

**Illinois Department of Revenue
Regulations**

Title 86 Part 195 Section 110 Tax Imposed

**TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE**

**PART 195
PARKING EXCISE TAX**

Section 195.110 Tax Imposed

- a) *Beginning on January 1, 2020, a tax is imposed on the privilege of using in this State a parking space in a parking area or garage for the use of parking one or more motor vehicles, recreational vehicles, or other self-propelled vehicles.*
- 1) *The tax is imposed at the rate of:*
- A) *6% of the purchase price for a parking space paid for on an hourly, daily, or weekly basis; and*
- B) *9% of the purchase price for a parking space paid for on a monthly or annual basis. (Section 10-10 of the Act)*
- 2) The rate of tax shall be determined based on the rental period agreed to by the operator and the purchaser in the contract for the parking space.
- EXAMPLE: A purchaser contracts with an operator to rent a parking space on a month-to-month basis. The contract permits the purchaser to make payments twice a month. The tax is imposed at the rate of 9%.
- b) *The tax shall be collected from the purchaser by the operator.*
- c) *An operator that has paid or remitted the tax imposed by the Act to another operator in connection with the same parking transaction, or the use of the same parking space, that is subject to tax under the Act, shall be entitled to a credit for the tax paid or remitted against the amount of tax owed under the Act, provided that the other operator is registered under the Act. The operator claiming the credit shall have the burden of proving it is entitled to claim a credit. (Section 10-10 of the Act) An invoice to the operator that separately states "tax paid" or states "all taxes included" is sufficient documentation to permit the operator to claim the credit.*

- d) The operator of a parking area or garage must collect the tax on the purchase of all parking spaces in a parking area or garage unless the operator is exempt from collecting the tax or the tax is not due on the transaction. The Act does not provide an exemption for purchases of parking spaces by a person that intends to resell the parking spaces.

EXAMPLE 1: A company provides a service in which an individual may contact the company by use of the Internet to locate and rent a parking space in a parking area or garage near a particular venue. The company charges the purchaser \$21.20 for the parking space and a fee of \$5 payable to the company. The garage owner charged the company \$20 for the parking space and \$1.20 in tax that is separately stated on the invoice. The company forwards the \$21.20 to the garage owner and retains the \$5 fee. The company must collect and remit tax on \$26.20. The company owes \$1.57 in tax and may take a credit for \$1.20 in tax paid to the owner of the parking area or garage. The garage owner must remit tax in the amount of \$1.20.

EXAMPLE 2: A company provides a service in which an individual may contact the company by use of the Internet to locate and rent a parking space in a parking area or garage. The company charges the purchaser \$30.00 for the parking space and a fee of \$5 payable to the company. The garage owner charged the company \$30 for the parking space and failed to separately state and collect the tax or state that all taxes are included in the purchase price. The company forwards the \$30 to the garage owner and retains the \$5 fee. The company must collect and remit tax on \$35. The company owes \$2.10 in tax. The garage owner must remit tax on the \$30, or \$1.80. Because the garage owner failed to separately state and collect tax on the \$30 from the company or state that all taxes are included in the purchase price, the company may not take a credit for the tax paid by the garage owner.

EXAMPLE 3: A hotel purchases the privilege of using 50 parking spaces at an adjacent parking garage at a price of \$100 per space per month for the purpose of reselling the use of the spaces to its hotel guests. The garage must charge the hotel \$109 per parking space (\$100 plus tax of \$9, using the monthly rate of 9%), and it must remit the \$9 in tax per parking space to the Department. If the hotel resells the use of a parking space to a guest at a price of \$20 per day, it must charge its guest \$21.20 (\$20 plus tax of \$1.20, using the daily rate of 6%). At the end of the month, the hotel will be required to remit the difference between the total amount of tax it collected from its guests for daily parking during the month and the \$450 in tax that it paid to the garage for the parking spaces.

