

A medical appliance is an item that is used to directly substitute for a malfunctioning part of the human body and qualifies for the 1% tax rate. See 86 Ill. Adm. Code 130.311(e). Transactions in which tangible personal property is transferred by lease may be retail transactions or service transactions. The true object test is applied to make that determination. See 86 Ill. Adm. Code 130.102(a). (This is a GIL).

August 10, 2026

NAME
COMPANY
ADDRESS
EMAIL

Dear NAME:

This letter is in response to your letter dated May 19, 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:

COMPANY (“COMPANY” or “we”) is submitting this ruling request for a non-binding general information letter on behalf of our client. COMPANY seeks an informal ruling to properly and accurately apply the State of Illinois sales and use tax laws and procedures with respect to the client’s facts. To this end, the client has engaged COMPANY to request an informal general information letter and has authorized COMPANY to act on its behalf to assist our client in complying with Illinois sales and use tax laws, rules, and regulations with

respect to the issues below. To the best of our knowledge, the issues presented are not connected with an active audit, protest, or appeal involving our client and submitted in conjunction with 2 Illinois Administrative Code Section 1200.120.

Facts

In this case, the client directs a related entity to ship prescription orthopedic rehabilitation equipment (hereinafter “DME” or durable medical equipment) to patients’ homes throughout the United States, including Illinois. For shipping the prescription rehabilitation DME to patients’ homes, the related party receives an intercompany fee from the client. Upon delivery, the client or a contractor ensures that the DME is in proper working order so the patient can commence rehabilitation.

As a practical matter, the client can remotely influence the use of the prescribed DME and facilitates the setup and removal of the equipment, either through its employees or third-party contractors. Upon completion of rehabilitation, the client or a contractor retrieves the DME and stores it until it is needed by another patient.

From a billing and administrative standpoint, the client receives payment either from Medicare, the patient’s health insurance, or through self-pay for the use of the prescribed DME over a specified period. In this scenario, the client generally does not monitor or oversee the patient’s rehabilitation. Rather, the patient’s medical team receives and monitors the patient’s progress using an audio/visual platform embedded in the DME.

There is also a second business model with substantially similar facts. In this model, the prescribed DME includes an embedded audio/visual platform, and the client, in conjunction with the patient’s medical team, actively monitors and oversees the patient’s use of the equipment.

Because the patient or payer receives a medically coded invoice rather than a traditional invoice, there is no clear delineation as to whether the transaction constitutes a medical service or the lease of tangible personal property. Accordingly, the client seeks a ruling on whether its billings to patients for the use of prescribed DME—paid by the patient, private insurance, or Medicare—constitute an exempt medical service or a taxable lease of tangible personal property.

Issues

1. Whether the client's billings to patients for the use of prescribed DME- paid by the patient, private insurance, or Medicare-constitute an exempt medical service subject to tax at 1 % or a taxable lease of tangible personal property.
2. Whether the conclusion in Issue 1 changes if, instead of merely facilitating shipment and setup/removal of the DME, the client (in conjunction with the patient's medical team) monitors and oversees the patient's use of the equipment; consequently, constituting an exempt medical service.

Analysis

Under Illinois law, effective January 1, 2025, the lease of tangible personal property is taxable. See 35 ILCS Section 115/3. Specifically, under Illinois law, a lease or rental is "a transfer of the possession or control of, the right to possess or control, or a license to use, but not title to, tangible personal property for a fixed or indeterminate term for consideration, regardless of the name by which the transaction is called." See 35 ILCS 105/2.

This is significant because Illinois law does not appear to provide an express exemption for prescription rehabilitation DME used in a patient's home. Rather, prescription rehabilitation DME appears to be taxable, albeit at a rate of 1 %. Simply stated, with respect to prescription and nonprescription medicines, drugs, medical appliances, products classified as Class III medical devices by the United States Food and Drug Administration that are used for cancer treatment pursuant to a prescription, as well as any accessories and components related to those devices, modifications to a motor vehicle for the purpose of rendering it usable by a person with a disability, and insulin, blood sugar testing materials, syringes, and needles used by human diabetics, the tax is imposed at the rate of 1 %. See 86 Ill. Adm. Code 130.311. Subsection (e)(7) is noteworthy, as it provides that medical appliances may be prescribed by licensed health care professionals for use by a patient, purchased by health care professionals for the use of patients, or purchased directly by individuals. On and after January 1, 2025, leases of medical appliances by lessors to others for human use also qualify for the reduced rate of tax.

