

**Illinois Department of Revenue
Regulations**

Title 86 Part 130 Section 130.2165 Veterinarians

**TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE**

**PART 130
RETAILERS' OCCUPATION TAX**

Section 130.2165 Veterinarians

- a) **Veterinarians as Servicemen**
Veterinarians are engaged primarily in rendering service to their clients and so are considered to be servicemen. As medical professionals regulated under the Veterinary Medicine and Surgery Practice Act of 2004 (the Act) [225 ILCS 115] they typically provide services to persons with whom they have established a veterinarian-client-patient relationship (VCPR) as defined in Section 3 of the Act. Under the Act, in order to maintain a valid VCPR, a veterinarian must maintain sufficient knowledge of the animal to initiate treatment and be readily available for follow-up. In addition, he or she must maintain adequate medical records, as provided in 68 Ill. Adm. Code 1500.50(a)(11), and must comply with certification, licensure, professional conduct and disciplinary requirements, including continuing education mandates, as provided by the Act and 68 Ill. Adm. Code 1500. Services provided by veterinarians are predicated upon compliance with these requirements.
- b) **Tax Liabilities of Veterinarians**
In conducting a veterinary practice, veterinarians may incur different types of tax, depending upon the nature of their activities. When licensed veterinarians transfer tangible personal property to their clients as a result of the practice of veterinary medicine, a service transaction occurs that results in liability under the Service Occupation Tax Act. Veterinarians also sometimes sell items of tangible personal property to clients or even to the general public outside the scope of a service transaction. In such cases, they are considered to be retailers engaged in the business of selling tangible personal property at retail and incur Retailers' Occupation Tax liability. In addition, veterinarians incur Use Tax on items of tangible personal property that are not transferred to their clients and instead are consumed by them in the course of performing veterinary services. Subsections (c) through (e) of this Section describe the requirements for a service transaction and define the tax liability that results from these transactions. Also described are the circumstances under which Retailers' Occupation Tax liability and Use Tax liability are incurred by veterinarians.
- c) **Service Transactions – Requirements – Taxation**
- 1) In order for a transaction to be considered a service transaction for purposes of taxation, several requirements must first be met. Specifically:
- A) A licensed veterinarian must have first established a valid VCPR with the service client, as defined in Section 3 of the Act;

- B) A licensed veterinarian must have physically examined the animal;
 - C) A veterinary practice must maintain medical records demonstrating that the animal for whom tangible personal property was transferred was physically examined by a licensed veterinarian in that veterinary practice no more than 1 year prior to the date on which tangible personal property was transferred;
 - D) The requirements of this subsection (c)(1) are not intended in any way to affect the requirements of the Act concerning the establishment or maintenance of a valid VCPR, but are intended only to establish the type of tax liability that will be incurred by a veterinary practice.
- 2) When veterinarians engage in service transactions, they incur liability under the Service Occupation Tax Act. See 86 Ill. Adm. Code 140 for a detailed explanation of these liabilities. Assuming a valid VCPR has first been established, a service transaction occurs under the following circumstances:
- A) A service transaction occurs when medicines, drugs and other products are directly applied or administered by a licensed veterinarian during a veterinary examination. Tangible personal property transferred may include, but is not limited to, vaccines; flea and tick products; shampoos; bandages; ointments; splints; and sutures.
 - B) A service transaction occurs when a licensed veterinarian sells medicines, drugs and other products having a medicinal purpose, as defined in subsection (c)(2)(C) of this Section, as part of a continuing plan for the health and well being of an animal under his or her care. These drugs, medicines and other medicinal products may be products that federal law restricts to use only by prescription from a licensed veterinarian, or may be products that are recommended by the veterinarian under a continuing plan for the health and well being of the animal. These transactions include refills of such drugs, medicines and other medicinal products that are made over-the-counter without a physical examination of the animal on the date of the refill. In order to document that qualifying items are transferred as part of a continuing plan for the health and well being of the animal, the following requirements must be met:
 - i) the licensed veterinarian transferring items to the service client (or the veterinarian's designee) must enter a notation in the animal's medical records that the medicine, drug or medicinal product was recommended or prescribed as a result of an examination or after consultation with the service client; and
 - ii) the licensed veterinarian transferring items to the service customer (or the veterinarian's designee) must sign and contemporaneously date the notation in the animal's medical records; and
 - iii) the animal's medical records must demonstrate that a licensed veterinarian in the veterinary practice that transferred the items to

the animal examined the animal no more than 1 year prior to the date on which the items were transferred.

