



informational

Bulletin

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Changes to the taxation of sales by auctioneers to Illinois purchasers

To: Auctioneers making sales to Illinois purchasers

This bulletin is written to inform you of recent changes; it does not replace statutes, rules and regulations, or court decisions.

Public Acts [101-0031](#) and [101-0604](#) amended the Retailers' Occupation Tax Act and enacted the Leveling the Playing Field for Illinois Retail Act to implement a series of structural changes to the Illinois sales tax laws.

This bulletin provides specific guidance about the change in taxation, beginning January 1, 2021, for auctioneers. Auctioneers generally operate as marketplace facilitators. Auctioneers who meet either of the tax remittance thresholds outlined below are considered **marketplace facilitators** and will be subject to State and local Retailers' Occupation Taxes on **all** sales made on their marketplace.

For information or forms

Visit our website at:
tax.illinois.gov

Register and file your return online at:
mytax.illinois.gov

Call us at:
1 800 732-8866 or
217 782-3336

Call our TDD
(telecommunications device
for the deaf) at:
1 800 544-5304

For more information, see the [Resource Page for the Leveling the Playing Field for Illinois Retail Act](#).

What are the tax remittance thresholds?

The tax remittance thresholds are

- (1) the cumulative gross receipts from sales of tangible personal property to purchasers in Illinois are \$100,000 or more; or
- (2) the retailer enters into 200 or more separate transactions for the sale of tangible personal property to purchasers in Illinois.

What are the changes in taxation?

If an auctioneer makes a sale on behalf of an identified marketplace seller (e.g., a marketplace seller that is disclosed), the auctioneer will incur Retailers' Occupation Tax at the rate in effect at the location where the tangible personal property is shipped or delivered or at which possession is taken by the purchaser (destination rate).

If an auctioneer makes a sale on behalf of a marketplace seller **not** identified to the purchaser on the marketplace (e.g., a marketplace seller that is not disclosed), then, for tax remittance purposes, the auctioneer is considered the seller and is required to file its own return, separate from the return for sales made on behalf of marketplace sellers, and pay taxes to the Illinois Department of Revenue (IDOR) on that sale applying the following provisions:

- If the item sold **is not located in Illinois** or the selling does not otherwise occur in Illinois, the auctioneer will incur Retailers'

Occupation Tax at the rate in effect at the location where the tangible personal property is shipped or delivered or at which possession is taken by the purchaser.

- If the item sold **is located in Illinois**, or if the selling otherwise occurs in Illinois for that sale (see, e.g., [86 Ill. Adm. Code 270.115](#)), the auctioneer will incur Retailers' Occupation Tax at the rate in effect at the Illinois location of the item, or the location in Illinois where the selling otherwise occurs (origin rate).

What if I do not meet either of the tax remittance thresholds?

Nothing changes. An auctioneer (in-state or out-of-state) that does not meet a tax remittance threshold is not considered a marketplace facilitator. However, if an out-of-state auctioneer otherwise has nexus with Illinois, it is required to collect and remit Illinois Use Tax on sales to Illinois purchasers using the disclosed/undisclosed rules of an out-of-state auctioneer. See 86 Ill. Adm. Code 130.1915 and ID 1029 in the [Illinois Tax Matrix](#) for additional information.

In-state auctioneers should continue to collect and remit Retailers' Occupation Tax following the disclosed/undisclosed rules outlined in 86 Ill. Adm. Code 130.1915 and ID 1029 in the [Illinois Tax Matrix](#).

Additionally, you must now determine, on a quarterly basis, whether you meet one of the thresholds. For each quarter ending on the last day of March, June, September, and December, you must examine your sales to Illinois purchasers for the immediately preceding 12-month period. If you meet either threshold for the immediately preceding 12-month period, you are required to collect and remit all applicable State and locally imposed Retailers' Occupation Tax administered by IDOR on all retail sales to Illinois purchasers and to file all applicable returns for one year.

An auctioneer who meets a tax remittance threshold must start collecting taxes for sales beginning on the first day of the quarter immediately following the end of the 12-month lookback period. Taxes collected by the auctioneer shall be remitted to the department no later than the 20th day of the calendar month next following the month in which they were collected or as otherwise provided in accordance with Section 3 of the Retailers' Occupation Tax Act.

How do I determine the correct retailers' occupation tax rate to collect and remit?

Use the [Tax Rate Finder](#) (currently under development) at MyTax Illinois to look up location specific tax rates. Depending upon the location to which the tangible personal property is delivered, or the Illinois location of the sale, the actual sales tax rate may be higher than the state rate (6.25%) because of home rule, non-home rule, mass transit, park district, county public safety, public facilities or transportation, and county school facility tax.

For more information see:

- [FY 2021-02](#), Retailers' Occupation Tax Guidance for Remote Retailers as set forth by the Leveling the Playing Field for Illinois Retail Act, for more details about the changes effective January 1, 2021.
- [FY 2019-05](#), Use Tax Guidance for Remote Sellers, for details about the Wayfair nexus thresholds.