

This letter responds to an annual survey. (This is a GIL.)

May 5, 2023

NAME
ADDRESS

Dear NAME:

This letter is in response to your letter dated July 13, 2022, in which you requested information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We are updating the information in the Title and Registration Textbook which is used by government offices throughout the country.....would you like any changes made to the information below for 2023 or is it correct as displayed?

SALES OR USE TAX APPLICABLE TO TITLING — NOTE: Updates may be implemented. State tax rate is 6.25% with some locally imposed taxes. RESIDENTS who purchase a new or used vehicle from out-of-state dealers, lending institutions, or leasing companies pay state tax of 6.25% but may include LOCAL TAXES depending on location in the state, on the net price after trade-in allowance, with CREDIT for sales or use taxes paid to other state. MILITARY PERSONNEL ARE NOT EXEMPT from sales taxes. Individuals moving into Illinois are EXEMPT from the USE TAX if vehicle was purchased AND titled in another state for at least 3 months prior to moving into Illinois. With some exceptions, NON-RESIDENTS who purchase a vehicle in Illinois for registration in another state are not subject to tax if not titled in Illinois. Nonresidents are not entitled to this exemption if the vehicle will be titled in a state that does not give Illinois residents an exemption on their purchases in that state of vehicles that will

be titled in Illinois (i.e. if there is no reciprocal exemption). Purchaser must acquire or affix driveaway permit or purchaser must affix non-Illinois license plates to remove from Illinois. Vehicles sold to an INTERSTATE CARRIER to be used for hire, a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes, with an active identification number issued by the Department are EXEMPT. The sale or transfer of a vehicle from an individual other than a retailer is subject to VEHICLE USE TAX (Form RUT-50) on the model year if the selling price was less than \$15,000, and on the selling price if \$15,000 or more. The VEHICLE USE TAX on sales or transfers of motorcycles and ATVs is \$25.00, and the tax is \$15.00 when the sale or transfer of any motor vehicle is between spouse, parent, brother, sister, or child. Effective September 1, 2021, a \$15.00 tax liability applies when a transfer is from one spouse to the other spouse in a dissolution of marriage and the transfer is made no later than 90 days from the date of a final, non-appealable order of dissolution of marriage. The Illinois Department of Revenue collects Chicago and Cook County's Local Vehicle Use Tax on non-retail transactions on Form RUT-50 as well. TAX EXEMPT when transferring to a surviving spouse. NOTE: There are NO USE TAXES on PRIVATE PARTY TRANSFERS on mobile homes, trailers, and snowmobiles. You need a use permit. The sale or transfer of an airplane or boat between an individual other than a retailer is subject to the AIRCRAFT/WATERCRAFT USE TAX at the rate of 6.25% with no locally imposed taxes. The tax is based on the selling price or fair market value of the airplane or boat, whichever is greater. TAX EXEMPT when sold to an EXEMPT ORGANIZATION, INTERSTATE CARRIER for hire, SURVIVING SPOUSE, or use in PRODUCTION AGRICULTURE. When a customer receives more than one vehicle from a dealer for their trade-in, and no money changes hands (even trade), a completed tax form is required with every Application for Title, regardless of whether taxes are due or not. The net purchase price is defined as the actual purchase price less the trade-in value(s). If the net purchase price is zero or less, then the tax due is zero. However, beginning January 1, 2020, for purposes of calculating sales and use tax, the trade-in credit claimed for each first division motor vehicle being traded in cannot exceed \$10,000. Effective January 1, 2022, the \$10,000 trade-in cap is eliminated. To receive assistance with tax computation and for updates please contact the Illinois Department of Revenue at (800) 732-8866 or (217) 782-3336. By mail contact Illinois Department of Revenue, Sales and Use Taxes, 101 W. Jefferson Street, Springfield, IL 62702 and on the Internet www.tax.illinois.gov. NOTE: Updates may be implemented, for details please contact the state.

SALES OR USE TAX APPLICABLE TO REGISTRATION — None. For information please contact the Illinois Department of Revenue at (800)

732-8866 or (217) 782-3336. By mail contact Illinois Department of Revenue, Sales and Use Taxes, 101 W. Jefferson Street, Springfield, IL 62702 and on the Internet www.tax.illinois.gov. NOTE: Updates may be implemented, for details please contact the state.