EXAMPLE 4: A grocery store owner rents 10 parking spaces from an adjoining landowner for \$1,000 per month and allows its customers to park free while shopping in its store. The landowner must collect and remit tax (9% x \$1,000, or \$90) on the purchase price paid by the grocery store owner to the landowner to lease the parking spaces. The grocery store has no tax liability for providing free spaces to its customers.

e) Marketing or Facilitating Rental

- 1) A person who, for a fee, assists an operator in marketing or facilitating the rental of the operator's parking spaces, reserves parking spaces for customers in the operator's parking area or garage, collects the purchase price from customers, and remits the purchase price to the operator (less the fee if permitted by the agreement), is not engaged in the business of operating a parking area or garage if the following conditions are met:
 - A) the person has no ownership interest in, or legal right to operate, lease or license, parking areas or garages;
 - B) the operator controls and sets the inventory of parking spaces customers may reserve using the person's services;
 - C) the operator establishes the purchase price for the parking spots;
 - D) the person markets or facilitates the rental of the parking spaces at the purchase price set by the operator;
 - E) the person represents to prospective customers that all taxes are included in the purchase price or separately states the tax based on the purchase price set by the operator;
 - F) any additional fees charged to customers and retained by the person are separately stated; and
 - G) the operator is registered with the Department to collect and remit the tax imposed by the Act.
- 2) If the conditions listed in subsection (e)(1) are not met, the person is engaged in the business of operating a parking area or garage and is responsible for registering with the Department and collecting and remitting the tax on the purchase price received from the customer. The person may take a credit for the tax paid by the operator. The operator is responsible for remitting tax to the Department on the amount received from the person. (See subsection (c).)

EXAMPLE: A company provides a service in which an individual may contact the company by use of the Internet to locate and reserve a parking space in a parking area or garage near a particular venue. The company does not have any ownership interest in, or legal right to operate, lease or license, parking areas or garages. The operator of a garage with which the company has an agreement has advised the company that the company can reserve up to 10 spaces in the operator's garage and the purchase price for parking spaces in the garage is \$15. The company charges the purchaser \$15 for the parking space. The company states on its website that all taxes are included in the purchase price. Based on the agreement with the owner of the garage, for each space that is rented by the company, the company retains \$1 plus 10% of the \$15 purchase price paid by the purchaser. ($\$1 + .10 \times \$15 = \$2.50$.) Per the agreement, the company forwards the balance of \$12.50 to the garage owner. The garage owner is registered with the Department and remits tax on the \$15 purchase price. Because the agreement between the company and operator meets the requirements of subsection (e)(1), the company is not required to register with the Department and remit tax on \$2.50.

3) A fee, retained by the person that assists an operator in marketing or facilitating the rental of the operator's parking spaces, is a cost of doing business of the operator and is not deductible from the purchase price for purposes of calculating the tax the operator must remit to the Department. The operator is liable on the full purchase price paid by the customer for the parking space. Any additional fees charged to customers and retained by the person are also taxable unless the person separately states the fees to the purchaser and the fees are not related to, or incidental to, obtaining the use or privilege of using a parking space in a parking area or garage. (See the definition of "purchase price".)

f) If a business provides the location of available parking spaces to persons for a fee and does not collect the actual cost of parking in the selected parking area or garage, the fee is not taxable.

EXAMPLE: A company provides a web application that allows a person to locate and rent available parking spaces in the area the person wishes to find a parking space. The app also provides the purchaser with the prices for each of the available parking spaces. The fee for finding a parking space is \$5. The person selects a parking space that costs \$15 and is charged the \$5 fee. The company charges the purchaser the \$5 fee but does not charge the person the \$15 for the cost of the parking space. The garage

owner collects the \$15 parking fee and the tax of \$0.90 from the purchaser when the purchaser enters or exits the garage. The \$5 fee is not taxable.

- g) If a lessor of commercial real estate is required by the terms of a lease to provide a minimum number of parking spaces to the lessee for use by the lessee's employees, customers, or clients, the lessor is not considered to be engaged in the business of operating a parking area or garage, unless the lease agreement identifies a specific value for the parking spaces.

EXAMPLE 1: A lessor leases 2,000 square feet of office space to a lessee for \$15,000 a month. The terms of the lease require the lessor to provide the tenant with 20 parking spaces in the parking garage and 10 surface parking spaces. The consideration for the parking spaces is not specified in monthly lease rental or on the books and records of the lessor. The parking spaces are not subject to tax.

EXAMPLE 2: A professional sports team sells season skybox tickets to attend home games for \$100,000. Six parking passes at no additional charge are included in the price of the skybox. The sports team does not separately state the value of the 6 parking passes on its books and records. The person renting a skybox also can purchase extra tickets for the standard rate of \$50 per game. The 6 parking passes included in the price of the skyboxes are not subject to tax. The purchase price paid for the extra tickets are taxable.

