

Out-of-State servicepersons must determine whether they have physical presence or meet the tax remittance threshold of \$100,000 in cumulative gross receipts from annual sales of service. If so, they must calculate whether they are de minimis or not in order to determine their tax registration and remittance obligations. See 86 Ill. Adm. Code 140.105-109. (This is a GIL).

June 3, 2026

NAME
EMAIL
ADDRESS

Dear NAME:

This letter is in response to your letter dated March 9, 2026, 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 <https://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.

INQUIRY:

We respectfully request issuance of a General Information Letter regarding the Department's interpretation and application of the physical presence nexus standard contained in 35 ILCS 105/2(1) and 35 ILCS 110/2(1), as it relates to the activities described below for “the Company.” Clarification on this issue will help the Company determine whether it has a registration obligation in Illinois and ensure compliance with the law.

Facts

The Company's primary business activities include industrial dry cleaning, repair, and alteration services performed on personal protective equipment (PPE) and work apparel. The Company's customers include state and local governments and political subdivisions, educational institutions, distributors, and certain individual customers.

The Company is headquartered outside Illinois and operates multiple facilities throughout the United States. The Company does not maintain an office, warehouse, storefront, or any other brick-and-mortar place of business in Illinois.

However, Company employees regularly drive business vehicles into Illinois to pick up and deliver PPE for Illinois customers. The dry cleaning, repair, and alteration services are performed at facilities located outside Illinois and selling activities also occur outside Illinois.

Background

Based on research conducted by the Company's internal and external tax professionals, we understand that the presence of employees, agents, or other representatives operating within a state may create physical presence nexus in that state.

The Illinois statute appears to coincide with that principle:

*“Retailer maintaining a place of business in this State: or any like term, means and includes any of the following retailers: (1) A retailer having or maintaining within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, **or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily,** or whether such retailer or subsidiary is licensed to do business in this State.” (35 ILCS 10512(1))*

In addition, the definitions currently provided on the Department's website appear to describe an “out-of-state seller” as an out-of-state retailer with physical presence in Illinois under the same statutory definition.

Because the Company interpreted its activities as creating physical presence nexus, we believed it had an obligation to register for a Service Occupation Tax

and/or Use Tax account and submitted a registration application. However, the application was subsequently rejected.

A Revenue Tax Specialist III explained that the Company does not have a physical presence nexus in the state or a registration requirement. We reiterated that it makes regular deliveries into Illinois using company vehicles, which we believe fits the definition of an “agent or representative operating within the State ... temporarily.” We were then referred to other Department personnel who explained that, “Physical presence is established by selling products in Illinois. Not by employee presence.” Since that response still didn't align with our research, we were advised to speak with the Sales Tax Department. The next representative explained the Department's position as follows:

“OUT OF STATE RETAILER: PHYSICAL PRESENCE: HAVING/MAINTAINING AN OFFICE/DISTRIBUTION HOUSE/SALE HOUSE/WAREHOUSE OR OTHER PLACE OF BUSINESS. You do not have this. You pick up items from IL. You remove items from IL. You mend items out of state. You return items to IL. Services in IL are not subject to tax. The transfer of TPP with the course of service can become taxable; but for a remote retailer, your sales into our state would have to be more than \$100K per year to apply with no physical presence. Until you have reached \$100K per year in revenue from a taxable source for sales and use tax, this does not apply to you.”

We appreciate the assistance provided by these representatives; however, because the explanations either did not address whether the presence of employees operating in Illinois affects nexus or appeared inconsistent with the cited statute, we respectfully request assistance from your office.

We also understand that most services are not taxable in Illinois, but our interpretation of statute was that the taxability of products or services does not trigger a registration requirement. Rather, establishing physical presence nexus and/or economic nexus triggers a requirement to register. Once registered, the Company would determine whether any of its services were taxable and would go through the normal procedures to collect and remit tax and file tax returns if applicable.

Request for Clarification

The Company respectfully requests clarification on the following questions:

1. Whether the regular pickup and delivery of goods serviced outside Illinois to customers located in Illinois using company vehicles constitutes physical presence nexus under 35 ILCS 105/2(1).
2. Whether the presence of employees who work in Illinois and/or reside in Illinois and perform services for the Company in the state constitutes physical presence nexus under 35 ILCS 105/2(1).
3. Whether establishing sales tax nexus in Illinois creates a registration obligation even if the Company's Illinois transactions are not ultimately subject to Illinois sales or use tax.
4. How the Department interprets the terms “operating”, “agent”, and “representative” as used in 35 ILCS 105/2(1) in the phrase “any agent or other representative operating within this State.”