In contrast, medical services are not enumerated as taxable services under Illinois law. See Chapter 64, Section 2 of the Illinois Code. Furthermore, under the "true object" doctrine applied by the Illinois Department of Revenue, the test seeks to identify the primary intent of the purchaser. If the "true object"

of the transaction is to obtain a nontaxable service, any tangible personal property transferred in the process is considered incidental and the service remains exempt. If the real object is the property itself, the entire transaction may become taxable as a retail sale.

Illinois typically uses a 35% rule for service providers. If the aggregate cost of the tangible personal property transferred to customers is less than 35% of the total gross receipts from those sales, the serviceperson is generally considered the end user of the tangible personal property and pays tax on its cost. If the cost of the tangible personal property exceeds 35% (or 75% for certain specialized services), the serviceperson must register as a retailer and collect tax on the selling price of the property. See 86 Ill. Adm. Code 140.201.

As noted above, this distinction is significant because there is no clear exemption for prescription rehabilitation DME used in the home, and the component of the invoiced amount to the patient generally relates almost exclusively to the prescription rehabilitation DME.

Conclusion

Based on the facts and analysis above, we respectfully request the Department's opinion on the following:

- A. Whether the client's billings to patients for the use of prescribed DME- paid by the patient, private insurance, or Medicare-constitute an exempt medical service subject to tax at 1 % or a taxable lease of tangible personal property.
- B. Whether the conclusion in Issue 1 changes if, instead of merely facilitating shipment and setup/removal of the DME, the client (in conjunction with the patient's medical team) monitors the patient's use of the equipment; thus, constituting an exempt medical service.

Please contact the undersigned if you require additional information. Thank you for your assistance.

DEPARTMENT'S RULING:

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. 35 ILCS 120/2; 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased

anywhere at retail from a retailer. 35 ILCS 105/3; 86 Ill. Adm. Code 150.101. These taxes comprise what is commonly known as “sales” tax in Illinois.

Effective January 1, 2025, persons engaged in the business of leasing tangible personal property at retail (“lessors”) in Illinois are subject to State and local retailers’ occupation tax on the gross receipts from leases of tangible personal property made in the course of business. See 35 ILCS 120/2. A “lease” is defined as a transfer of the possession or control of, the right to possess or control, or a license to use, but not title to, tangible personal property for a fixed or indeterminate term for consideration, regardless of the name by which the transaction is called, but does not include a lease entered into merely as a security agreement that does not involve a transfer of possession or control from the lessor to the lessee. On and after January 1, 2025, for purposes of State and local retailers’ occupation taxes, the term “sale” includes a lease. See 35 ILCS 120/1. This includes the extension of all exemptions from retailers’ occupation tax and use tax to leases. See 35 ILCS 120/2-5. The tax applies to lease receipts received on or after January 1, 2025 for leases in effect, entered into, or renewed on or after that date. The lessor must remit for each tax return period the tax applicable to lease receipts received during that tax return period. See 35 ILCS 120/2.

Service Occupation Tax

Retailers’ Occupation Tax and Use Tax do not apply 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. 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.

Effective January 1, 2025, persons engaged in the business of making sales of service are subject to State and local service occupation tax on all tangible personal property transferred by lease as an incident of a sale of service. See 35 ILCS 115/3. A “lease” is defined as a transfer of the possession or control of, the right to possess or control, or a license to use, but not title to, tangible personal property for a fixed or indeterminate term for consideration, regardless of the name by which the transaction is called, but does not include a lease entered into merely as a security agreement that does not involve a transfer of possession or control from the lessor to the lessee. On and after January 1, 2025, for purposes of State and local service occupation taxes, the term “transfer” includes a lease. See 35 ILCS 115/2. The tax applies to tangible personal property transferred by lease by persons engaged in the business of making sales of service in which leases are in effect, entered into, or renewed on or after January 1, 2025. The serviceperson who is a lessor must remit for each tax return period only the tax applicable to that part of the selling price actually received during such tax return period. See 35 ILCS 115/3.

Servicepersons may calculate their tax base in one of four ways: (1) Service Occupation Tax on separately-stated selling price of tangible personal property transferred incident to 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 registered de minimis serviceperson; or (4) Use Tax on the serviceperson's cost price if the serviceperson is de minimis and is not otherwise required to be registered under Section 2a of the Retailers' Occupation Tax Act. See 86 Ill. Adm. Code Sections 140.106; 140.108; and 140.109.

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. Under these methods, servicepersons may provide their suppliers with Certificates of Resale when purchasing the tangible personal property to be transferred as a part of sales of service. They are required to collect the corresponding Service Use Tax from their customers. See 86 Ill. Adm. Code 140.106.

