

**Illinois Department of Revenue
Regulations**

**Title 86 Part 140 Section 140.1405 Disposition of Credit Memoranda By Holders
Thereof**

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

Section 140.1405 Disposition Of Credit Memoranda By Holders Thereof

- a) Assignment Of Credit Memoranda
- 1) Credit memoranda issued in accordance with the provisions of the Act may be assigned or transferred only after a request for that purpose is filed with the Department upon forms prescribed and furnished by it, and subject to the following conditions:
 - A) That the assignment is made to a person who is subject to the Retailers' Occupation Tax Act, Use Tax Act, Service Occupation Tax Act or Service Use Tax Act, THE MUNICIPAL RETAILERS' OCCUPATION TAX ACT, THE MUNICIPAL USE TAX ACT, THE MUNICIPAL SERVICE OCCUPATION TAX ACT, THE COUNTY RETAILERS' OCCUPATION TAX ACT, THE COUNTY SUPPLEMENTARY RETAILERS' OCCUPATION TAX ACT, THE COUNTY SERVICE OCCUPATION TAX ACT, THE COUNTY SUPPLEMENTARY SERVICE OCCUPATION TAX ACT, THE COUNTY USE TAX ACT, THE COUNTY SUPPLEMENTARY USE TAX ACT, SECTION 4 OF THE WATER COMMISSION ACT OF 1985, subsections (b), (c) AND (d) OF SECTION 5.01 OF THE LOCAL MASS TRANSIT DISTRICT ACT, OR subsections (e), (f) AND (g) OF SECTION 4.03 OF THE REGIONAL TRANSPORTATION AUTHORITY ACT;
 - B) that there is no proceeding pending to establish an unpaid liability against the assignor pursuant to notice given of the Department's proposal to assess an amount against him under said Acts, and
 - C) that there is no established assessment or admitted liability or interest or penalty unpaid by the assignor, under said Acts.
 - 2) Provided, that if the amount of the credit memorandum must first be applied, in whole or in part, against an established unpaid assessment which has been issued to the claimant-assignor, or in total or partial liquidation of an unpaid admitted tax liability, or unpaid penalty, or unpaid amount of interest, due from the claimant-assignor, notice to this effect shall be given the claimant-assignor by the Department. If any balance is due such claimant-assignor, after application of the credit memorandum in the manner and to the purposes aforesaid, such balance may be assigned upon receipt by the Department of instructions to that effect. If there are no unpaid established assessments or unpaid admitted tax liabilities, or unpaid penalties, or unpaid amounts of interest, due from the claimant-assignor, and if there are no pending proceedings as herein outlined against the claimant-assignor, and if the contemplated assignee is a person who is subject to said Acts, the request for leave to assign shall be approved; the original credit memorandum shall be cancelled, and a new credit memorandum shall be issued to the assignee in the amount shown on the cancelled memorandum. However,

before a credit memorandum is issued to the assignee, the amount of such credit shall be applied, to the extent which may be necessary, in liquidation of any established or admitted unpaid liability due from the assignee under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act, or the Service Use Tax Act, THE MUNICIPAL RETAILERS' OCCUPATION TAX ACT, THE MUNICIPAL USE TAX ACT, THE MUNICIPAL SERVICE OCCUPATION TAX ACT, THE COUNTY RETAILERS' OCCUPATION TAX ACT, THE COUNTY SUPPLEMENTARY RETAILERS' OCCUPATION TAX ACT, THE COUNTY SERVICE OCCUPATION TAX ACT, THE COUNTY SUPPLEMENTARY SERVICE OCCUPATION TAX ACT, THE COUNTY USE TAX ACT, THE COUNTY SUPPLEMENTARY USE TAX ACT, SECTION 4 OF THE WATER COMMISSION ACT OF 1985, subsections (b), (c) AND (d) OF SECTION 5.01 OF THE LOCAL MASS TRANSIT DISTRICT ACT, OR subsections (e), (f) AND (g) OF SECTION 4.03 OF THE REGIONAL TRANSPORTATION AUTHORITY ACT, and a credit memorandum for the balance of the credit, if any, shall then be issued to the assignee: Provided that there is no proceeding pending against the assignee to establish an unpaid liability against him under any of said Acts. If a proceeding to establish such an unpaid liability is pending, the credit memorandum shall be held by the Department until such proceeding is concluded; and if such proceeding results in the issuance of an assessment which becomes final, the credit shall be applied by the Department, to the extent which may be necessary, in liquidation of such assessment or any interest that may accrue thereon, and the balance of the credit, if any (after cancellation of the credit memorandum applied in liquidation of said assessment), shall be issued in the form of a new credit memorandum and delivered to the assignor for transmittal to the assignee.

b) Submission of Credit Memoranda With Tax Returns

- 1) Credit memoranda, in the hands either of the original claimant or of his assignee, may be submitted to the Department, along with tax returns, in payment of any of said taxes incurred by the holder of such credit memoranda. The holder of the credit memorandum may also use it to pay any penalty or interest that may be due from him to the Department under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, THE MUNICIPAL RETAILERS' OCCUPATION TAX ACT, THE MUNICIPAL USE TAX ACT, THE MUNICIPAL SERVICE OCCUPATION TAX ACT, THE COUNTY RETAILERS' OCCUPATION TAX ACT, THE COUNTY SUPPLEMENTARY RETAILERS' OCCUPATION TAX ACT, THE COUNTY SERVICE OCCUPATION TAX ACT, THE COUNTY SUPPLEMENTARY SERVICE OCCUPATION TAX ACT, THE COUNTY USE TAX ACT, THE COUNTY SUPPLEMENTARY USE TAX ACT, SECTION 4 OF THE WATER COMMISSION ACT OF 1985, subsections (b), (c) AND (d) OF SECTION 5.01 OF THE LOCAL MASS TRANSIT DISTRICT ACT, OR subsections (e), (f) AND (g) OF SECTION 4.03 OF THE REGIONAL TRANSPORTATION AUTHORITY ACT.
- 2) If, after applying any such credit memorandum against the amount of liability shown to be due by the tax return with which the credit memorandum is submitted, there is a balance of the credit memorandum in favor of the taxpayer, the Department will cancel the credit memorandum which the taxpayer submits with his return and will issue and deliver to such taxpayer a new credit memorandum for such balance. This process will be followed until the credit, to which such taxpayer is entitled, is exhausted. However, any new credit memorandum, which is issued for a balance of credit due the taxpayer after applying the amount of a credit memorandum to the payment of current taxes, is subject to the prior rights of the Department to the same extent that such prior rights take precedence when a credit memorandum is first issued (see Section 140.1401(d) of this Subpart) or when leave to assign a credit memorandum is requested (see Section 140.1405(a) of this Subpart).

(Source: Amended at 13 Ill. Reg. 9388, effective June 6, 1989)

