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Bulletin

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Retailers' Occupation Tax Guidance for Remote Retailers and Marketplace Facilitators as set forth by the Leveling the Playing Field for Illinois Retail Act

**To: *Remote (out-of-state) retailers and marketplace
facilitators making sales to Illinois purchasers***

This bulletin supersedes FY 2021-02 (N-9/20) and FY 2021-02-A (N-12/20).

Public Acts [101-31](#) and [101-604](#) amended the retailers' occupation tax and enacted the Leveling the Playing Field for Illinois Retail Act to implement a series of structural changes to the Illinois sales tax laws to require remote retailers who meet a tax remittance threshold to remit State and local retailers' occupation taxes beginning January 1, 2021. 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 and remote retailers alike.

In addition, the legislation provides that marketplace facilitators who meet a tax remittance threshold are required to remit State and local retailers' occupation taxes on their own sales made over the marketplace and on sales made on behalf of marketplace sellers.

State and local retailers' occupation taxes on sales made by remote retailers or marketplace facilitators (on behalf of marketplace sellers) are incurred based on the rate in effect at the location to which the tangible personal property is shipped or delivered or at which possession is taken by the purchaser ("destination sourcing"). State and local retailers' occupation taxes for a marketplace facilitator's own marketplace sales will be incurred either at the rate in effect at the location of Illinois inventory from which a sale is fulfilled or the location where selling activities otherwise occur ("origin sourcing") or, for sales not fulfilled in Illinois, at the rate in effect at the purchaser's location ("destination sourcing") as detailed later in this bulletin.

This legislation also authorizes remote retailers to use either a certified service provider (CSP), who performs tax remittance functions for remote retailers, or a certified automated system (CAS), used by remote retailers who choose to remit their own taxes. See page 5 for further information regarding CSPs and CASs.

What is a “remote retailer”?

A “remote retailer” is an out-of-state retailer that sells tangible personal property to Illinois purchasers and does not have a physical presence in Illinois. A retailer that fulfills any orders from its inventory in Illinois is not a “remote retailer.”

What is “retailers’ occupation tax”?

“Retailers’ occupation tax” or ROT is a tax imposed on retailers engaged in the occupation of selling tangible personal property at retail in Illinois. It includes the taxes levied under the Retailers’ Occupation Tax Act ([35 ILCS 120](#)) and all applicable local retailers’ occupation taxes collected by the Illinois Department of Revenue (IDOR).

As a remote retailer, how do I determine if I am subject to State and local ROT?

Beginning January 1, 2021, a remote retailer is considered a retailer engaged in the occupation of selling tangible personal property at retail in Illinois and is subject to State and local ROT if either of the following tax remittance thresholds is met:

1. \$100,000 or more in cumulative gross receipts from sales of tangible personal property to purchasers in Illinois; or
2. 200 or more separate transactions for the sale of tangible personal property to purchasers in Illinois.

Remote retailers that meet or exceed either of these tax remittance thresholds shall be liable for all applicable State and local ROT administered by IDOR on all retail sales to Illinois purchasers. They are required to register with IDOR, file returns, and remit tax for all sales made to Illinois purchasers (unless they utilize a CSP to remit their taxes as detailed later in this bulletin).

What sales are excluded from the tax remittance threshold determination for remote retailers?

Remote retailers must review their previous 12 months’ sales of tangible personal property to purchasers in Illinois when determining if they meet a tax remittance threshold. When making their determination, remote retailers must exclude the following types of sales:

- sales for resale (see [86 Ill. Adm. Code 130.210](#)),
- sales of tangible personal property that is required to be registered with an agency of Illinois, including motor vehicles, watercraft, aircraft, and trailers,
- sales of tangible personal property to purchasers in Illinois that a remote retailer makes through a marketplace so long as the remote retailer has received certification that the marketplace facilitator assumes the rights and duties as the retailer under the Retailers’ Occupation Tax Act (including applicable local occupation taxes) with respect to those sales, and
- occasional sales (see [86 Ill. Adm. Code 130.110](#)).

All sales other than these, even if they are exempt from tax must be included in the calculation of gross receipts and number of transactions for purposes of determining whether these tax remittance thresholds are met.

What is a “marketplace”?