The third way servicepersons may account for their tax liability only applies to de minimis servicepersons who have either chosen to be registered or are required to be registered because they incur Retailers' Occupation Tax liability with respect to a portion of their business. Servicepersons may qualify as de minimis if they determine that their cost ratio, the 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). This class of registered de minimis servicepersons is authorized to pay Service Occupation Tax (which includes local taxes) based upon the cost price of tangible personal property transferred incident to sales of service. Servicepersons that incur Service Occupation Tax 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.

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. Servicepersons may qualify as de minimis if they determine that their annual cost ratio is less than 35% of the serviceperson's annual gross receipts from service transactions (75% in the case of pharmacists and persons engaged in graphic arts production). Such de minimis servicepersons handle their tax liability by paying Use Tax

to their suppliers for the tangible personal property subsequently transferred to their customers. 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 the service customers. See 86 Ill. Adm. Code 140.108.

The cost ratio is a measure of the amount of tangible personal property transferred with a service. It is calculated by comparing the serviceperson’s product cost to 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). To calculate the cost price of the tangible personal property transferred by lease, a serviceperson must first determine the useful life of the tangible personal property. The useful life is the useful life or recovery period allowed under federal law for like kind of property. See 86 Ill. Adm. Code 150.110. The serviceperson must then divide the price initially paid to its supplier for the item by its useful life. Finally, convert the cost price into whatever time period is used for the lease (e.g., years or months). The result is the cost price for each rental payment. The serviceperson must multiply the cost price for each rental payment by the duration of the lease during the year to determine the annual product cost used to determine cost ratio. This method to determine cost price for each rental payment must also be used in calculating Service Occupation Tax liability using the first three methods described above. This cost price is used as long as the serviceperson transfers such tangible personal property by lease as an incident of a sale of service and is not limited to the useful life of the item.

If an entity provides services that are accompanied by the transfer of tangible personal property, such service transactions are generally subject to tax liability under one of the four methods set forth above. If a 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.

Impact of Providing an Operator on Taxability of Leases

When the provision of tangible personal property includes an operator for the tangible personal property for a fixed or indeterminate period, the arrangement may constitute a lease taxable under the Retailers’ Occupation Tax Act or Service Occupation Tax Act. If the operator is necessary for the equipment to perform as designed and is responsible for more than maintaining, inspecting, or setting up the tangible personal property, the arrangement is not a lease. When a purchaser enters into such an agreement to use tangible personal property for a predetermined period, but an owner operator retains possession and control of the tangible personal property, such agreement does not

constitute a lease. The customer may gain access to the benefit of the tangible personal property, but an owner operator remains in possession and control of the property throughout its use under the agreement. In this situation, the customer does not have the unfettered right to possess or control the tangible personal property, and the transaction does not include any taxable transfer of tangible personal property. However, if the provision of tangible personal property includes an agent of the lessor to simply maintain, inspect, set up, or disassemble the tangible personal property, such arrangement is subject to the provisions of the Retailers' Occupation Tax Act or Service Occupation Tax Act.

With that background in place, there are two determinations that your client must make to find the correct tax treatment of their business models. First, whether the transactions are retail leases under the Retailers' Occupation Tax Act or leases incident to sales of service under the Service Occupation Tax Act. Second, whether the equipment qualifies for the low 1% State tax rate on drugs, medicines, or medical appliances, or does not qualify and is subject to the general merchandise 6.25% State tax rate. Note that for both State rates, additional local taxes may apply.

Retail Lease or Lease Incident to a Sale of Service

Transactions that include the transfer of tangible personal property by lease need to be analyzed to determine whether the transaction is a service transaction, and if not, whether service charges included with the lease are subject to retailers' occupation tax. The true object test is used to aid in answering those questions. See 86 Ill. Adm. Code 130.102(a). The test requires lessors to determine the true object or substance of the transaction, using the following analysis:

"If the article sold has no value to the purchaser except as a result of services rendered by the vendor and the transfer of the article to the purchaser is an actual and necessary part of the service rendered, then the vendor is engaged in the business of rendering service and not in the business of selling at retail. If the article sold is the substance of the transaction and the service rendered is merely incidental to and an inseparable part of the transfer to the purchaser of the article sold, then the vendor is engaged in the business of selling at retail." Spagat v. Mahin, 50 Ill. 2d 183 (1971); Velten & Pulver, Inc. v. Department of Revenue, 29 Ill. 2d 524, 529 (1963); Dow Chemical Co. v. Department of Revenue, 26 Ill. 2d 283, 285 (1962); Kellogg Switchboard & Supply Corp. v. Department of Revenue, 14 Ill. 2d 434, 437 (1958). If the tangible personal property leased or rented would have value even without the services a company provides, the substance of the transaction is the tangible personal property.

