

Compliance Alert -

Tax Remittance Obligations for the Metropolitan Pier and Exposition Authority (MPEA) Retailers' Occupation Tax on Food and Beverages Under the New Marketplace Facilitator Law



October 2021 - supersedes CA-2021-02

This compliance alert is being issued to supersede Compliance Alert 2021-02, issued February 2021.

Compliance Problem

The Illinois Department of Revenue (IDOR) has received questions regarding whether restaurants and other food and beverage establishments or marketplace facilitators are required to remit the [Metropolitan Pier and Exposition Authority \(MPEA\) Food and Beverage](#) Retailers' Occupation Tax. This Compliance Alert is issued to clarify that, beginning on October 1, 2021, a marketplace facilitator that meets a tax remittance threshold and that makes sales on behalf of a restaurant or other food and beverage establishment located within MPEA boundaries must remit this tax.

Background

The MPEA Food and Beverage Tax is a retailers' occupation tax imposed on persons within the MPEA boundaries engaged in the business of selling food, alcoholic beverages, or soft drinks sold for consumption

- on the premises;
- off the premises if sold by a retailer whose primary source (more than 50 percent) of gross receipts is from the sale of food, alcoholic beverages, or soft drinks prepared for immediate consumption; or
- on boats and other watercraft, such as tour boats, departing from and returning to the shoreline of Lake Michigan, whose business locations are within the MPEA boundaries.

Generally, food delivery services that meet a tax remittance threshold are marketplace facilitators.

Solution

Generally, restaurants and other food and beverage establishments that are subject to the MPEA Food and Beverage Tax will continue to remit the tax to IDOR for all their sales. However, effective October 1, 2021, for sales made over a marketplace, a marketplace facilitator which is required to remit retailers' occupation tax (ROT) on behalf of a restaurant or other food and beverage establishment must collect and remit the MPEA Food and Beverage Tax on behalf of the restaurant or other food and beverage establishment.

Marketplaces include food delivery services.

Marketplace facilitators who collect the MPEA Food and Beverage Tax must certify to the food and beverage establishments located within MPEA boundaries that they are responsible for collecting and remitting the MPEA Food and Beverage Tax as well as all other required State and local retailers' occupation tax (ROT). The MPEA Food and Beverage Tax of 1 percent is imposed only on sales made by food and beverage establishments located within MPEA boundaries (origin based). The destination of the food delivery does not affect MPEA Food and Beverage Tax.

In addition to collecting and remitting the MPEA Food and Beverage Tax, marketplace facilitators are liable for State retailers' occupation tax (ROT) and local sales taxes (such as the Home Rule Municipal ROT, the Home Rule County ROT, Regional Transportation Authority ROT, or Chicago Soft Drink Tax, if applicable) at the rate in effect at the location to which the food or beverages are shipped or delivered or at which possession is taken by the purchaser (destination rate).

For example, Fast Eats is a food delivery service that is a marketplace facilitator who meets or exceeds a tax remittance threshold. Fast Eats sells a meal from Sally's Restaurant, which is located within MPEA boundaries, to a purchaser on East 26th Street in Chicago, which is outside MPEA boundaries. Even though the delivery is not within MPEA boundaries, the MPEA Food and Beverage Tax is due because Sally's Restaurant sells food or beverages for on-premises consumption within MPEA boundaries (origin based). Fast Eats must collect and remit the MPEA Food and Beverage Tax along with collecting and remitting the state sales tax, county home rule tax, municipal home rule tax, Regional Transportation Authority tax, and soft drink tax on behalf of Sally's Restaurant.

Questions

For more information about the MPEA Food and Beverage Tax, visit tax.illinois.gov.

For more information about marketplace facilitators, see [Public Act 101-0604](#). Additional information is also available on the [Resource Page for the Leveling the Playing Field for Illinois Retail Act](#).

If you have questions regarding this compliance alert, contact us at 1 800 732-8866 or 217 782-3336.