

**Illinois Department of Revenue
Regulations**

Title 86 Part 140 Section 140.106 When Cost Ratio is 35% or Greater, Service Occupation Tax Liability Is Incurred by Servicemen on Their Selling Price

**TITLE 86: REVENUE
PART 140
SERVICE OCCUPATION TAX**

Section 140.106 When Cost Ratio is 35% or Greater, Service Occupation Tax Liability Is Incurred by Servicemen on Their Selling Price

- a) If the cost ratio between the tangible personal property transferred incident to sales of service and the serviceman's total annual gross receipts from all sales of service is 35% or greater (75% or greater in the case of servicemen transferring prescription drugs or engaged in graphic arts production), the serviceman must register and remit Service Occupation Tax. Unless a lower rate is applicable (see Section 140.101 (b)), the Service Occupation Tax incurred is based upon 6.25% of the selling price of the tangible personal property transferred incident to sales of service. A serviceman may determine "selling price" in the following ways:
 - 1) Separately stated selling price. If the serviceman separately states the selling price of the tangible personal property transferred incident to service on billings to service customers, then his Service Occupation Tax Liability is based on that separately stated selling price. However, in no event can the Service Occupation Tax liability be based on an amount less than the serviceman's cost price of the tangible personal property being transferred. (Section 3-10 of the Act)
 - 2) Fifty percent base. If the serviceman's bill to the service customer does not separately state the selling price of the tangible personal property transferred, the serviceman's Service Occupation Tax liability is based on 50% of the entire customer bill. However, in no event can the Service Occupation Tax be based on an amount less than the serviceman's cost price of the tangible personal property being transferred. (Section 3-10 of the Act)
- b) A serviceman who incurs SOT on his selling price should provide Certificates of Resale to his suppliers when purchasing tangible personal property that will be transferred to service customers.
- c) A serviceman who incurs SOT on his selling price is liable for local Service Occupation Taxes, which are based upon his location. If he fails to provide suppliers with Certificates of Resale and instead pays tax to suppliers, the consequence could be an underpayment of local Service Occupation Tax, with resulting liabilities for tax, penalty and interest.

- d) A serviceman who incurs SOT on his selling price is authorized to claim any exemption provided for in the Service Occupation Tax. For example, he may claim the interstate commerce exemption or accept various exemption certificates from his customers (e.g., Certificates of Resale, exemption identification numbers).
- e) Service Use Tax must be collected from service customers by a serviceman who incurs SOT on his selling price and must be based upon either the separately stated selling price of the tangible personal property transferred or 50% of the entire customer bill, depending upon how it is billed to the customer. Any tax collected over this amount constitutes an overcollection of tax that must be refunded to the service customer, or if not refunded to the service customer, paid to the Department. The tax need not be separately stated on the service billing unless so requested by the service customer.
- f) Example. Servicemen paying SOT on selling price would include auto body shops that are at or above the 35% threshold. Their tax liability will be based upon either the separately stated selling price of the parts transferred or 50% of the entire service bill to the customer. They should provide suppliers with Certificates of Resale.

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