LEASED VEHICLES — TAXES — All vehicles brought into Illinois to be titled and registered require an Illinois Use Tax Transaction Return (Form RUT-25) to be filed within 30 days of bringing the vehicle into the state. (Note: Taxes on vehicles purchased from an Illinois dealer are generally handled directly by the dealer.) For LEASED VEHICLES (periods of more than one year): Lessor is considered user of the vehicle and incurs Illinois Use Tax liability when vehicle is brought into the state. Effective January 1, 2016, the taxable “selling price” of motor vehicles of the first division and certain motor vehicles of the second division sold for the purpose of leasing the vehicles for a defined period of more than one year is based on the amount of the lease contract, with no credit for trade-ins. See the definition of “selling price” at 35 ILCS 120/1. The Illinois Use Tax is due upfront at the time of applying for title and registration and is based on address of lessee where vehicle will be titled and registered. The STATE TAX rate is 6.25% but may include LOCAL TAXES up to 7.25% depending on location in the state. For a sale of a leased vehicle a Bill of Sale or other specific proof of the purchase price must be submitted with the Use Tax Return. Trade-in deduction (except in cases where the taxable selling price is the amount of the lease contract) and/or credit for sales tax previously paid in another state is allowed to reduce Illinois Use Tax but only if clearly and separately stated on the Bill of Sale or other proof of purchase and limited to \$10,000 for each first division motor vehicle traded in. Effective January 1, 2022, the \$10,000 trade-in cap is eliminated. For RENTAL VEHICLES (one year or less): Rentor is considered user of vehicle. If rentor is currently registered to collect AUTOMOBILE RENTING TAX in Illinois, vehicle is exempt from up front Illinois Use Tax, however a Use Tax Return is still required when applying for title and registration. Rentor pays Automobile Renting Tax each month based on receipts received from renting. AUTOMOBILE RENTING TAX rate is 5% STATE, 1% LOCAL (if applicable), and 6% METROPOLITAN PIER AND EXPOSITION AUTHORITY (if applicable). No PERSONAL PROPERTY TAXES. MUNICIPAL OR COUNTY USE TAX on vehicles imposed by certain municipalities or by Cook County, which, except for Chicago in some cases, are administered and collected by the municipality or county. The Illinois Department of Revenue administers collections of state taxes on vehicles. NOTE: Updates may be implemented please contact Taxpayer Assistance at (800) 732-8866 or (217) 782-3336. The issuance of titles and registrations of vehicles are administered by the Office of the Secretary of State. For more information, call (217) 782-6387.

DEPARTMENT'S RESPONSE:

The Department cannot approve third-party publications. You should consult the [Illinois Compiled Statutes](#), [Administrative Code](#), and Department's publications for information on these matters. However, in the interest of limiting the dissemination of incorrect or incomplete information, see the below listed suggestions. Before getting into the suggestions, please note that there was a change in the law which is applicable to certain retailers and lessors of tangible personal property that is required to be licensed or titled in Illinois.

Leveling the Playing Field for Illinois Retail Act

Public Acts 101-0031 and 101-0604 amended the Retailers' Occupation Tax Act and enacted the Leveling the Playing Field for Illinois Retail Act to implement a series of structural changes to the Illinois sales tax laws. The changes are intended to "level the playing field" between Illinois-based retailers and remote retailers by imposing State and local retailers' occupation taxes on Illinois retailers, remote retailers and marketplace facilitators alike. 86 Ill. Adm. Code 131.101. To implement the changes the Department promulgated administrative rules [Part 131](#) in the Administrative Code. 86 Ill. Adm. Code 131.101 *et seq.*

According to Sections 131.110(e) and 131.130(c), beginning February 1, 2022, sales of tangible personal property that is required to be titled or registered with an agency of the State of Illinois, including motor vehicles, watercraft, aircraft, and trailers, that are made:

- 1) by remote retailers to purchasers in Illinois are subject to the provisions of Part 131;
- 2) over a marketplace to purchasers in Illinois are subject to the provisions of Part 131.

Part 131 does not apply when an out-of-state seller ships or delivers titled or registered items to purchasers in Illinois using its own delivery vehicle. 86 Ill. Adm. Code 131.110(e). For sales made by a marketplace facilitator on behalf of marketplace sellers, taxes under Part 131 apply at the location to which the titled or registered item is shipped or delivered, or the location in Illinois where the purchaser takes possession of the titled or registered item. 86 Ill. Adm. Code 131.130(c). For sales made by marketplace facilitators themselves, see Section 131.130(g). 86 Ill. Adm. Code 131.130(c).

