

**Illinois Department of Revenue
Regulations**

Title 86 Part 140 Section 140.105 Calculation of Tax Incurred by Servicemen - Threshold Determination of Cost Ratio
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**TITLE 86: REVENUE
PART 140
SERVICE OCCUPATION TAX**

Section 140.105 Calculation of Tax Incurred by Servicemen - Threshold Determination of Cost Ratio

- a) On and after January 1, 1990, a serviceman may incur either Service Occupation Tax or Use Tax liability when transferring tangible personal property incident to a retail sale of service. The type of tax liability incurred depends upon several factors. The single most important factor is determining the cost ratio between the annual aggregate cost of tangible personal property transferred incident to sales of service and the annual gross receipts from all sales of service.

If this cost ratio is 35% or greater (75% or greater in the case of servicemen transferring prescription drugs or engaged in graphic arts production), the serviceman is required to register and remit Service Occupation Tax on his selling price, as explained in Section 140.106.

- b) When the cost ratio is below 35% (75% in the case of servicemen transferring prescription drugs or engaged in graphic arts production), the serviceman, in lieu of paying Service Occupation Tax on the selling price, has the following options:
 - 1) From January 1, 1990 until December 31, 1992, if the cost ratio is below 35% (or less than 75% in the case of servicemen transferring prescription drugs or engaged in graphic arts production), the serviceman may pay Use Tax on his cost price, if the conditions set out in Section 140.108 are met. However, on and after January 1, 1993, this option is not available if the serviceman is otherwise required to be registered as a retailer under Section 2a of the Retailers' Occupation Tax Act.
 - 2) On and after January 1, 1993, if the cost ratio is below 35% (or 75% in the case of servicemen transferring prescription drugs or engaged in graphic arts production) and if the serviceman is otherwise required to be registered under Section 2a of the Retailers' Occupation Tax Act, the serviceman may pay Service Occupation Tax on his cost price, as explained in Section 140.109.
- c) The cost of materials that are not transferred to customers incident to service, such as those sold at retail, removed from inventory for use, or incorporated into repairs of real estate, must be excluded when determining the cost ratio.

- d) Beginning January 1, 1990 through December 31, 1992, a serviceman may determine if he meets the cost ratio on a transaction by transaction basis. On and after January 1, 1993, the taxpayer must make this determination on the basis of his fiscal year.
- e) The annual aggregate cost of the tangible personal property transferred incident to sales of service, as well as the total annual receipts from sales of service, must be determined on the basis of the taxpayer's fiscal year. Prior years' ratios, while sometimes helpful, cannot be relied upon to establish the current year's threshold. Estimates can be made based on prior years, but if they are not accurate, the taxpayer must adjust the manner in which tax is calculated and remit all taxes, penalties and interest due.
- f) The following example illustrates how to calculate this ratio:

Annual aggregate cost of parts	\$ 56,000
Marked up selling price of parts	\$ 75,600
Service or labor charge	\$ 20,000
Sales of service only	\$ 16,400
Annual gross receipts	\$112,000

To figure the cost ratio, divide the annual aggregate cost of parts of \$56,000 by the annual gross receipts of \$112,000.

$$\$56,000 / 112,000 = .50 \text{ or } 50\%$$

The cost ratio is 50 %. So, for example, if the serviceman is subject to the 35% threshold, Service Occupation Tax on the serviceman's selling price will be incurred in this instance.

(Source: Amended at 25 Ill. Reg. 4971, effective March 23, 2001)