

COOK COUNTY RETAIL SALE OF GASOLINE AND DIESEL FUEL TAX ORDINANCE

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF COOK, REPRESENTED IN THE COOK COUNTY BOARD:

Section 1. Title - Definitions

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

Definitions: For the purpose of this Ordinance, whenever any of the following words or terms are used herein, they shall have the meaning ascribed to them in this section.

(a) "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.

(b) "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.

(c) "Distributor or Supplier" means a 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 or diesel fuel in Cook County on which this tax has not been paid.

(d) "Retail Dealer" means any person who engages in the business of selling gasoline or diesel fuel in the County of Cook to a purchaser for use or consumption and not for resale in any form.

(e) "Person" means any natural person, trust, estate, joint venture, joint stock company, receiver trustee, court appointed representative, syndicate, association, partnership, firm, club, company, corporation, business, trust, institution, agency, government corporation, municipal corporation, district or other political subdivision, or any other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular or plural, is included in any circumstance.

(f) "Sale, Resale, 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 or diesel fuel are exchanged, given or otherwise disposed of, it shall be deemed to have been sold.

(g) "Department" means the Department of Revenue within the Bureau of Finance of the County of Cook.

Section 2. Tax Imposed

(a) A tax is hereby imposed on the retail sale in Cook County of gasoline and of diesel fuel at the rate of six (6) cents per gallon or fraction thereof. Such tax is to be paid by the purchaser and nothing in this Ordinance shall be construed to impose a tax upon the occupation of distributors, suppliers or retail dealers.

(b) The incidence of and liability for payment of the tax herein levied is to be borne by the consumer of said gasoline or diesel fuel.

(c) It shall be deemed a violation of the Ordinance for any distributor or retail dealer to fail to add the tax imposed herein on the retail sale price of the gasoline or diesel fuel, or to otherwise absorb such tax.

(d) Except as provisions are made in this Ordinance for the collection of the tax herein levied upon the sale of gasoline and diesel fuel in the possession of distributors or retail dealers on the effective date of this Ordinance, the tax herein levied shall be collected by each distributor or supplier who sells gasoline or diesel fuel to:

- (i) a retail dealer doing business in Cook County; or
- (ii) a consumer who purchases gasoline or diesel fuel directly from a distributor or supplier for delivery in Cook County; or
- (iii) another distributor or supplier doing business in Cook County that is not holding a valid registration certificate.

(e) Any distributor or supplier of gasoline or diesel fuel shall pay the tax levied by this Ordinance to the Department. Any person receiving payment of this tax shall be a trustee for the County of Cook.

(f) If the retail dealer shall receive gasoline or diesel fuel upon which no tax has been collected by the distributor or supplier, then the retail dealer shall collect such tax and remit it directly to the Department within thirty (30) days of the receipt of such gasoline or diesel fuel.

Section 3. Registration of Distributors and Suppliers

A person becoming a distributor or supplier after the adoption of this Ordinance shall register with the Department within twenty (20) days after the commencement of business. Distributors and suppliers shall file each month with the Department a report of sales of gasoline and diesel fuel in such form as prescribed and furnished by the Department. Such report of sales must be mailed in sufficient time to be postmarked on or before the twentieth (20th) day from the last day of the month for which the return is due. Each report of sales of gasoline or diesel 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 Cook County Collector.

Section 4. Rule Making

(a) The Department shall prescribe reasonable rules, definitions, and regulations necessary to carry out the duties imposed upon it by this Ordinance. 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 fuel.

(b) The Department may appoint distributors or suppliers and any other person within or without the County of Cook as agents for the tax herein levied. The Department is hereby authorized to grant a commission not exceeding one-half of one percent (0.5%) of the tax due to the County of Cook to such agent for services rendered in connection with the tax herein levied, provided said tax is remitted, in full, by the due date.

(c) Within thirty (30) days after the effective date of this Ordinance every retail dealer doing business in the County of Cook shall file with the Bureau, on forms prescribed by it, a sworn inventory of all gasoline in their possession or control on October 1, 1976. With said inventory, the retail dealer shall pay to the Cook County Collector the taxes due from the retail sale of all gasoline and diesel fuel which was in such retail dealer's possession on October 1, 1976, and for which the tax herein levied has not been collected on behalf of the County of Cook by a distributor or supplier.

Section 5. Penalties.

Any violation of this Ordinance shall be punishable by a fine of not less than \$100.00 and not more than \$1,000.00 or imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment. It shall be deemed a violation of this Ordinance for any person knowingly to furnish false

or inaccurate information as required herein. Criminal prosecutions pursuant to this Ordinance shall in no way bar the right of Cook County to institute civil proceedings to recover delinquent taxes, interest and penalties due and owing, as well as costs incurred for such proceeding. Civil penalties and interest assessed pursuant to this Ordinance shall be computed at the rate provided by the Cook County Uniform Penalty, Interest and Procedures Ordinance. The tax herein required to be collected by any distributor, supplier or retail dealer pursuant to this Ordinance shall constitute a debt owed by such distributor, supplier or retail dealer to Cook County.

Section 6.

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

Section 7.

Distributors and suppliers doing business in Cook County shall make tax free sales of gasoline and diesel fuel with respect to which they are otherwise required to collect the tax to the following:

- (a) To another distributor or supplier holding a valid registration certificate;
- (b) Another distributor, supplier, or a retail dealer where the selling distributor, or its agent, delivers the gasoline or diesel fuel to a location outside of Cook County;
- (c) The United States of America, State of Illinois, or their instrumentalities;

Section 7.1 Municipality and Township Tax Rebate.

Any municipality or township with its primary administrative office located in Cook County shall be entitled to a tax rebate. Such rebate shall be paid on an annual basis. Claims for such reimbursement must be made within six (6) months from the end of each calendar year upon forms prescribed by the Department. The Department shall determine the proof required to substantiate the rebate by rule.

Section 8. Severability

If any one or more of the provisions of this Ordinance is declared unconstitutional or the application thereof is held invalid, the validity of the remainder of this Ordinance and the application of such provisions to other persons and circumstances shall not be affected thereby.

Section 9.

This amendatory Ordinance shall take effect and be in force as of January 1, 1997.