

**Illinois Department of Revenue
Regulations**

Title 86 Part 131 Section 110 Remote Retailers – General Provisions
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**TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE**

**PART 131
LEVELING THE PLAYING FIELD FOR ILLINOIS RETAIL ACT**

Section 131.110 Remote Retailers – General Provisions

- a) On and after January 1, 2021, a remote retailer that meets either of the thresholds in Section 131.115(a) is considered a retailer engaged in the occupation of selling at retail in Illinois for purposes of ROTA and is liable for all applicable State and local retailers' occupation taxes administered by the Department on all retail sales shipped or delivered to Illinois purchasers.
- b) Remote retailers are deemed to be engaged in the business of selling at the Illinois location to which the tangible personal property is shipped or delivered or at which possession is taken by the purchaser. State and local retailers' occupation taxes are incurred at the rate in effect at this location. (See Section 131.155.)
- c) Sales of tangible personal property that is required to be titled or registered with an agency of the State of Illinois, including motor vehicles, watercraft, aircraft, and trailers, that are made by remote retailers to Illinois purchasers are not subject to the provisions of this Part. State and local use taxes shall continue to be paid by purchasers as required by law as a condition of titling or registering these items.
- d) Remote retailers are often multichannel retailers. That is, they may also sell their products through a marketplace and so are considered marketplace sellers. Marketplace facilitators required to register with the Department, as provided in Section 131.135, incur State and local retailers' occupation taxes on sales made to Illinois purchasers on behalf of remote retailers making sales over the marketplace. Remote retailers do not incur tax on these sales. (See Section 131.150.)
- e) Examples. All facts set forth in EXAMPLE 2 through EXAMPLE 4 apply to each following example.

EXAMPLE 1: On December 31, 2020, ABC Wines, an Illinois Liquor Control Commission Winery Shipper's License holder located in New York that has no physical presence in Illinois, determines that it has made sales to Illinois purchasers for the preceding 12 months that exceed \$100,000. Beginning January 1, 2021, ABC Wines must collect and remit all applicable State and locally imposed retailers' occupation tax for sales to Illinois purchasers for one year.

EXAMPLE 2: Ponchos for Pooches.com is a retailer of rain gear for dogs. Its sales are made exclusively from its manufacturing facility in Portland, Oregon. It has no physical presence in Illinois. Its annual gross receipts from sales to Illinois purchasers exceed \$100,000. Ponchos for Pooches.com is a remote retailer and is required to register with

the Department and remit State and local retailers' occupation taxes in effect at the address to which its products are shipped or delivered or at which possession is taken by the purchaser ("destination sourcing").

EXAMPLE 3: Rain gear sold to Illinois purchasers by Ponchos for Pooches.com has skyrocketed. As a result, the company has begun sending sales representatives to Illinois to market its products through local pet stores. As a result of these activities, Ponchos for Pooches.com is no longer considered a remote retailer because it has a physical presence in Illinois due to the presence of its sales reps. At this point, its tax liability changes. It no longer incurs State and local retailers' occupation taxes on its sales. It instead incurs an obligation to collect and remit only the use tax (6.25%) on its sales.

EXAMPLE 4: Ponchos for Pooches.com has become so popular with Illinois purchasers that the company decides to open up a manufacturing facility in Illinois. Sales to Illinois purchasers are sometimes fulfilled from this facility. For all sales to Illinois purchasers that are fulfilled from its Illinois manufacturing facility, Ponchos for Pooches.com incurs State and local retailers' occupation taxes in effect at the location of the manufacturing facility ("origin sourcing"). In addition, Ponchos for Pooches.com incurs only a use tax collection obligation (6.25%) on sales made from its Oregon manufacturing facility. As illustrated in Example 3, Ponchos for Pooches.com is not considered a remote retailer because it has a physical presence in Illinois (its manufacturing facility).

EXAMPLE 5: Ponchos for Pooches.com decides to sell its products over a marketplace. The marketplace meets the tax remittance requirements of Section 131.135(a) and so is required to remit State and local retailers' occupation taxes to the Department on all sales made to Illinois purchasers by its marketplace sellers. Ponchos for Pooches.com is not responsible for reporting and remitting tax on sales made over the marketplace. As provided in Example 4, Ponchos for Pooches.com maintains a physical presence in Illinois due to its manufacturing facility. Ponchos for Pooches.com incurs State and local retailers' occupation taxes for all sales it makes to Illinois purchasers outside the marketplace that are fulfilled from its Illinois manufacturing facility ("origin sourcing"). In addition, Ponchos for Pooches.com incurs only a use tax collection obligation (6.25%) on sales it makes outside the marketplace to Illinois purchasers that are fulfilled from its Oregon manufacturing facility.

(SOURCE: Adopted at 45 Ill. Reg. 931, effective December 31, 2020.)