We appreciate any guidance the Department is able to provide.

DEPARTMENT’S RESPONSE:

The Illinois Retailers’ Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling or leasing tangible personal property to purchasers for use or consumption. See 35 ILCS 120/2; 86 Ill. Adm. Code 130.101. The Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased, including leased, at retail from a retailer. See 35 ILCS 105/3; 86 Ill. Adm. Code 150.101. These taxes comprise what is commonly known as “sales” tax in Illinois. If the purchases occur in Illinois, the purchasers must pay the Use Tax to the retailer at the time of purchase. The retailers are then allowed to retain the amount of Use Tax paid to reimburse themselves for their Retailers’ Occupation Tax liability incurred on those sales. If the purchases occur outside Illinois, purchasers must self-assess their Use Tax liability and remit it directly to the Department.

Retailers’ Occupation Tax and Use Tax do not apply to sales of service, including, among others, dry cleaning, repair, and alteration services. The Service Occupation Tax Act imposes a tax upon persons engaged in this State in the business of making sales of service, based on tangible personal property transferred incident to sales of service. Under the Service Occupation Tax Act, businesses providing services (i.e., servicepersons) are taxed on tangible personal property transferred as an incident to sales of service. See 86 Ill. Adm. Code 140.101. For Illinois servicepersons, including servicepersons maintaining a place of business in this State, the transfer of tangible personal property to service customers may result in either Service Occupation Tax liability or Use Tax liability for servicepersons, depending upon which tax base they choose to calculate their liability. Servicepersons who make retail sales that are sourced in Illinois, even if those sales are a small part of their

business, are required to register with the Department and remit Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.701.

The Service Use Tax is a privilege tax imposed on the privilege of using, in this State, tangible personal property that is received anywhere as an incident to a purchase of service from a serviceperson. However, if the serviceperson would not be taxable under the Service Occupation Tax despite all elements of the sale of service occurring in Illinois, then the tax imposed by the Service Use Tax Act does not apply to the use of such property in this State. Any evidence that property was sold by any person for delivery to a person residing in or engaged in business in this State shall be prima facie evidence that such property was sold for use in this State.

If a service transaction does not involve the transfer of any tangible personal property to the customer, then it would not be subject to Retailers' Occupation Tax, Use Tax, Service Occupation Tax, or Service Use Tax. When dry cleaners or laundries transfer tangible personal property as an incident to the furnishing of their services, those transactions are taxable under the Service Occupation Tax Act. See 86 Ill. Admin. Code 140.140(e).

Calculation of Tax Incurred by Servicepersons and Cost Ratio

Servicepersons may calculate their tax base in one of four ways: (1) Service Occupation Tax on the separately-stated selling price of tangible personal property transferred incident to the service; (2) Service Occupation Tax on 50% of the serviceperson's entire bill; (3) Service Occupation Tax on the serviceperson's cost price if the serviceperson is a de minimis serviceperson who makes any retail sales of tangible personal property to purchasers in this State or who elects to be registered under Section 2a of the Retailers' Occupation Tax Act; or (4) Use Tax on the serviceperson's cost price if the serviceperson is de minimis and does not make any retail sales of tangible personal property to purchasers in Illinois and is not otherwise registered under Section 2a of the Retailers' Occupation Tax Act. See 35 ILCS 115/3(g); 86 Ill. Adm. Code 140.105–140.106.

Using the first method, servicepersons may separately state the selling price of each item transferred as a result of sales of service. The tax is based on the separately stated selling price of the tangible personal property transferred. If servicepersons do not wish to separately state the selling price of the tangible personal property transferred, those servicepersons must use the second method where they will use 50% of the entire bill to their service customers as the tax base. Both of the above methods provide that in no event may the tax base be less than the cost price of the tangible personal property transferred. See 86 Ill. Adm. Code 140.106(a). Servicepersons who incur Service Occupation Tax on their selling price should provide their suppliers with Certificates of Resale when purchasing the tangible personal property to be transferred as a part of sales of service and are required to

collect the corresponding Service Use Tax from their customers. See 86 Ill. Adm. Code 140.106(b) and (e).

The third way servicepersons may account for their tax liability only applies to de minimis servicepersons who have either chosen to be registered, are required to be registered because they incur Retailers' Occupation Tax liability with respect to a portion of their business, or are remote servicepersons making any retail sales of tangible personal property to Illinois purchasers. Servicepersons must calculate their cost ratio to determine whether they are de minimis. The cost ratio is a measure of the amount of tangible personal property transferred incident to a sale of service. It is calculated by comparing the serviceperson's materials cost to their total income from services. The cost of materials that are not transferred to customers incident to a service, such as those sold at retail, removed from inventory for use, or incorporated into repairs of real estate, must be excluded when determining the cost ratio. See 86 Ill. Adm. Code 140.105(c). Servicepersons may qualify as de minimis if they determine that their annual aggregate cost price of tangible personal property transferred incident to sales of service is less than 35% of their annual gross receipts from service transactions (75% in the case of pharmacists and persons engaged in graphic arts production). See 86 Ill. Adm. Code 140.109.

Registered de minimis servicepersons and remote de minimis servicepersons making any retail sales to Illinois purchasers are authorized to pay Service Occupation Tax based upon the cost price of tangible personal property transferred incident to sales of service. Servicepersons that incur Service Occupation Tax based upon their cost price collect the Service Use Tax from their customers. They remit tax to the Department by filing returns and do not pay tax to their suppliers. They provide suppliers with Certificates of Resale for the tangible personal property transferred to service customers. See 86 Ill. Adm. Code 140.109(a)(1) and (a)(4).

The final method of determining tax liability may be used by de minimis servicepersons that are not otherwise required to be registered under Section 2a of the Retailers' Occupation Tax Act and, beginning January 1, 2026, de minimis out-of-State servicepersons who do not make any retail sales of tangible personal property to purchasers in Illinois. See 35 ILCS 115/2(g). Such de minimis servicepersons handle their tax liability by paying Use Tax to their suppliers. If their suppliers are not registered to collect and remit tax, the servicepersons must register, self-assess, and remit Use Tax to the Department. The servicepersons are considered to be the end-users of the tangible personal property transferred incident to service. Consequently, they are not authorized to collect a "tax" from their service customers. See 86 Ill. Adm. Code 140.108.

Servicepersons who incur and remit Service Occupation Tax to the Department have a Service Use Tax collection obligation and shall collect Service Use Tax from users at the time of purchase. The Service Use Tax shall be based on the selling price of the tangible

personal property transferred incident to the sale of service if stated separately on the invoice from the serviceperson. If not stated separately, then the tax will be imposed on 50% of the entire billing from the serviceperson. However, the Service Use Tax which is collected by a registered de minimis serviceperson or remote serviceperson with no retail sales into this State shall be based upon the serviceperson's cost price of tangible personal property transferred incident to the serviceperson's sales of service. 86 Ill. Adm. Code 160.115.

Physical Presence and Economic Nexus

In *South Dakota v. Wayfair, Inc.*, 583 U.S. 1089 (2018), the U.S. Supreme Court upheld a South Dakota statute that imposed tax collection obligations on remote retailers that met specific selling thresholds but had no physical presence in the state. This decision abrogated the longstanding physical presence requirement of *Quill*, deeming it “unsound and incorrect.” See *Quill Corporation v. North Dakota*, 504 U.S. 298 (1992). Illinois Public Act 100-587 enacted nexus standards, effective October 1, 2018, that were virtually identical to those upheld in *Wayfair*. Effective January 1, 2026, Illinois Public Act 104-006, amended the nexus standards. For the purposes of this letter, this non-physical presence nexus is referred to as “economic nexus.” Physical presence nexus remains a way to determine whether a serviceperson is a serviceman maintaining a place of business in this State, as set forth at 35 ILCS 110/2(1), in addition to economic nexus. Effective January 1, 2026, an out-of-State serviceperson has economic nexus if the serviceperson makes sales of service to Illinois purchasers with gross receipts totaling \$100,000 or more from sales of service and therefore meets the definition of “serviceman maintaining a place of business in this State”.

With respect to the meaning of the clause “any agent or other representative operating within this State”, which appears in the definition of serviceman maintaining a place of business in this State, determining whether physical presence exists is very fact-specific. It may be helpful to review the Department's Out-of-State Sales Resource Page, paying special attention to PIO-113, Out-of-State Retailer or Serviceperson Maintaining a Place of Business in Illinois Registration Flowchart, and PIO-125, Determining Physical Presence or When the Tax Remittance Threshold Has Been Met and Where a Sale Is Sourced – Sales and Use Tax Help Guide, found on the Department's website at <https://tax.illinois.gov/research/taxinformation/sales/level-the-playing-field.html>.

If an out-of-State serviceperson makes both taxable and nontaxable sales of service into Illinois, all sales of service are included in the calculation of economic nexus, including the nontaxable sales of service (other than sales for resale and other sales specified at 86 Ill. Adm. Code 131.120(b)). See 86 Ill. Adm. Code 131.120(b).