- C) For purposes of this subsection (c), a medicine, drug or other product having a medicinal purpose means items that are ingested by or applied to an animal and that cure or treat disease, illness, injury or pain or mitigate the symptoms of such disease, illness, injury or pain. Such items may include, but are not limited to, items that are required to be prescribed by a veterinarian; nonprescription medicines; vitamins, herbal remedies and dietary and nutritional supplements (e.g., glucosamine chondroitin); medicated shampoos; topical flea and tick products applied directly on an animal for the control of fleas and ticks; and flea and tick collars. Such items also include dental products such as toothpaste, toothbrushes and chews that are specifically designed to promote dental health in animals; insecticides and insect growth regulators that are applied by broadcast treatment (e.g., hand pump sprayers or pressurized aerosols) or with total release aerosols or foggers; products used to treat urinary behavior issues; collars worn by an animal after surgery to prevent the removal of sutures; and splints and braces. Animal food is considered to have a medicinal purpose only if its manufacturer restricts its sale to licensed veterinarians. In order to document the requirement that the manufacturer restrict the sale of animal food to licensed veterinarians, a veterinarian shall annually obtain a letter from the manufacturer representing that the animal food is sold only to licensed veterinarians. Provided that a veterinarian maintains this letter in his or her books and records, the Department shall consider the animal food to have a "medicinal purpose" for the period of one year following the date of issuance of the letter. The following items are not considered to have medicinal purposes: combs; brushes; shears; nail clippers; name tags; nonmedicated shampoo; leashes; collars; toys; clothing; odor eliminators; and waste handling products. Prescriptions for animals are subject to the high rate of tax. See 86 Ill. Adm. Code 130.310.
- i) **EXAMPLE 1:** During a veterinary examination of a dog, a veterinarian breaks open a 6 dose package of flea and tick product and applies one packet to the dog. He or she recommends that the service client continue use of the flea and tick product and offers the remaining 5 packets for sale. If the customer purchases all 5 packets of the flea and tick product at the time of the service transaction, the veterinarian will incur liability under the Service Occupation Tax on the 6 pack of flea and tick product (one applied to the animal incident to service, the other 5 transferred to the service customer as part of the service transaction). If the service customer returns 6 months later and purchases 2 additional flea and tick packets without examination of the dog, the veterinarian will incur liability under the Service Occupation Tax provided that he or she maintains the proper documentation in his or her books and records as required in subsection (c)(2)(B) of this Section.
- ii) **EXAMPLE 2:** A service client discovers that his or her dog has fleas, so the client takes it to the veterinarian for treatment. The veterinarian uses a lice comb to examine for fleas and then applies

a nonprescription flea and tick bath to treat the infestation. The veterinarian recommends that the service client purchase additional bottles of the product to ensure that treatment is complete. The service client returns 2 weeks later to purchase an additional bottle of product. The veterinarian will incur liability under the Service Occupation Tax on the flea and tick product transferred when treating the dog, as well as on the subsequent sale of the same flea and tick product (provided that the required documentation is maintained). The veterinarian will incur Use Tax on the flea and tick comb that he or she uses in practice (as well as other items used or consumed in the grooming and bathing of the dog, such as towels, dryers or disposable pads).

3) Application of Service Tax to Example

- A) In both Examples 1 and 2 of subsection (c)(2)(C), the veterinarian can remit Service Occupation Tax based on the selling price of the tangible personal property transferred incident to service, as more fully explained in subsection (c)(3)(B) of this Section. However, if the annual aggregate cost price of all items transferred incident to service transactions is less than 35% of annual aggregate gross receipts from service, he or she may elect instead to handle liability by being treated as a "de minimis" serviceman. See 86 Ill. Adm. Code 140.106 for an explanation of the 35% threshold. As a de minimis serviceman, he or she may pay tax as follows:
- i) If the veterinarian does not make over-the-counter sales subject to Retailers' Occupation Tax (e.g., sales of leashes, clippers or combs), he or she may elect to remit Use Tax to suppliers on his or her cost price of tangible personal property transferred incident to service (if suppliers are not registered to collect the Use Tax, he or she must register for the limited purpose of self-assessing and remitting Use Tax on these purchases). See 86 Ill. Adm. Code 140.108 for further information. The veterinarian cannot provide Certificates of Resale to suppliers if he or she elects this option.
 - ii) If the veterinarian makes over-the-counter sales subject to Retailers' Occupation Tax, he or she may remit Service Occupation Tax to the Department on his or her cost price of the tangible personal property transferred incident to service. See 86 Ill. Adm. Code 140.109 for further information. In this case, the veterinarian should provide Certificates of Resale to suppliers. He or she must register and file returns with payment of tax to the Department.
- B) If the veterinarian's annual aggregate cost price of all items transferred incident to service transactions is 35% or more of annual aggregate gross receipts from service, he or she cannot elect to be treated as a de minimis serviceman. The veterinarian must pay Service Occupation Tax on the selling price of the tangible personal property transferred incident to service. See 86 Ill. Adm. Code 140.106 The veterinarian must register and remit returns with tax to the Department. He or she should provide Certificates of Resale to suppliers and may calculate selling price as follows:

