loss reported that is in excess of this amount shall be subject to the tax imposed in this Article. Retail dealers are not permitted to reduce their tax liability due to evaporation or shrinkage.

(g) Tax in addition to other taxes. The tax imposed by this Article is in addition to all other taxes imposed by the Government of the United States, the State, or by any unit of local government.

Sec. 74-473. Tax-free sales.

Gas Distributors doing business in the County shall make tax-free sales of gasoline, diesel fuel, biodiesel fuel or gdiesel motor fuel with respect to which they are otherwise required to collect the tax to the following:

(1) Another Gas Distributor holding a valid registered with the Cook County Department of Revenue gas tax certificate of registration;

(2) Another Gas Distributor, or a Retail dealer where the selling distributor, or its agent, delivers the gasoline, diesel fuel, biodiesel fuel or gdiesel motor fuel to a location outside of the County;

(3) Beginning December 1, 2023, any municipality or township with its primary administrative office located in Cook County. Municipalities or townships who purchase motor fuel from a Retail dealer may apply for a rebate pursuant to section 74-479.

(43) The United States of America, the State, or their instrumentalities.

Sec. 74-474. Gas dDistributor; Retail dealer registration.

(a) Gas Distributors who produce, refine, blend, compound, or manufacture gasoline, diesel fuel, biodiesel fuel or gdiesel motor fuel in this County or transports or has transported transport or have transported gasoline, diesel fuel, biodiesel fuel or gdiesel motor fuel into this County or receives receive gasoline, diesel fuel, biodiesel fuel or gdiesel motor fuel in Cook County on which this tax has not been paid shall register with the Department within 30 days after the effective date of this ordinance.

(b) Retail dealers shall register and provide information as provided by rules and regulations promulgated by the Department of Revenue. Retailers receiving fuel from unregistered Distributors located outside the County shall register with the Department.

(c) It shall be unlawful to engage in the business of a Gas Distributor, as defined in this Article, prior to obtaining a certificate of Gas Tax registration issued by registering as a Distributor with the Department.

Sec. 74-475. Returns and remittances.

(a) Gas Distributors shall file each month with the Department a report of sales of gasoline, diesel fuel, biodiesel fuel or gdiesel motor fuel in such form as prescribed and furnished electronically or as otherwise directed by the Department, on or before the 20th day from the last day of the month for which the return is due. Each report of sales of gasoline or diesel motor fuel shall be accompanied by a remittance of the appropriate amount of tax applicable to the sales reported. The remittance shall be made payable to the County Collector. Distributors shall file a monthly return even when no tax is due.

(b) If a Retail dealer receives motor fuel upon which no tax has been collected by the Distributor or supplier, the Retail dealer shall remit such tax directly to the Department before the 20th day of the month after the month in which the gasoline was received.

Sec. 74-476. Tax in addition to other taxes.

The tax imposed by this Article is in addition to all other taxes imposed by the Government of the United States, the State, or by any unit of local government.

Sec. 74-477. Books and records.

Every gas Distributor and Retailer dealer as defined in this Article, shall keep accurate books and records of its beginning inventory, purchases, sales and ending inventory including original source documents and books of entry denoting the transactions that gave rise, or may have given rise, to any tax liability, exemption or deduction or defense to liability. Books and records and other papers relating to transactions which occurred during any period with respect to which the Department is authorized to issue notices of tax liability as provided in Chapter 34, Article III, Uniform Penalties, Interest and Procedures Ordinance shall be preserved until the expiration of such period unless the Department, in writing, authorizes their destruction or disposal prior to such expiration. All those books and records shall be kept in the English language and, at all times during business hours, shall be subject to and available for inspection or copying by the Department.

Sec. 74-478. Violation; penalties.

Any person determined to have violated this Article, as amended, shall be subject to a fine of \$1,000.00 for the first offense, and a fine of \$2,000.00 for the second and each subsequent offense. Separate and distinct offense shall be regarded as committed each day upon which said person shall continue any such violation, or permit any such violation to exist after notification thereof. It shall be deemed a violation of this Article for any person to knowingly furnish false or inaccurate information to the Department. Criminal prosecution pursuant to this Article shall in no way bar the right of the County to institute civil proceedings to recover delinquent taxes, interest and penalty due and owing as well as costs incurred for such proceeding.

Sec. 74-479. Municipality and township tax rebate.

Any municipality or township with its primary administrative office located in the County shall be entitled to a tax rebate when it purchases motor fuel (on which tax is charged) from a Retail dealer. Such rebate shall be paid on an annual basis electronically or as otherwise directed by the Department. Claims for such reimbursement of taxes paid must be made within six months from the end of each calendar year, upon forms prescribed by the Department, must include requisite proof that taxes were paid, and shall only address purchases made in the previous calendar year. The Department will deny as untimely any request for gas tax rebate received by the Department after June 30 of the year immediately following the calendar year for which the tax rebate is being requested. The Department shall determine the proof required to substantiate the rebate by rule.