Out-of-State Sales of Service

Effective January 1, 2026, a “serviceman maintaining a place of business in this State” that makes sales of service to Illinois customers from a location or locations outside of Illinois is engaged in the business of making sales of service in Illinois for the purposes of the Service Occupation Tax Act, and is liable for all applicable State and locally imposed service occupation taxes administered by the Department on all tangible personal property transferred as an incident of a sale of service made by the serviceperson to Illinois customers from locations outside of Illinois. See 35 ILCS 115/3(b). Prior to January 1, 2026, servicepersons whose only nexus was meeting the economic threshold were not considered to be engaged in the business of making sales of service in this State; therefore, State and local service occupation taxes were not imposed on such servicepersons. Such servicepersons were required to collect and remit Service Use Tax for sales of service to Illinois customers sourced outside of Illinois. See 86 Ill. Adm. Code 160.115(a).

Out-of-State servicepersons making sales of service to Illinois purchasers from locations outside Illinois may be required to register with the Department and collect Service Use Tax and remit State and local service occupation taxes on those sales. If the serviceperson meets the definition of a “serviceman maintaining a place of business in this State” in Section 2 of the Service Use Tax Act, 35 ILCS 110/2, and either (1) has a cost ratio equal to or greater than 35% (75% in the case of servicepersons transferring prescription drugs or engaged in graphic arts production), or (2) is required or elects to register under Section 2a of the Retailers’ Occupation Tax Act, the serviceperson must register with the Department to collect Service Use Tax and remit State and local service occupation taxes on sales of service to Illinois purchasers from locations outside of Illinois. Servicepersons maintaining a place of business in this State who have paid Service Occupation Tax to the Department on a sale of service are not liable to the Department for Service Use Tax on the same transaction. See 35 ILCS 115/3(c).

Out-of-State servicepersons who also make any retail sales to Illinois customers, even if those sales are a small part of their business, are required to register with the Department and remit, with respect to those transactions, Retailers’ Occupation Tax, if they meet the definition of “retailer maintaining a place of business in this State”. Any out-of-State serviceperson maintaining a place of business in this State who is required or has elected to register under Section 2a of the Retailers’ Occupation Tax Act or makes any retail sales to Illinois customers must register with the Department to collect Service Use Tax and remit State and local service occupation taxes on all of their sales of service to Illinois customers as well. If such serviceperson is a de minimis serviceperson, the Service Occupation Tax for such serviceperson is based upon the serviceperson’s cost price of tangible personal property transferred incident to the serviceperson’s sales of service. See 86 Ill. Adm. Code 160.115.

Finally, out-of-State servicepersons who are not required to register under the Retailers’ Occupation Tax Act, make no retail sales to Illinois customers, and whose cost

ratio is less than 35% (less than 75% in the case of servicepersons transferring prescription drugs or engaged in graphic arts production) are not required to register with the Department to collect Service Use Tax and remit State and local service occupation taxes on their sales of service to Illinois consumers. This is true even if a serviceperson meets the definition of “serviceman maintaining a place of business in this State” (e.g., has met the tax remittance threshold of \$100,000 or more in gross receipts from sales of service to purchasers in Illinois). Such servicepersons would owe Use Tax on their cost price of the tangible personal property that they transfer to Illinois customers incident to sales of service and pay that use tax to their supplier. If that supplier is located outside of Illinois, no Illinois tax is imposed. This option is unavailable to any out-of-State de minimis serviceperson making any sales at retail to purchasers in Illinois, regardless of whether they meet a tax remittance threshold under the Retailers’ Occupation Tax Act. Such out-of-State de minimis servicepersons may register and elect to remit Service Occupation Tax on their cost price of tangible personal property transferred as an incident of a sale of service.

Destination Sourcing

Out-of-State servicepersons who qualify as “servicemen maintaining a place of business in this State” due to physical presence incur State and local service occupation tax liability based on destination sourcing for sales they make outside Illinois and ship or deliver the tangible personal property transferred to Illinois purchasers. Such servicepersons incur State and local service occupation taxes using origin sourcing for sales for which their selling activities occur in Illinois. Out-of-State servicepersons who only have economic nexus, and who are required or elect to remit State and local service occupation taxes on tangible personal property transferred incident to a sale or service are also subject to destination sourcing. See 35 ILCS 120/2-12; 86 Ill. Adm. Code 270.115. Servicepersons with no physical presence or economic nexus may voluntarily collect and remit Service Use Tax on sales into Illinois as a courtesy to their customers. See 35 ILCS 110/7.

I hope this information is helpful. If you require additional information, please visit our website at <https://tax.illinois.gov/> or contact the Department’s Taxpayer Information Division at 800-732-8866.

Very truly yours,

Edward Mroczkowski
Associate Counsel

EM:slc