A “marketplace” is a physical or electronic place, forum, platform, application, or other method by which a marketplace seller sells or offers to sell items.

What is a “marketplace facilitator”?

A “marketplace facilitator” is a person who, pursuant to an agreement with an unrelated third-party marketplace seller, directly or indirectly through one or more affiliates, facilitates a retail sale by an unrelated third-party marketplace seller by:

1. listing or advertising for sale by the marketplace seller in a marketplace, tangible personal property that is subject to tax under the Retailers’ Occupation Tax Act; and

2. either directly or indirectly, through agreements or arrangements with third parties, collecting payment from the customer and transmitting that payment to the marketplace seller regardless of whether the marketplace facilitator receives compensation or other consideration in exchange for its services.

A person who provides advertising services, including listing products for sale, is not considered a marketplace facilitator, so long as the advertising service platform or forum does not engage, directly or indirectly through one or more affiliated persons, in the activities described in #2 of this definition of "marketplace facilitator".

What is a "marketplace seller"?

A "marketplace seller" is a person that makes sales through a marketplace operated by an unrelated third-party marketplace facilitator. A person that is an affiliate of a marketplace facilitator is not a marketplace seller.

A marketplace seller is not liable for State and local retailers' occupation taxes for sales of tangible personal property sold to Illinois purchasers through a marketplace, provided that, prior to its sales, it has obtained a certification from the marketplace facilitator as described in the next section.

As a marketplace facilitator, how do I determine if I am subject to State and local ROT?

Beginning January 1, 2021, a marketplace facilitator is considered a retailer engaged in the occupation of selling tangible personal property at retail in Illinois and is subject to Illinois ROT if either of the following tax remittance thresholds is met:

1. \$100,000 or more in cumulative gross receipts from sales of tangible personal property to purchasers in Illinois made through the marketplace by the marketplace facilitator and by marketplace sellers; *or*
2. 200 or more separate transactions are entered into by the marketplace facilitator and marketplace sellers cumulatively through the marketplace for sales of tangible personal property to purchasers in Illinois.

Marketplace facilitators that meet or exceed either of these tax remittance thresholds shall be liable for all applicable State and local ROT administered by IDOR on all retail sales to Illinois purchasers. These marketplace facilitators must certify to their sellers that the marketplace facilitator is assuming the rights and duties as the retailer under the Retailers' Occupation Tax Act and is collecting State and local ROT.

They are required to register with IDOR, file returns, and remit tax for all sales made over the marketplace to Illinois purchasers, including their own sales and sales made on behalf of marketplace sellers.

What sales are excluded from the tax remittance threshold determination for marketplace facilitators?

To determine if they meet a tax remittance threshold, a marketplace facilitator must review the previous 12 months' sales of tangible personal property made through the marketplace to purchasers in Illinois. This review includes sales by both the marketplace facilitator and marketplace sellers. When making their determination, marketplace facilitators must exclude the following sales:

- sales for resale (see [86 Ill. Adm. Code 130.210](#)) and
- sales of tangible personal property that is required to be registered with an agency of Illinois, including motor vehicles, watercraft, aircraft, and trailers.

All other sales, even if they are exempt from tax, must be included in the calculation of gross receipts and number of transactions for purposes of determining whether these tax remittance thresholds are met.

As a remote retailer or marketplace facilitator, how often must I review my sales to determine if I am subject to State and local ROT?

A remote retailer or marketplace facilitator shall determine on a quarterly basis, ending on the last day of March, June, September, and December, whether it meets or exceeds either tax remittance threshold for the preceding 12-month period. If the remote retailer or marketplace facilitator meets either tax remittance threshold for a 12-month period, it is required to collect and remit all applicable State and locally imposed ROT administered by IDOR on all retail sales to Illinois purchasers and to file all applicable returns for one year. A remote retailer or marketplace facilitator shall begin collecting taxes for sales beginning on the first day of the quarter immediately following the end of the 12-month lookback period. Taxes collected by the remote retailer or marketplace facilitator shall be remitted to IDOR no later than the 20th day of the calendar month following the month in which they were collected or as otherwise provided in accordance with Section 3 of the Retailers' Occupation Tax Act.