Sec. 74-480. Tax rebate late filing penalty.

Any request for gas tax rebate received by the Department, postmarked or physically received after the due date, June 30 of the year following the calendar year for which the tax rebate is being requested, but before December 31 of the year following the calendar year for which the tax rebate is being requested, shall be assessed a penalty equal to ten percent of the total amount of the tax rebate due or owed by the Department to the municipality or township. The Department will deny as untimely any request for gas tax rebate received by the Department after December 31 of the year immediately following the calendar year for which the tax rebate is being requested.

Sec. 74-480481. Application of uniform penalties, interest and procedures ordinance.

Whenever not inconsistent with the provisions of this Article or whenever this Article is silent, the provisions of the Uniform Penalties, Interest and Procedures Ordinance shall apply and supplement

this Article.

Sec. 74-481482. Rulemaking.

The Department shall prescribe reasonable rules, definitions, and regulations necessary to carry out the duties imposed upon it by this Article. Such rules, definitions, and regulations shall include, but not be limited to, reasonable procedures consistent with existing practices of Distributors, suppliers and Retail dealers for collection and remittance of the tax herein levied upon the purchaser of gasoline or diesel motor fuel.

Secs. 74-482483-74-509. Reserved.

Effective date: This ordinance shall be in effect immediately upon adoption.

Sponsors: TONI PRECKWINKLE (President), FRANK J. AGUILAR, ALMA E. ANAYA, SCOTT R. BRITTON, JOHN P. DALEY, DENNIS DEER, BRIDGET DEGNEN, BRIDGET GAINER, MONICA GORDON, BILL LOWRY, DONNA MILLER, STANLEY MOORE, JOSINA MORITA, KEVIN B. MORRISON, SEAN M. MORRISON, ANTHONY J. QUEZADA, TARA S. STAMPS, MAGGIE TREVOR

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
12/14/2023	1	Board of Commissioners	approve	Pass
12/13/2023	1	Finance Committee		
11/16/2023	1	Board of Commissioners	refer	Pass

PROPOSED ORDINANCE AMENDMENT

GASOLINE AND DIESEL FUEL TAX

NOW THEREFORE BE IT ORDAINED, by the Cook County Board of Commissioners that Chapter 74 - Taxation, Article XII. Gasoline and Diesel Fuel Tax, Sections 74-470 through 74-509 be amended as follows:

Article XII. Gasoline and Diesel Fuel Tax

Sec. 74-470. Short title.

This Article shall be known and may be cited as the Cook County Retail Sale of Gasoline and Diesel Fuel Tax Ordinance.

Sec. 74-471. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Blended fuel means a mixture composed of gasoline or diesel fuel and another liquid, other than a de minimis amount of a product such as carburetor detergent or oxidation inhibitor, that can be used as a fuel in a highway vehicle.

Biodiesel Fuel means a fuel made wholly or partly from vegetable oils, animal fats or any other renewable resource or naturally occurring material, for use in a diesel engine. This definition does not include home heating oil or railroad locomotive fuel.

Consumer means end user.

Department means the Department of Revenue.

Diesel fuel means any petroleum product intended for use or offered for sale as a fuel for engines in which the fuel is injected into the combustion chamber and ignited by pressure without electric spark. This definition does not include home heating oil or

railroad locomotive fuel.

Distributor means any person who either produces, refines, blends, compounds, or manufactures motor fuel in this County, or transports or has transported gasoline or motor fuel into this County, or receives motor fuel in Cook County on which this tax has not been paid. Distributors who own terminals and sell fuel at the wholesale level are subject to this Article.

Fuel alcohol means methanol or fuel grade ethanol.

Gasoline means all products sold as gasoline, which also includes aviation gasoline and gasohol, or any product which consists of gasoline blended with alcohol. This definition does not include propane, kerosene or jet fuel.

Gas distributor means any person who either produces, refines, blends, compounds, or manufactures gasoline or diesel fuel in this County or transports or has transported gasoline or diesel fuel into this County or receives gasoline, diesel fuel or biodiesel fuel in Cook County on which this tax has not been paid.

GDiesel Fuel means fuel made wholly or partly from Ultralow Sulfur Diesel and Natural Gas intended for use or offered for sale as a fuel for a diesel engine. This definition does not include home heating oil or rail locomotive fuel.