For definitions of a remote retailer and marketplace facilitator refer to 35 ILCS 120/1 and 86 Ill. Adm. Code 131.105. For the tax remittance threshold test refer to 35 ILCS 120/2(a)-(c) and 86 Ill. Adm. Code 131.115, 135. Remote retailers and

marketplace facilitators who meet the tax remittance threshold for filing must file Form ST-556, Sales Tax Transaction Return, for sales of property that must be titled or registered, or Form ST-556-LSE, Transaction Return for Leases, for sales of property that must be titled or registered and that is simultaneously being leased as part of the transaction.

For more information regarding the compliance requirements for remote retailers and marketplace facilitators, visit the Department's [Leveling the Playing Field for Illinois Retail Act Resource Page](#).

Proposed Suggestions

In the section titled “**Sales or Use Tax Applicable To Titling**” consider inserting the underlined text and removing the stricken language as follows:

- “Vehicles sold to an INTERSTATE CARRIER to be used for hire, governmental body, a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes, with an active identification number issued by the Department are EXEMPT.” Refer to 35 ILCS 105/3-5(27).
- “The gift, sale or transfer, or purchase of a vehicle from a private party an individual other than a retailer is subject to PRIVATE PARTY VEHICLE USE TAX (Form RUT-50) on the model year if the selling price was less than \$15,000, and on the selling price if \$15,000 or more. The PRIVATE PARTY VEHICLE USE TAX on gifts, sale or transfers, or purchases of motorcycles and ATVs is \$25.00, and ~~the tax is~~ \$15.00 on motor vehicles when the gift, sale or transfer, or purchase of any motor vehicle is between spouse, parent, brother, sister, or child.” Refer to 625 ILCS 5/3-1001 *et seq.*, and 86 Ill. Adm. Code 151.101 *et seq.*
- “The gift, sale or transfer, or non-retail purchase of an airplane or boat ~~between an individual other than a retailer~~ is subject to the AIRCRAFT/ or WATERCRAFT USE TAX, respectively, at the rate of 6.25% with no locally imposed taxes. The tax is based on the selling price or fair market value of the airplane or boat, whichever is greater. TAX EXEMPT when ~~sold to~~ purchased from a non-retailer for use by an EXEMPT ORGANIZATION, or INTERSTATE CARRIER for hire; is given to a SURVIVING SPOUSE; or is used in PRODUCTION AGRICULTURE.” Refer to 35 ILCS 157/10-1 *et seq.*, and 86 Ill. Adm. Code 152.101 *et seq.*
- “~~However, beginning January 1, 2020, for purposes of calculating sales and use tax, the trade-in credit claimed for each first division motor vehicle being traded in cannot exceed \$10,000. Effective January 1, 2022, the \$10,000 trade-in cap is eliminated.~~”

In the section titled “**Leased Vehicles**” consider inserting the underlined text and removing the stricken language as follows:

- “Effective January 1, 2015–2016, the taxable “selling price” of motor vehicles of the first division and certain motor vehicles of the second division sold for the purpose of leasing the vehicles for a defined period of more than one year”
- “Trade-in deduction (except, effective January 1, 2015, in cases where the taxable selling price is the amount of the lease contract) and/or credit for sales tax previously paid in another state is allowed to reduce Illinois Use Tax but only if clearly and separately stated on the Bill of Sale or other proof of purchase ~~and limited to \$10,000 for each first division motor vehicle traded in. Effective January 1, 2022, the \$10,000 trade-in cap is eliminated.~~”
- “MUNICIPAL OR COUNTY USE TAX on vehicles imposed by certain home rule municipalities or by Cook County, which, except for Chicago in some cases, are administered and collected by the municipality or county.”

With respect to the **entire document**, consider adjusting terminology to eliminate confusion with respect to occupation and use taxes. “ROTA [“Retailers’ Occupation Tax Act”] and the Use Tax Act are complementary, interlocking statutes that comprise the taxation scheme commonly referred to as the Illinois ‘sales tax’.” *Kean v. Wal-Mart Stores, Inc.*, 235 Ill. 2d 351, 362 (2009). Since “sales tax” comprises of both occupation and use tax, consider rephrasing, where appropriate, to either “occupation and use tax” or “sales tax”.

With respect to the **entire document**, consider incorporating pertinent information from the Leveling the Playing Field for Illinois Retail Act and 86 Ill. Adm. Code 131.101 *et seq.*

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department’s Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Katarzyna Kowalska
Associate Counsel

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