

**Illinois Department of Revenue
Regulations**

Title 86 Part 130 Section 130.110 Occasional Sales

**TITLE 86: REVENUE
PART 130
RETAILERS' OCCUPATION TAX**

Section 130.110 Occasional Sales

- a) Since the Act does not impose a tax upon persons who are not engaged in the business of selling tangible personal property, persons who make isolated or occasional sales thereof do not incur tax liability.
- b) For example, if a retailer sells tangible personal property, such as machinery or other capital assets, which he has used in his business and no longer needs, and which he does not otherwise engage in selling, he does not incur Retailers' Occupation Tax liability when selling such tangible personal property even if the sales are at retail and even if he may be required to make a considerable number of such sales in order to dispose of such tangible personal property, because such sales are isolated or occasional and do not constitute a business of selling tangible personal property at retail.
- c) However, construction contractors and real estate developers are not considered to be isolated or occasional sellers of tangible personal property to the extent noted in Section 130.1940(c) and (d) of this Part.
- d) Where persons engage primarily in the business of selling tangible personal property other than for use or consumption (such as the business of selling tangible personal property primarily to purchasers for resale), the mere fact that their sales for use or consumption may comprise but a small fraction of their total sales does not make the retail sales isolated or occasional. The vendor is liable for tax measured by his gross receipts from such retail sales.
- e) Regarding sale/leaseback situations, typically customer A purchases equipment from retailer B, and then sells it to lessor C who leases the equipment back to customer A. Customer A has paid tax when purchasing the equipment in the first transaction under a taxable retail sale and the second transaction where customer A sells the equipment to lessor C is a nontaxable occasional sale so long as A is not otherwise in the business of selling like-kind property.
- f) When a person purchases an item of tangible personal property with the intent of reselling the item to a purchaser for use or consumption, that person engages in conduct equivalent to holding himself out as a retailer. In such a situation, the initial purchase is a sale for resale and the subsequent sale is a taxable sale at retail subject to Retailers' Occupation Tax, not an occasional sale. For example, if a hospital possessing an exemption identification number issued by the Department purchases a

computer system with the intent of reselling the computer system to a group of doctors, the hospital may not resell the computer system to the group of doctors without incurring Retailers' Occupation Tax. In this instance, the hospital is holding itself out as a retailer and its sale of the computer system to the group of doctors is taxable. The hospital should provide a Certificate of Resale to its supplier on the purchase of the computer system. It is improper for the hospital to use its exemption identification number to purchase the computer system in these circumstances.

(Source: Amended at 25 Ill. Reg. 5398, effective April 2, 2001)