- h) A lessor of an enclosed storage space or unit leased for the storage of tangible personal property is not required to collect the tax unless the lessor knows at the time the lease is agreed upon or executed that the storage space or unit will be used for parking a motor vehicle, recreational vehicle or self-propelled vehicle, except as otherwise provided by Section 195.115(e). A lessor may obtain knowledge by receiving the information orally from the lessee or by the lessee identifying the contents of the storage unit in the lease. A lease or other material that states storage spaces or units may be used to store motor vehicles, recreational vehicles, or self-propelled vehicles, or states the storage of motor vehicles, recreational vehicles, or self-propelled vehicles is not prohibited, does not impart knowledge to the lessor at the time a lease is agreed upon or executed that the storage space or unit will be used for parking a motor vehicle, recreational vehicle or self-propelled vehicle. The fact that the lessor believes that some lessees may be using the storage spaces or units to park motor vehicles, recreational vehicles, or self-propelled vehicles does not impose an obligation on the lessor to collect the tax.

- 1) A storage unit owner engaged in the business of operating a parking area or garage must register to collect and remit tax. However, Section 195.115(e) states that, if the operator of the parking area or

garage does not act as the operator of more than a total of 3 parking spaces located in the State, the operator is exempt from collecting and remitting tax. A storage owner must register when it rents the fourth storage unit and must begin collecting and remitting tax on all 4 storage units.

- 2) A storage unit owner may not apportion consideration received from the rental of a storage unit between the space used for storage of a vehicle and the space used for the storage of other tangible personal property.
 - i) *If any operator erroneously collects tax or collects more from the purchaser than the purchaser's liability for the transaction, the purchaser shall have a legal right to claim a refund of that amount from the operator. However, if the amount is not refunded to the purchaser for any reason, the operator is liable to pay that amount to the Department. (Section 10-10 of the Act)*
 - j) If an operator advertises a single rate ("all taxes included"), the operator must determine the base amount of the purchase price to properly calculate and remit the tax.

EXAMPLE 1: A parking operator charges a customer a single rate of \$200 per week. The amount includes the 6% State tax. The operator must determine the base amount of the purchase price paid for parking. The calculation used to calculate the base amount of the purchase price paid for parking is $\$200 \div (1 + .06) = \188.68 . The amount of \$188.68 is the base amount of the purchase price for determining the amount of tax. The State tax that the operator must remit is $\$11.32 (.06 \times 188.68)$.

EXAMPLE 2: A parking operator charges a customer a single rate of \$200 per week. The amount includes a 22% city tax, 9% county tax, and the 6% State tax. To determine the base amount of the purchase price paid for parking, the operator must first determine the combined tax rate for all qualifying parking taxes charged the customer ($0.22 + 0.09 + 0.06 = .37$). The calculation used to calculate the base amount of the purchase price paid for parking is $\$200 \div (1 + .37) = \145.99 . The amount of \$145.99 is the base amount of the purchase price used for determining the taxes that can be deducted from the single rate of \$200 and the amount of State tax that must be remitted by the operator. The city tax would be $\$32.12 (.22 \times \$145.98)$, the county tax would be $\$13.14 (.09 \times \$145.99)$, and the State tax that the operator must remit is $\$8.76 (.06 \times \$145.99)$.

- k) If a purchaser pays for the entire term of a parking space in advance (i.e., weekly, monthly, annually), the tax shall be collected and remitted in the month received.

EXAMPLE: The purchaser pays \$2,400 in January to park in a parking space for a year. The entire \$2,400 is subject to tax when received and reported on the return for January.

- l) A person that provides payment processing, collection functions, parking area maintenance, or security functions is not an operator subject to the tax when:
- 1) all parking revenues flow directly to the operator;
 - 2) the operator sets the parking rates;
 - 3) the person is paid a separate fee for the service provided; and
 - 4) the sign at the parking area or garage does not identify the person as the operator.

EXAMPLE: A municipality operates a parking area. It retains a company to install machines on the lot that accept electronic payments. The company also provides a mobile application that permits a person to pay for parking electronically. All payments made by a customer, either by using the machine on the lot or the mobile application, are paid to the municipality. The municipality pays the company a fee for its services. The municipality is the operator of the lot and, pursuant to Section 195.115(b), is not required to collect and remit the tax.

(SOURCE: Adopted at 44 Ill. Reg.9222, effective May 13, 2020.)