

**Illinois Department of Revenue
Regulations**

Title 86 Part 180 Section 180.125 Authorized Deductions from Gross Receipts

TITLE 86: REVENUE

PART 180

AUTOMOBILE RENTING OCCUPATION TAX

Section 180.125 Authorized Deductions from Gross Receipts

- a) "Gross receipts" on which the Automobile Renting Occupation Tax must be computed do not include receipts from the following separately stated charges added to rentees' billings:
- 1) charges added on account of the rentor's duty to collect the Automobile Renting Use Tax from rentees or passed on because of the rentor's liability under the Automobile Renting Occupation Tax or passed on because of the rentor's liability under Municipal, County, Regional Transportation Authority or Metro East Mass Transit District Automobile Renting Occupation Taxes;
 - 2) receipts from rentees in consideration of waivers of claims for loss or damage to automobiles rented;
 - 3) receipts from separately stated charges for insurance;
 - 4) receipts from separately stated charges for recovery of refueling costs;
 - 5) receipts from any other separately stated charges which are not for the use of tangible personal property.
- b) *Effective July 20, 1999, "gross receipts" does not include receipts received by an automobile dealer from a manufacturer or service contract provider for the use of an automobile by a person while that person's automobile is being repaired by that automobile dealer and the repair is made pursuant to a manufacturer's warranty or a service contract where a manufacturer or service contract provider reimburses that automobile dealer pursuant to a manufacturer's warranty or a service contract and the reimbursement is merely made to recover the costs of operating the automobile as a loaner vehicle. [35 ILCS 155/2]*
- 1) For example, an automobile dealer makes repairs for an automobile owner under the terms of a manufacturer's warranty. The manufacturer's warranty provides that the manufacturer will provide the owner with another automobile to drive while the owner's automobile is being repaired. Pursuant to the terms of an agreement between the manufacturer and the dealer, the dealer provides the owner with a replacement automobile either from its sales inventory or from its rental inventory. In exchange, the manufacturer compensates the dealer for that

replacement automobile. However, under the terms of the agreement between the manufacturer and the dealer, that compensation is limited to an amount intended only to reimburse the dealer for the dealer's costs of operating the replacement automobile as a loaner vehicle. Compensation paid to a dealer by a manufacturer or service contract provider under these circumstances that merely reimburses the dealer for his cost of operating the replacement automobile as a loaner vehicle is not subject to the tax. However, if the dealer charges a customer amounts that exceed the compensation paid to him by the manufacturer or service contract provider as reimbursement for the cost of operating the replacement vehicle as a loaner vehicle, the excess receipts are subject to the tax.

- A) Costs of operating the replacement automobile as a loaner vehicle may include the cost of paperwork to issue the loaner vehicle or to receive reimbursement from the manufacturer; time needed by the dealership employee to fill out the paperwork; preparing the loaner; giving keys to the customer; instructing the customer on use and when to return the loaner; depreciation of the loaner vehicle; cost of insurance on the loaner vehicle; needed time and materials used to clean the loaner vehicle when returned; and fueling and servicing the loaner vehicle.
 - B) In order to exclude receipts from a manufacturer or service contract provider that merely reimburse him for his costs of operating the replacement automobile as a loaner vehicle, a dealer must maintain books and records documenting such costs.
- 2) Sometimes, the dealer does not provide the owner with a replacement automobile from its own inventory. Rather, the automobile dealer rents an automobile from a separate automobile rentor and then provides that automobile to the owner whose automobile is being repaired pursuant to the manufacturer's warranty. In this situation, the dealer's rental from the automobile rentor is a non-taxable rental so long as all the requirements of Section 180.135 of this Part are satisfied. The dealer's subsequent provision of an automobile to the owner is non-taxable so long as the requirements of this subsection (b) are satisfied.
- 3) If an owner rents an automobile from an automobile rentor that is not the dealer making the repairs to his automobile, the exclusion set out in this subsection (b) is not available. In addition:
- A) The exclusion does not apply even though the dealer reimburses the owner for the rental.
 - B) The exclusion does not apply even though the automobile rentor is a separate entity related to the automobile dealer. For example, if one person operates an automobile dealership as one corporation and an automobile rental business as a separate corporation, the procedure set out in subsection (b)(2) must be followed in order for the exclusion to apply.

