

Effective January 1, 2025, persons engaged in the business of leasing tangible personal property at retail (“lessors”) in Illinois are subject to State and local retailers’ occupation tax on the gross receipts from leases of tangible personal property made in the course of business. See 35 ILCS 120/2 as amended by Article 75 of Public Act 103-592. (This is a GIL.)

February 4, 2025

NAME
TITLE
COMPANY
ADDRESS
EMAIL

Dear NAME:

This letter is in response to your email dated January 9, 2025, in which you requested information. The Department issues two types of letter rulings. Private Letter Rulings (“PLRs”) are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department’s regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter (“GIL”) is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at <https://tax.illinois.gov/> to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

Our business does contract work in IL, but we also rent scaffolding to other contractors and or plant companies directly.

Some of our customers issue us a ST587 related to various work that we do. While we know this qualifies for insulation work we do, we are not sure how this applies to scaffolding rental charges.

Can we accept the ST587 related to scaffolding equipment rentals? While scaffolding equipment is not part of the direct process of manufacturing, the scaffolding equipment could be used to **access** equipment that needs to be repaired or serviced that does qualify for the manufacturing process.

It's a gray area and the answer varies from state to state. Since lease transactions are a new law for Illinois, we want to make sure we are doing things right from the start.

One follow up question please. The below was on the website concerning vehicles. When I called the state, they stated licensed vehicles were not taxable per the below. My vendor believes these are taxable.

Can you please clarify whether licensed vehicles are now subject to lease taxes? I know trailers are, but I am questioning motor vehicles.

Generally, no. The changes made by this legislation do not apply to leases of motor vehicles, watercraft, aircraft, and semitrailers, as defined in Section 1-187 of the Illinois Vehicle Code, that are required to be titled or registered with an agency of the State of Illinois, except for trailers other than semitrailers. 35 ILCS 120/1.05.

DEPARTMENT'S RESPONSE:

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. See 35 ILCS 120/2; 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See 35 ILCS 105/3; 86 Ill. Adm. Code 150.101. These taxes comprise what is commonly known as "sales" tax in Illinois.

Effective January 1, 2025, in accordance with the provisions of Article 75 of Public Act 103-592, persons engaged in the business of leasing tangible personal property at retail ("lessors") in Illinois are subject to State and local retailers' occupation tax on the gross receipts from leases of tangible personal property made in the course of business. See 35 ILCS 120/2. A "lease" is defined as a transfer of the possession or control of, the right to possess or control, or a license to use, but not title to, tangible personal property for a fixed or indeterminate term for consideration, regardless of the name by which the transaction is called, but does not include a lease entered into merely as a security agreement that does not involve a transfer of possession or control from the lessor to the lessee. On and after January 1, 2025, for purposes of State and local retailers' occupation taxes, the term "sale" includes a lease. See 35 ILCS 120/1. The tax applies to lease receipts received on or after January 1, 2025 for leases in effect, entered into, or renewed on or after that date. The lessor must remit for each tax return period the tax applicable to lease receipts received during that tax return period. See 35 ILCS 120/2.

COMPANY

Page 3

February 4, 2025

The exemptions from tax under the Retailers' Occupation Tax Act apply to leases of tangible personal property in the same manner as the exemptions apply to other sales under the Act. See 86 Ill. Adm. Code 130.120. Additional guidance on the manufacturing machinery and equipment exemption is provided at 86 Ill. Adm. Code 130.330. The lease or rental of scaffolding would generally not be eligible for the manufacturing machinery and equipment exemption since it is generally not used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330(c). Nor is it generally used or consumed in a production related process by a manufacturer in a manufacturing facility in which a manufacturing process takes place. See discussion of "production related tangible personal property" at 86 Ill. Adm. Code 130.333(h).

The inclusion of leases in the tax imposed under the Retailers' Occupation Tax Act by Article 75 of Public Act 103-592 does not, however, extend to motor vehicles, watercraft, aircraft, and semitrailers, as defined in Section 1-187 of the Illinois Vehicle Code, that are required to be registered with an agency of this State. The taxation of these items continues as prior to January 1, 2025 (i.e., dealers owe retailers' occupation tax, lessors owe use tax, and lessees of these items are not subject to retailers' occupation or use tax). On and after January 1, 2025, the tax on leases does, however, extend to trailers that are not semitrailers as defined in Section 1-187 of the Illinois Vehicle Code and items that are required to be titled with an agency of this State but not required to be registered with an agency of this State, such as all-terrain vehicles ("ATVs") and off-road motorcycles. For the treatment of leases of first division and certain second division motor vehicles, which treatment did not change on January 1, 2025, see "ST-9-LSE A Guide for Reporting Sales Using Form ST-556-LSE, Transaction Return for Leases" on the Department's website.

I hope this information is helpful. If you require additional information, please visit our website at <https://tax.illinois.gov/> or contact the Department's Taxpayer Information Division at 800-732-8866.

Very truly yours,

Samuel J. Moore
Associate Counsel

SJM:sce