Motor fuel means all volatile and inflammable liquids produced, blended or compounded for the purpose of, or which are suitable or practicable for, operating motor vehicles. Among other things, Motor Fuel includes gasoline, liquid alternative fuels, diesel fuel, biodiesel fuel, gdiesel fuel, blended fuel, dyed diesel fuel, fuel alcohol, compressed natural gas, liquefied natural gas, and any derivatives of those not expressly exempted in this Article.

Person means any individual, corporation, Limited Liability Corporation, organization, firm, joint venture, joint stock company, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity.

Retail dealer means any person who engages in the business of selling gasoline, diesel fuel, biodiesel fuel or gdiesel motor fuel in the County to a purchaser for use or consumption and not for resale in any form.

Sale, resale and selling means any transfer of ownership or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever. In every case where gasoline, diesel fuel, biodiesel, or gdiesel motor fuel are exchanged, given or otherwise disposed of, it shall be deemed to have been sold.

Sec. 74-472. Tax imposed.

(a) Tax rate. A tax is hereby imposed on the retail sale in Cook County of gasoline, diesel fuel, biodiesel fuel, and gdiesel motor fuel at the rate of \$0.06 per gallon or fraction thereof. The tax is to be paid by the purchaser consumer, and nothing in this Article shall be construed to impose a tax upon the occupation of distributors, suppliers or retail dealers distributing, supplying, furnishing, selling, or transporting motor fuel.

(b) The incidence of and liability for payment of the tax levied in this Article is to be borne by the consumer of the gasoline, diesel fuel, biodiesel fuel and gdiesel motor fuel. Therefore, it shall be deemed a violation of this Article for any Distributor or Retail dealer to fail to include the tax in the retail sale price of gasoline, diesel fuel, biodiesel fuel, gdiesel motor fuel or to otherwise absorb the tax.

(c) Taxable transactions. Except as provisions are made in this Article for the collection of the tax levied in this Article upon the sale of gasoline, diesel fuel, biodiesel fuel and gdiesel motor fuel in the possession of Distributors or Retail dealers on the effective date of the ordinance from which this Article is derived, the tax levied in this Article shall be collected by each Distributor or supplier who sells gasoline, diesel fuel, biodiesel fuel, or gdiesel motor fuel to:

- (1) A Retail dealer doing business in the County;
- (2) A consumer who purchases gasoline, diesel fuel, biodiesel fuel or gdiesel motor fuel directly from a Gas Distributor for delivery in the County; or
- (3) Another Gas Distributor doing business in the County that is not holding a valid registration certificate, registered with the Department.

[(d) Reserved.]

- (e) Any Gas Distributor or supplier of gasoline, diesel fuel, biodiesel fuel or gdiesel motor fuel shall pay the tax levied by this Article to the Department. Any person receiving payment of this tax shall be a trustee for the County.
- (f) If the retail dealer shall receive gasoline, diesel fuel, biodiesel fuel or gdiesel fuel upon which no tax has been collected by the distributor or supplier, and then the retail dealer shall collect such tax and remit it directly to the Department within 30 days of the receipt of such gasoline or diesel fuel. *Evaporation.* Distributor's losses of fuel during pipeline transportation as the result of evaporation or shrinkage due to temperature variations may not exceed 1% of the total gallons in storage at the beginning of the month, plus the receipts of gallonage during the month, minus the gallonage remaining in storage at the end of the month. Any loss reported that is in excess of this amount shall be subject to the tax imposed in this Article. Retail dealers are not permitted to reduce their tax liability due to evaporation or shrinkage.
- (g) *Tax in addition to other taxes.* The tax imposed by this Article is in addition to all other taxes imposed by the Government of the United States, the State, or by any unit of local government.

Sec. 74-473. Tax-free sales.

Gas Distributors doing business in the County shall make tax-free sales of gasoline, diesel fuel, biodiesel fuel or gdiesel motor fuel with respect to which they are otherwise required to collect the tax to the following:

- (1) Another Gas Distributor holding a valid registered with the Cook County Department of Revenue gas tax certificate of registration;
 - (2) Another Gas Distributor, or a Retail dealer where the selling distributor, or its agent, delivers the gasoline, diesel fuel, biodiesel fuel or gdiesel motor fuel to a location outside of the County;
 - (3) Beginning December 1, 2023, any municipality or township with its primary administrative office located in Cook County. Municipalities or townships who purchase motor fuel from a Retail dealer may apply for a rebate pursuant to section 74-479.
- (4) The United States of America, the State, or their instrumentalities.

Sec. 74-474. Gas dDistributor; Retail dealer registration.

