

**Illinois Department of Revenue  
Regulations**

**Title 86 Part 195 Section 115 Exemption from Tax**

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

**PART 195  
PARKING EXCISE TAX**

**Section 195.115 Exemption from Tax**

The tax imposed by the Act shall not apply to:

- a) *parking in a parking area or garage operated by the federal government or its instrumentalities that has been issued an active tax exemption number by the Department under Section 1g of the Retailers' Occupation Tax Act [35 ILCS 120]. For this exemption to apply, the parking area or garage must be operated by the federal government or its instrumentalities. The exemption under this subsection (a) does not apply if the parking area or garage is operated by a third party, whether under a lease or other contractual arrangement, or held in any other manner whatsoever. (Section 10-20(1) of the Act);*
- b) parking in a parking area or garage operated by the State, State universities created by statute, or a unit of local government (e.g., counties, municipalities, townships, and special districts) that have been issued an active tax exemption number by the Department under Section 1g of the Retailers' Occupation Tax Act. For this exemption to apply, the parking area or garage must be operated by the State, State universities created by statute, or the unit of local government. The exemption under this subsection (b) does not apply if the parking area or garage is operated by a third party, whether under a lease or other contractual arrangement, or held in any other manner whatsoever;
- c) *residential off-street parking for home or apartment tenants or condominium occupants, if the arrangement for that parking is provided in the home or apartment lease or in a separate writing between the landlord and tenant, or in a condominium agreement between the condominium association and the owner, occupant, or guest of a unit, whether the parking charge is payable to the landlord, condominium association, or the operator of the parking spaces (Section 10-20(2) of the Act). The landlord, association or operator must maintain supporting documentation to substantiate the claim. A list of residents or occupants claiming the exemption maintained by the*

operator that has been reviewed and approved by the landlord or association qualifies as supporting documentation.

EXAMPLE 1: A person enters into a residential lease agreement with a landlord that requires the landlord to provide 2 parking spaces to the tenant for \$100 per month. The landlord has made arrangements with an operator of a parking garage to make available 2 parking spaces to the tenant. The lease requires the tenant to pay the \$100 per month directly to the operator of the garage. The operator is not required to collect tax from the tenant on the use of the 2 parking spaces. The operator should obtain a copy of the lease and maintain it in its books and records.

EXAMPLE 2: A tenant has a residential lease agreement that requires the landlord, or a condominium owner is required by condominium bylaws or documents, to provide parking spaces to the tenant or owner. The tenant/owner is told by his or her landlord or condominium association that the landlord or condominium association has an arrangement with a parking garage operator to provide parking to the tenants/owners that desire parking. Based on this arrangement, the tenant/owner enters into an agreement for parking with the designated operator. The landlord or condominium association provides a list of tenants/owners to the operator to verify their residency. The operator can rely on that list to exempt the tenant/owner from paying the tax and the operator from remitting the tax;

- d) *parking by hospital employees in a parking space that is owned and operated by a public, private, or non-public hospital for which they work (Section 10-20(3) of the Act). The exemption under this subsection (d) does not apply if the parking area or garage is operated by a third party, whether under a lease or other contractual arrangement, or held in any other manner whatsoever;*
- e) *parking in a parking area or garage where 3 or fewer motor vehicles are stored, housed, or parked for hire, charge, fee or other valuable consideration, 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. If any operator of parking areas or garages, including any facilitator or aggregator, acts as an operator of more than 3 parking spaces in total that are located in the State, then this exemption shall not apply to any of those spaces. (Section 10-20(4) of the Act);*

EXAMPLE 1: Every year a fair comes to a town. The owners of property near the fairground sell parking spaces on their property for \$10 per day. If an owner of property makes available for use more than 3 parking spaces, the owner is liable for collecting and remitting the tax.

EXAMPLE 2: A company near a baseball stadium contracts with residents near the stadium to rent space in their driveways during game days. Each resident enters into an agreement with the company to make available 3 or fewer parking spaces. As a result of the agreements with the residents, the company in, the aggregate, has 20 parking spaces to rent on game days. The company charges a purchaser \$30 for the rental of a parking space. The company must register and remit tax at the rate of 6% of the \$30 purchase price received for the rental of a parking space. The company pays the residents \$25 for each parking space that is rented by the company. Because the residents rent 3 or fewer parking spaces, the residents are not required to register and remit tax on the consideration received from the company.

EXAMPLE 3: The same facts as Example 2, except one resident enters into an agreement with the company to make 4 parking spaces available for rent. Because the resident is providing more than 3 parking spaces, the resident is required to register and remit tax on the consideration received from the rental of all 4 of the parking spaces. Because the resident does not bill the company for the parking spaces and separately state and collect tax on the \$25, the company may not take a credit for the tax paid by the resident;

- f) a person engaged in the business of renting real estate that leases real estate to a lessee that may park motor vehicles, recreational vehicles or self-propelled vehicles for the lessee's own use and not for the purpose of sub-leasing parking spaces for consideration. This person is not engaged in the business of operating a parking area or garage.

EXAMPLE 1: A car dealership leases real estate from a person to park the dealership's excess inventory. The lessor is not engaged in the business of operating a parking area or garage.

EXAMPLE 2: A car dealership leases real estate from a person to park motor vehicles for the purpose of making retail sales of the motor vehicles. The lessor is not engaged in the business of operating a parking area or garage.

EXAMPLE 3: A railroad company leases real estate to a municipality. The municipality makes improvements on the property to permit commuters to park their motor vehicles on the real estate. The railroad company is not engaged in the business of operating a parking area or garage;

- g) a person that makes *isolated or occasional sales of parking spaces subject to tax under the Act and who does not hold himself or herself out as being engaged (or who does not habitually engage) in selling of parking spaces* (Section 10-5 of the Act).

EXAMPLE: A local promoter intends to hold a large concert on a farm and requires plenty of parking spaces for the attendees. The promoter leases a large field from a local farmer to park cars during the event. The farmer has never leased his field in the past. The farmer is exempt from collecting and remitting tax on the rental of his field to the promoter.

- h) *any transaction in interstate commerce, to the extent that the transaction may not, under the Constitution and statutes of the United States, be made the subject of taxation by this State* (Section 10-10(e) of the Act).
- i) the purchase of parking spaces by the State, State universities created by statute, or a unit of local government (e.g., counties, municipalities, townships, and special districts) that have been issued an active tax exemption number by the Department under Section 1g of the Retailers' Occupation Tax Act, and their employees, provided that the purchase price is paid directly by the governmental entity.
- j) an operator that leases parking spaces in a parking area or garage to a governmental entity that is exempt under subsection (a) or (b) is exempt from collecting and paying tax on the purchase price paid to it by an exempt governmental entity when the exempt entity rents or leases the parking spaces in the parking area or garage to the public. The purchase price must be paid by the governmental entity (i.e., by check, debit card, credit card, or electronic payment). The exempt governmental entity is exempt from collecting tax subject to the provisions of subsection (a) or (b) when renting or leasing the parking spaces to the public.

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