At the end of that one-year period, the remote retailer or marketplace facilitator shall determine whether it met or exceeded either tax remittance threshold for the preceding 12-month period. If the remote retailer or marketplace facilitator

- met or exceeded either tax remittance threshold for the year, it is required to remit all applicable State and local ROT and file returns for the subsequent year.
- did not meet or exceed either tax remittance threshold for the year, it must notify IDOR that it no longer is required to remit State and local ROT and discontinue remitting the taxes. If IDOR is not notified, the remote retailer or marketplace facilitator will be considered to be actively registered with IDOR.

If a remote retailer or marketplace facilitator is no longer required to remit State and local ROT, it must redetermine, on a rolling quarterly basis, whether it is obligated to once more begin remitting State and local ROT.

EXAMPLE: Remote Retailer A begins making sales to Illinois purchasers on February 1, 2021. On March 31, 2021 (its first quarterly period after January 1, 2021), the remote retailer determines that it has not met either tax remittance threshold for the previous 12 months. At the end of June 2021 (its next quarterly period), however, the remote retailer determines that it made \$200,000 in sales to Illinois purchasers for the preceding 12-month period. As a result, the remote retailer is required to register to collect and remit State and local ROT on sales to Illinois purchasers for a one-year period beginning July 1, 2021, through June 30, 2022. On June 30, 2022, the remote retailer must examine its sales to Illinois purchasers for the one-year lookback period beginning July 1, 2021, through June 30, 2022, to determine whether the remote retailer must continue to collect State and local ROT.

NOTE: Remote retailers who do not meet or exceed either tax remittance threshold or who are no longer required to remit State and local ROT, may voluntarily collect and remit Use Tax as a courtesy to their Illinois purchasers, since those purchasers will still incur a Use Tax liability that they must otherwise self-assess and remit directly to IDOR. Remote retailers must notify IDOR of their intention to voluntarily collect and remit Use Tax.

As a remote retailer or marketplace facilitator, how do I determine what ROT rate to use?

On and after January 1, 2021, remote retailers meeting or exceeding either of the tax remittance thresholds are deemed to be engaged in the occupation of selling tangible personal property at the Illinois location to which the tangible personal property is shipped or delivered or at which possession is taken by the purchaser (destination sourcing). In other words, sales of tangible personal property made to Illinois purchasers by a remote retailer are taxed at the destination ROT rate (including local ROT).

Marketplace facilitators meeting or exceeding either of the tax remittance thresholds and that make sales of their own over their marketplace are subject to State and local ROT. Their sales are taxed as follows:

- For sales that are fulfilled from inventory located in Illinois and for which selling activities do not otherwise occur in Illinois, state and local ROT is incurred at the tax rate in effect at the location of the Illinois inventory (origin sourcing).
- For sales for which selling activities otherwise occur in Illinois, state and local ROT is incurred at the tax rate in effect at the location of the selling activities (origin sourcing).
- For sales that are not fulfilled from inventory located in Illinois and for which selling activities do not otherwise occur in Illinois, state and local ROT is incurred at the tax rate in effect at the purchaser's location (destination sourcing).

For a complete list of all ROT rates per location, refer to the [Tax Rate Database](#) on our website at tax.illinois.gov.

NOTE: Remote retailers may use certified service providers (CSP) to calculate and perform their ROT obligations or certified automated systems (CAS) to aid in calculating ROT.

What is a “certified service provider”?

A “certified service provider” or CSP is an agent certified by IDOR to perform the remote retailer's use and occupation tax functions, as outlined in the contract between Illinois and the certified service provider.

For more information about CSPs, refer to the [Resource page for the Leveling the Playing Field for Illinois Retail Act](#).

What is a “certified automated system”?

A “certified automated system” or CAS is an automated software system that is certified by Illinois as meeting all performance and tax calculation standards required by IDOR.

For more information about CASs, refer to the [Resource page for the Leveling the Playing Field for Illinois Retail Act](#).

Where can additional information on the Leveling the Playing Field for Illinois Retail Act be found?

For more information about the Leveling the Playing Field for Illinois Retail Act, refer to the following:

- [Resource page for the Leveling the Playing Field for Illinois Retail Act](#)
- [86 Ill. Adm. Code Part 131](#)
- [Leveling the Playing Field Retailer Flowchart](#)

Additionally, visit IDOR's website at: tax.illinois.gov