

**Illinois Department of Revenue
Regulations**

**Title 86 Part 140 Section 140.501 Sales of Service Involving Property
Originating in Illinois**

TITLE 86: REVENUE

**PART 140
SERVICE OCCUPATION TAX**

SUBPART E: INTERSTATE COMMERCE

Section 140.501 Sales of Service Involving Property Originating in Illinois

a) Where tangible personal property is located in this State at the time of its transfer (or is subsequently produced in Illinois) as an incident to a sale of service, and is then delivered in Illinois, the serviceman incurs Service Occupation Tax liability on the selling price of the property. The sale is not deemed to be in interstate commerce if the purchaser or his representative receives the physical possession of such property in this State. This is so notwithstanding the fact that the purchaser may, after receiving physical possession of the property in this State, transport or send the property out of the State for use outside the State or for use in the conduct of interstate commerce. The place at which the contract of sale of the service or contract to sell the service is negotiated and executed and the place at which title to the property passes to the purchaser are immaterial. The place at which the purchaser resides is also immaterial. Except as is set out at Section 140.501(d) of this Part, it also makes no difference that the purchaser is a carrier when that happens to be the case.

b) The serviceman does not incur Service Occupation Tax liability on property which he resells as an incident to a sale of service under an agreement by which the serviceman is obligated to make physical delivery of the goods from a point in this State to a point outside this State, not to be returned to a point within this State, provided that such delivery is actually made. Nor does the tax apply to property which the serviceman resells as an incident to a sale of service under an agreement by which the serviceman, by carrier (when the carrier is not also the purchaser) or by mail, delivers the property from a point in this State to a point outside this State, not to be returned to a point within this State. The place at which title to the property passes to the purchaser is immaterial. The place at which the contract of sale of the service or contract to sell the service is negotiated and executed and the place at which the purchaser resides are also immaterial. Sales of service of the type described in this paragraph are deemed to be within the protection of the Commerce Clause of the Constitution of the United States.

c) To establish that the selling price of property sold as an incident to any given sale of service is exempt because the property is delivered by the serviceman from a point within this State to a point outside this State under the terms of an agreement with the purchaser, the serviceman will be required to retain in his records, to support deductions taken on his tax returns, proof which satisfies the Department that there was such an agreement and a bona fide delivery, outside this State, of the property involved in the sale of service. The most acceptable proof of this fact will be:

1) If shipped by a common carrier: A waybill or bill of lading requiring delivery outside this State;

2) if sent by mail: An authorized receipt from the United States Post Office Department, for articles sent by registered mail, parcel post, ordinary mail or otherwise, showing the name of the addressee, the point outside Illinois to which the property is mailed and the date of such mailing; if the receipt does not comply with these requirements, other supporting evidence will be required;

3) if sent by the serviceman's own transportation equipment: A trip sheet signed by the person making delivery for the serviceman and showing the name, address and signature of the person to whom the goods were delivered outside this State; or, in lieu thereof, an affidavit signed by the purchaser or his representative, showing the name and address of the serviceman, the name and address of the purchaser and the time and place of such delivery outside Illinois by the serviceman, together with other supporting data as required by Section 140.701(c) of this Part and by Section 11 of the Act.

d) Effective September 17, 1982, there are two exceptions to the rule that the tax is applicable where the service customer receives physical possession of the property in Illinois.

1) THE SERVICEMAN DOES NOT INCUR SERVICE OCCUPATION TAX LIABILITY WITH RESPECT TO ITEMS TRANSFERRED AS AN INCIDENT TO REPAIRING, RECONDITIONING OR REMODELING TANGIBLE PERSONAL PROPERTY BELONGING TO A COMMON CARRIER BY RAIL WHICH TAKES DELIVERY OF THE ITEMS IN ILLINOIS BUT WHICH TRANSPORTS THE ITEMS (OR SHARES WITH ANOTHER COMMON CARRIER IN TRANSPORTING THE ITEMS) OUT OF ILLINOIS ON A STANDARD UNIFORM BILL OF LADING SHOWING THE SERVICEMAN AS THE SHIPPER OR CONSIGNOR OF THE ITEMS TO A DESTINATION OUTSIDE ILLINOIS FOR USE OUTSIDE ILLINOIS (Section 2 of the Act).

2) WITH RESPECT TO ITEMS PRODUCED FOR AN INTERSTATE CARRIER BY RAIL ON SPECIAL ORDER (IN SUCH A WAY SO THAT THE APPLICABLE TAX WOULD BE SERVICE OCCUPATION TAX RATHER THAN RETAILERS' OCCUPATION TAX), NO SERVICE OCCUPATION TAX LIABILITY IS INCURRED IF THAT INTERSTATE CARRIER BY RAIL TAKES DELIVERY OF THE ITEMS IN ILLINOIS BUT TRANSPORTS THE ITEMS (OR SHARES WITH ANOTHER COMMON CARRIER IN TRANSPORTING THE ITEMS) OUT OF ILLINOIS ON A STANDARD UNIFORM BILL OF LADING SHOWING THE SELLER AS THE SHIPPER OR CONSIGNOR OF THE ITEM TO A DESTINATION OUTSIDE ILLINOIS FOR USE OUTSIDE ILLINOIS (Section 2 of the Act).

3) The two exceptions described immediately above at subsections (d)(1) and (2) of this Section are also applicable to local Service Occupation Tax imposed by home rule units or by the Regional Transportation Authority and the Metro East Mass Transit District.

(Source: Amended at 14 Ill. Reg. 262, effective January 1, 1990)