

**Illinois Department of Revenue
Regulations**

Title 86 Part 140 Section 140.301 Cost Price

TITLE 86: REVENUE

**PART 140
SERVICE OCCUPATION TAX**

SUBPART C: BASE OF THE TAX

Section 140.301 Cost Price

- a) "Cost Price" means the consideration paid by the serviceman for a purchase valued in money, whether paid in money or otherwise, including cash, credits and services, and shall be determined without any deduction on account of the supplier's cost of the property sold or on account of any other expense incurred by the supplier; but does not include charges which are added to prices by suppliers on account of the purchaser's tax liability under this Act or the Service Use Tax Act [35 ILCS 110]. Except as provided in Section 140.145 (a), when a serviceman contracts out part or all of the services required in his sale of service, it shall be presumed that the cost price to the serviceman of the property transferred to him by his subcontractor is equal to 50% of the subcontractor's charges to the serviceman in the absence of proof of the consideration paid by the subcontractor for the purchase of such property.

- b) The following listing describes the taxation of various charges that may be made by servicemen.
 - 1) Transportation and Delivery Charges
 - A) Transportation and delivery charges are considered to be freight, express, mail, truck or other carrier, conveyance or delivery expenses. Many times these charges are designated as shipping and handling charges.

 - B) Whether amounts charged by a serviceman to his customers in order to secure delivery of the property to his customers are taxable depends upon the method used by the serviceman to calculate his tax liability. Delivery charges made by a de minimis serviceman paying either Use Tax (see Section 140.108) or Service Occupation Tax (see Section 140.109) on his cost price are not taxable, since tax in these instances is incurred only on the cost price of the tangible personal property transferred to the service customer incident to a sale of service. If, however, the serviceman remits Service Occupation Tax on his selling price, as provided in Section 140.106, delivery charges made to his customer may be taxable. If the serviceman calculates his tax liability on the basis of the separately stated selling price of tangible personal property transferred to service customers, such delivery charges are not taxable. However, if the

serviceman does not separately state the selling price of the tangible personal property transferred to the customer and, rather, calculates his liability on 50% of the entire service bill, delivery charges will become part of the tax base.

- C) Incoming Transportation Costs - Servicemen Who Incur Service Occupation Tax on Their Selling Price. Incoming freight or other delivery expense incurred by a serviceman remitting Service Occupation Tax on his selling price in acquiring property for sale may not be deducted from the selling price charged by the serviceman for the tangible personal property transferred to the customer even if this type of delivery expense is priced and billed separately on the bill to the customer. It represents a serviceman's cost of doing business, which is never deductible from gross receipts subject to tax.
- D) Incoming Transportation Costs – De Minimis Servicemen Who Incur Either Use Tax or Service Occupation Tax on Their Cost Price. In contrast to servicemen paying tax on their selling price, de minimis servicemen generally pay Use Tax on the cost price of the tangible personal property they acquire for transfer to service customers. Whether de minimis servicemen paying Use Tax to their suppliers are subject to tax on shipping charges made by their suppliers depends upon whether the supplier and the de minimis serviceman have a separate contract for delivery charges and whether the delivery charges are actually reflective of the costs of shipping, transportation and delivery. If such charges are shown to be separately contracted for and reflective of actual shipping costs, they are not considered part of the cost price of the tangible personal property purchased by the serviceman. The same rule applies to de minimis servicemen paying Service Occupation Tax on their cost price. (See 86 Ill. Adm. Code 130.415.

2) Finance or Interest Charges -- Penalties -- Discounts

- A) Where any tangible personal property is sold by a supplier to a serviceman under an installment contract, the interest or finance charges on account of credit so extended are not considered to be a part of the cost price. The books and records of suppliers must clearly reflect such finance or interest charges. In the absence of an adequate showing of what such charges actually are, the Department will presume that such charges are not in excess of like charges which are customarily made in connection with similar installment sales.
- B) If a "penalty" is added to the base cost price in the event that the serviceman does not pay such price within a specified time and if such penalty is paid to the supplier, such "penalty" is considered to be a part of the cost price.
- C) If a discount is allowed for a payment in cash within a stated period of time, any amounts realized by suppliers through failure of a serviceman to take advantage of such a discount will be considered to be a part of the

cost price. Conversely, if the supplier allows the serviceman a discount from the base cost price (such as a discount for prompt payment) and the serviceman avails himself of the discount so that the supplier does not receive any receipts from that source, the amount of such discount is not part of the cost price.

- 3) Maintenance Agreements. If a serviceman enters into an agreement to provide repair service for a particular piece of equipment for a stated period for a predetermined fee, the serviceman shall pay Use Tax to his supplier (or to the Department if the supplier is not registered to collect tax) on the cost price of tangible personal property purchased for transfer by the serviceman incident to completion of the maintenance agreement (see Section 2 of the Act and Section 3-75 of the Use Tax Act). However, a serviceman will incur no tax liability on repairs made under a maintenance agreement for a person that is able to claim an exemption, either because of that person's exempt status (e.g., the person possesses an exemption identification number issued by the Department, such as the Federal or State government) or because the tangible personal property being repaired is exempt from tax (e.g., due to the manufacturing machinery, graphic arts or pollution control equipment exemptions).

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