If the true object of the transaction is the service, and the transfer of tangible personal property is incident to the sale of service, then tax on the transfer of the tangible personal property by lease is calculated under the Service Occupation Tax Act. See 86 Ill. Adm. Code 130.102(a)(2). Alternatively, if the true object of the transaction is the lease of tangible personal property, any service charges that are inseparably linked to the lease of tangible personal property are part of the lessor's cost of doing business and are included in the taxable gross receipts under the Retailers' Occupation Tax Act, even if the service charges are separately stated on the agreement or bill. See 86 Ill. Adm. Code 130.102(a)(3).

An inseparable link exists when (a) the service charges are not separately identified to the lessee on the contract or invoice or (b) the service charges are separately identified to the lessee on the contract or invoice, but the lessor does not offer the lessee the option to lease the property without the payment of service charges added to the lease or rental price of an item (e.g., the lessor does not offer the lessee the option to lease the tangible personal property separately from the related service, or the lessor does not offer, or the lessee does not qualify for, a free service option). [See 86 Ill. Adm. Code] 130.415(b)(1)(B)(ii). In contrast, if the lessee can rent or lease the tangible personal property without payment of service charges to the lessor, then an inseparable link does not exist, and the service charges should not be included in the lease or rental price of the tangible personal property. [See 86 Ill. Adm. Code] 130.415(b)(1)(B)(ii)-(iii).

86 Ill. Adm. Code 130.102(a)(3)(A).

Transportation and delivery charges are subject to tax in the same manner as for sales other than leases. "[T]ransportation and delivery charges are part of the gross receipts subject to [tax] when there is an inseparable link between the lease of the tangible personal property and the outgoing transportation and delivery of the property. (See [86 Ill. Adm. Code] 130.415 and *Kean v. Wal-Mart Stores, Inc.*, 235 Ill. 2d 351 (2009))." 86 Ill. Adm. Code 130.102(f)(4).

Drugs, Medicines, and Medical Appliances

The Department's administrative rules found at 86 Ill. Adm. Code Section 130.311 govern the taxation of Drugs, Medicines, Medical Appliances, and Grooming and Hygiene Products. Drugs, medicines, and medical appliances transferred incident to the provision of medical service, including by lease, are subject to tax. Products that qualify as drugs, medicines, or medical appliances are taxed at a lower State rate of 1% plus any applicable local taxes. Items that do not qualify for the low rate of tax are taxed at the general merchandise State rate of 6.25% plus any applicable local taxes.

A medical appliance is an item that is used to directly substitute for a malfunctioning part of the human body. See 86 Ill. Adm. Code 130.311(e). Medical appliances include such items as heart pacemakers, artificial limbs, dental prosthetics, crutches and orthopedic braces, dialysis machines (including the dialyzer), wheelchairs, mastectomy forms and bras, mobility scooters, and sleep apnea devices. See 86 Ill. Adm. Code 130.311(e)(1). “Corrective medical appliances such as hearing aids, eyeglasses, contact lenses, and orthodontic braces [also] qualify as medical appliances.” 86 Ill. Adm. Code 130.311(e)(2). “Other medical tools, devices, and equipment such as x-ray machines, laboratory equipment, and surgical instruments that may be used in the treatment of patients but that do not directly substitute for a malfunctioning part of the human body do not qualify as medical appliances.” 86 Ill. Adm. Code 130.311(e)(5).

As a general proposition, diagnostic, treatment, and rehabilitative equipment items do not qualify for the reduced rate of tax as medical appliances because such items are not for use in directly substituting for a malfunctioning part of the body. See 86 Ill. Adm. Code 130.311(e). Nor are such items corrective medical appliances such as hearing aids or glasses. The Department has previously stated that items that do not qualify for the lower rate are diagnostic items such as x-ray machines and laboratory equipment; and treatment or rehabilitation devices such as TENS (Transcutaneous Electrical Nerve Stimulation), NMES (Neuromuscular Electrical Stimulation), and sEMG (Surface Electromyography Systems) devices. See ST 98-00157-GIL.

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 Assistance Division at 800-732-8866.

Very truly yours,

Edward Mroczkowski
Associate Counsel
(217) 782-7055

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