

**Illinois Department of Revenue  
Regulations**

**Title 86 Part 140 Section 140.109 “De Minimis” Servicemen Who Incur Service Occupation Tax on Their Cost Price**

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

**Section 140.109 “De minimis” Servicemen Who Incur Service Occupation Tax on Their Cost Price**

- a) If a serviceman is below the 35% threshold (or under the 75% threshold for servicemen transferring prescription drugs or engaged in graphic arts production) but is otherwise required to be registered as a retailer under Section 2a of the Retailers' Occupation Tax Act because he incurs Retailers' Occupation Tax liability with respect to a portion of his sales, he does not incur a Use Tax liability based on his cost price of items transferred incident to service. Rather, except as provided in subsection (b), on and after January 1, 1993, he incurs and must remit Service Occupation Tax (including local taxes) on his cost price of the tangible personal property transferred incident to sales of service. Such de minimis servicemen include pharmacists transferring prescription drugs and also making over-the-counter sales of non-prescription drugs. Also, included would be repairmen transferring parts incident to service and also selling parts over-the-counter, or hair stylists transferring hair products incident to service and also making over-the-counter sales of shampoo and other hair care products. As a result of incurring Service Occupation Tax on his cost price, a de minimis serviceman is subject to the following conditions:
- 1) A de minimis serviceman incurring Service Occupation Tax liability on his cost price should provide Certificates of Resale to his suppliers when purchasing tangible personal property that will be transferred to service customers.
  - 2) A de minimis serviceman incurring Service Occupation Tax liability on his cost price is also 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 overpayment of local tax to the supplier's location and an underpayment of local Service Occupation Tax to the serviceman's location, with accompanying penalties and interest.
  - 3) A de minimis serviceman incurring Service Occupation Tax liability on his cost price is authorized to claim any of the various exemptions 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., he can accept Certificates of Resale).
  - 4) Service Use Tax must be collected from service customers by a de minimis serviceman incurring Service Occupation Tax liability on his cost price and must

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be based upon the serviceman's corresponding cost price of the tangible personal property transferred. 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.

- 5) A de minimis serviceman incurring Service Occupation Tax liability on his cost price must remit Service Occupation Tax on all taxable sales of service for a given fiscal year. He cannot utilize other methods of determining his Service Occupation Tax liability on a transaction by transaction basis.
- b) Even though a serviceman meets the de minimis threshold and is otherwise eligible to pay Service Occupation Tax on his cost price, he can nevertheless opt to pay Service Occupation Tax on the selling price of the tangible personal property transferred to service customers as explained in Section 140.106.
- c) Example of de minimis serviceman incurring Service Occupation Tax on cost price. An air conditioning repairman making repairs to window units also makes over-the-counter sales of parts to customers. He is under the annual 35% cost ratio. He makes a repair to a window unit for which he charges \$85. The cost price of the parts transferred incident to the repair total \$25. The repairman should provide a Certificate of Resale to his supplier and remit Service Occupation Tax, including local taxes, on the \$25. He is required to collect Service Use Tax from his customer on the \$25.

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