

Chapter 66

MOTOR FUEL TAX

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66.01 DEFINITIONS:

a) For purposes of this Chapter, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this Section:

MOTOR FUEL: All volatile liquids compounded or used for fueling motor vehicles, including gasoline, gasohol, compressed natural gas and diesel fuel.

MOTOR FUEL RETAILER: Any person, firm or corporation engaged in the business of selling motor fuel at retail, and not for resale.

66.02 IMPOSITION OF TAX

a) Effective October 1, 2011, there is hereby levied and imposed upon the privilege of purchasing at retail motor fuel, within the City, at the rate of three and one half cents (\$0.035) per gallon or fraction thereof. (11-39)

b) This tax shall be in addition to any and all other taxes.

66.03 LIABILITY FOR PAYMENT

a) The ultimate incidence and liability for payment of such tax shall be upon the retail purchaser of motor fuel. Nothing herein shall be construed to impose a tax upon the occupation of selling motor fuel.

b) All retailers shall jointly and severally have the duty to collect and shall collect and account for the tax imposed in Section 66.02, a), from each consumer at the time that the consideration for such purchase is paid and shall remit the same to the City in the manner set forth in this Chapter. Such retailers shall be the trustee for the City in the collection and remittance of said taxes.

66.04 COLLECTION OF TAX

a) Each motor fuel retailer in the City shall have the duty to collect the motor fuel tax from each purchaser and to pay it over to the City, along with an accounting therefor, on return forms provided by the City. Upon the invoice, receipt or other statement or memorandum of the payment given to the purchaser at the time of payment, the amount due under the tax provided in this Section shall be stated separately on said documents or combined with the amount of the Illinois Retailer's Occupation Tax Act.

b) The return and tax payment shall be filed with the Comptroller/Treasurer, or his designee, on the same filing dates as are established for filing with the Illinois Department of Revenue of the Retailer's Occupational Tax Return Form ST-1.

66.05 RULES AND REGULATIONS

a) The Comptroller/Treasurer of the City of DeKalb may promulgate rules and regulations not inconsistent with the provisions of this Chapter 66 concerning the enforcement and application of this Chapter 66. The term "rules and regulations" includes, but is not limited to, a case by case determination whether or not the tax imposed by this Chapter 66 applies.

66.06 FILING OF APPLICATION

a) Each motor fuel retailer shall complete a City of DeKalb Application for Registration within thirty (30) days of opening for business and shall update the same annually at the time of their application for a Gas Station license with the City. In the event that any information set forth on the Application changes during the course of a year, the owner shall report such changes in writing to the City within fifteen (15) days of their occurrence. The Application and any changes thereto shall be filed with the Finance Division of the City. A failure to file the Application, either initially, annually or to report changes in the information contained therein, shall be a basis for a revocation of any City license of such retailer or applicable to the premises thereof, in addition to any other penalty provided in this Chapter.

b) If the owner fails to file the Application as required by this Chapter, either initially, annually or fails to report changes in the information contained therein, the retailer shall be subject to a penalty in the amount of One Hundred Dollars (\$100.00) for each day the failure continues.

66.07 FILING OF RETURN

a) All motor fuel retailers shall pay to the City all taxes collected. The owner of motor fuel facility within the City of DeKalb shall file monthly tax returns showing tax receipts received during each monthly period on forms prescribed by the Comptroller/Treasurer. The return shall be filed on or before the same filing dates as are established for filing with the Illinois Department of Revenue of the Retailer's Occupational Tax Return Form ST-1 and shall be accompanied by a copy of the State of Illinois sales tax return for the corresponding period and payment of all taxes, fees and penalties, if any, due and owing for the month covered by said return.

b) The first taxing period for the purpose of this Section shall commence on May 1, 2008, and the tax return and payment for such period shall be due on or before June 30, 2008. Thereafter, reporting periods and tax payments shall be in accordance with the provisions of this Section.

c) Any payment made by check which is returned to the City because of insufficient funds may result in the Comptroller/Treasurer requiring the retailer to make future payments by cashier's check or money order.

66.08 FAILURE TO FILE RETURN AND PAY TAX

a) If for any reason any tax is not paid when due, a penalty at the rate of five percent (5%) per thirty (30) day period or portion thereof, from the day of delinquency, shall be added and collected.

b) In addition to the penalty assessed under Section 66.08 a) and the late fee assessed under Section 66.08 c), any amount of tax which is not paid when due shall bear interest at the rate of two percent (2%) per month or fraction thereof from the date when such tax becomes past due until such tax is paid or a judgment thereof is obtained by the City of DeKalb.

c) If the retailer fails to file the return as required by this Chapter, a late fee in the amount of \$100.00 per month or a portion thereof shall be assessed for the first month's violation and said late fee shall increase by Fifty Dollars (\$50.00) for each and every month thereafter until paid, up to a maximum late fee of Five Hundred Dollars (\$500.00) per month. Said late fee shall be in addition to any penalties and interest set forth in this Chapter.

d) A failure to file the return and/or pay tax shall be a basis for a revocation of any City license of such retailer or applicable to the premises thereof, in addition to any other penalty provided in this Chapter.

66.09 RECORD

a) All retailers shall cause complete and accurate books, records and accounts showing the gross receipts for sales of motor fuel and the taxes collected each day, which shall be made available in the City for examination by the City upon reasonable notice and during customary business hours.

b) The financial records of any motor fuel retailer submitted pursuant to this Chapter or any rule and regulation promulgated thereunder shall not be made available for public inspection in order to protect the owner's right to privacy.

66.10 FAILURE TO REMIT; LICENSING

a) Payment and collection of said tax may be enforced by action in any court of competent jurisdiction and failure to collect, account for and pay over any tax collected from purchasers of taxable items shall be cause for revocation of any City license of such retailer or applicable to the premises thereof, in addition to any other penalty provided in this Chapter. Each failure to collect the tax imposed hereby and each failure to pay such tax over to the City shall constitute a separate violation hereof.

66.11 VIOLATIONS; PENALTIES; DISCLOSURE OF MANDATORY GRATUITY

a) Any motor fuel retailer found guilty or liable, pleading guilty or liable, of violating, disobeying, omitting, neglecting or refusing to comply with, or resisting or opposing the enforcement of any of the provisions of this Chapter, except when otherwise specifically provided, shall be deemed to have committed an offense and punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for the first offense, and not less than

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Two Hundred Fifty Dollars (\$250.00), nor more than One Thousand Dollars (\$1,000.00) for the second offense, and not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00) for the third and each subsequent offense within a two (2) year period, or five (5) times the amount of the tax imposed, if any, whichever is higher, for the second and each subsequent offense. A separate and distinct offense shall be regarded as committed each day that said retailer shall continue any such violation, or permit any such violation to exist after notification thereof.

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