- (a) Gas Distributors who produce, refine, blend, compound, or manufacture gasoline, diesel fuel, biodiesel fuel or gdiesel motor fuel in this County or transports or has transported transport or have transported gasoline, diesel fuel, biodiesel fuel or gdiesel motor fuel into this County or receives receive gasoline, diesel fuel, biodiesel fuel or gdiesel motor fuel in Cook County on which this tax has not been paid shall register with the Department within 30 days after the effective date of this ordinance.
- (b) Retail dealers shall register and provide information as provided by rules and regulations promulgated by the Department of Revenue. Retailers receiving fuel from unregistered Distributors located outside the County shall register with the Department.
- (c) It shall be unlawful to engage in the business of a Gas Distributor, as defined in this Article, prior to obtaining a certificate of Gas Tax registration issued by registering as a Distributor with the Department.

Sec. 74-475. Returns and remittances.

- (a) Gas Distributors shall file each month with the Department a report of sales of gasoline, diesel fuel, biodiesel fuel or gdiesel motor fuel in such form as prescribed and furnished electronically or as otherwise directed by the Department, on or before the 20th day from the last day of the month for which the return is due. Each report of sales of gasoline or diesel motor fuel shall be accompanied by a remittance of the appropriate amount of tax applicable to the sales reported. The remittance shall be made payable to the County Collector. Distributors shall file a monthly return even when no tax is due.
- (b) If a Retail dealer receives motor fuel upon which no tax has been collected by the Distributor or supplier, the Retail dealer shall remit such tax directly to the Department before the 20th day of the month after the month in which the gasoline was received.

Sec. 74-476. Tax in addition to other taxes.

The tax imposed by this Article is in addition to all other taxes imposed by the Government of the United States, the State, or by any unit of local government.

Sec. 74-477. Books and records.

Every gas Distributor and Retailer dealer as defined in this Article, shall keep accurate books and records of its beginning inventory, purchases, sales and ending inventory including original source documents and books of entry denoting the transactions that gave rise, or may have given rise, to any tax liability, exemption or deduction or defense to liability. Books and records and other papers relating to transactions which occurred during any period with respect to which the Department is authorized to issue notices of tax liability as provided in Chapter 34, Article III, Uniform Penalties, Interest and Procedures Ordinance shall be preserved until the expiration of such period unless the Department, in writing, authorizes their destruction or disposal prior to such expiration. All those books and records shall be kept in the English language and, at all times during business hours, shall be subject to and available for inspection or copying by the Department.

Sec. 74-478. Violation; penalties.

Any person determined to have violated this Article, as amended, shall be subject to a fine of \$1,000.00 for the first offense, and a fine of \$2,000.00 for the second and each subsequent offense. Separate and distinct offense shall be regarded as committed each day upon which said person shall continue any such violation, or permit any such violation to exist after notification thereof. It shall be deemed a violation of this Article for any person to knowingly furnish false or inaccurate information to the Department. Criminal prosecution pursuant to this Article shall in no way bar the right of the County to institute civil proceedings to recover delinquent taxes, interest and penalty due and owing as well as costs incurred for such proceeding.

Sec. 74-479. Municipality and township tax rebate.

Any municipality or township with its primary administrative office located in the County shall be entitled to a tax rebate when it purchases motor fuel (on which tax is charged) from a Retail dealer. Such rebate shall be paid on an annual basis electronically or as otherwise directed by the Department. Claims for such reimbursement of taxes paid must be made within six months from the end of each calendar year, upon forms prescribed by the Department, must include requisite proof that taxes were paid, and shall only address purchases made in the previous calendar year. The Department will deny as untimely any request for gas tax rebate received by the Department after June 30 of the year immediately following the calendar year for which the tax rebate is being requested. The Department shall determine the proof required to substantiate the rebate by rule.

Sec. 74-480. Tax rebate late filing penalty.

Any request for gas tax rebate received by the Department, postmarked or physically received after the due date, June 30 of the year following the calendar year for which the tax rebate is being requested, but before December 31 of the year following the calendar year for which the tax rebate is being requested, shall be assessed a penalty equal to ten percent of the total amount of the tax rebate due or owed by the Department to the municipality or township. The Department will deny as untimely any request for gas tax rebate received by the Department after December 31 of the year immediately following the calendar year for which the tax rebate is being requested.

Sec. 74-480481. Application of uniform penalties, interest and procedures ordinance.

Whenever not inconsistent with the provisions of this Article or whenever this Article is silent, the provisions of the Uniform Penalties, Interest and Procedures Ordinance shall apply and supplement this Article.

Sec. 74-481482. Rulemaking.

The Department shall prescribe reasonable rules, definitions, and regulations necessary to carry out the duties imposed upon it by this Article. Such rules, definitions, and regulations shall include, but not be limited to, reasonable procedures consistent with existing practices of Distributors, suppliers and Retail dealers for collection and remittance of the tax herein levied upon the purchaser of gasoline or diesel motor fuel.

Secs. 74-482483-74-509. Reserved.

Effective date: This ordinance shall be in effect immediately upon adoption.