

ST 25-0006-PLR 09/15/2025 LEASING

Effective January 1, 2025, under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred by lease incident to sales of service. See 35 ILCS 115/3 as amended by Article 75 of Public Act 103-592. Security monitoring equipment transferred by lease incident to a sale of security monitoring services is subject to Service Occupation Tax. (This is a PLR).

September 15, 2025

NAME
COMPANY1
ADDRESS

Dear NAME:

This letter is in response to your letter dated April 21, 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.

Review of your request disclosed that all the information described in paragraphs 1 through 8 of Section 1200.110 appears to be contained in your request. This Private Letter Ruling will bind the Department only with respect to COMPANY, for the issue or issues presented in this ruling, and is subject to the provisions of subsection (e) of Section 1200.110 governing expiration of Private Letter Rulings. Issuance of this ruling is conditioned upon the understanding that neither COMPANY, nor a related taxpayer is currently under audit or involved in litigation concerning the issues that are the subject of this ruling request. In your letter you have stated and made inquiry as follows:

This letter constitutes a request for a Private Letter Ruling (“PLR”) on behalf of our client, COMPANY (“Company”), regarding the application of the Illinois Retailers' Occupation Tax Act (“Retailers' Occupation Tax” or “ROT”) and the Illinois Service Occupation Tax Act (“Service Occupation Tax” or “SOT”) to certain fees charged by Company. COMPANY1 (“COMPANY1”) has been

September 15, 2025

engaged to represent Company for purposes of this PLR request. The relevant facts are summarized below, followed by a statement of the issues on which we request a ruling, and our analysis of such issues.

To the best of Company's knowledge, the same or substantially similar issue is not being considered by the Illinois Department of Revenue (the "Department") or Internal Revenue Service in connection with an active examination, audit of Company or related party.

To the best of Company's knowledge, there are not any authorities supporting a position contrary to that advanced by Company in this letter. Company acknowledges that the Department is authorized to publish a redacted copy of the PLR for official purposes and requests the opportunity to review any draft prior to publication.

A properly executed Form IL-2848, *Power of Attorney*, (copy attached hereto as Exhibit "A") is attached for the Department's reference.

I. STATEMENT OF FACTS

Company is primarily engaged in the business of providing security monitoring services to customers. The monitoring services are provided through wireless connectivity to security monitoring system equipment ("Equipment") that is installed on the customer's property. The customer's property is linked with one of Company's monitoring centers ("CENTERS") that will signal notifications to the customer in the event of triggering alerts, such as burglary, fire, carbon monoxide, or smoke detection on the property.

Company offers various monitoring service plans to its customers:

- Level 1: This level is for entry-level services that provide the customer with 24-hour security monitoring and Equipment, which initially includes one panel, two contacts, and one motion sensor. Level 1 utilizes a traditional landline phone line, cellular backup, or a dedicated internet connection, depending on the customer's plan, to communicate with the CENTER.
- Level 2: This level includes all service and Equipment offerings from Level 1 in addition to a radio. Company radios are cellular communication modules that allow Company security systems to communicate with CENTERS.
- Level 3: This level includes all service and Equipment offerings from Level 1 and 2, as well as remote access to the customer's alarm system through a mobile app. The mobile app allows customers to

control their home security system from any location.

- Level 4: This level is the highest level and includes all services and Equipment offerings from Levels 1, 2, and 3, as well as video monitoring and two Wi-Fi cameras.¹

As part of the four levels of services provided (collectively referred to hereinafter as “the Services”), Company provides certain other services to its customers:

- Company offers an optional extended warranty plan (referred to on the provided sample contract as “SERVICE1”) on the Equipment that provides customers with free repair and replacement services for the Equipment as long as they continue the Services under the Agreement.²
- Professional Installation - Company Technician will visit customer’s location to set up and connect all the equipment to make sure it works correctly. The company also offers Do It Yourself (DIY) as an alternative to professional installation.³
- Remote Assistance - Company ships equipment to the customer’s location. Customer schedules a video call with a Company-trained professional to walk the customer through the setup and installation process.
- Company offers SERVICE2 the Equipment to avoid disruption in a customer’s service. This involves monitoring the Equipment for outages or repairs needed to the Equipment and transmitting signals to the applicable CENTER through a cellular network which prevents a lapse that would otherwise be caused by a failure in the customer’s home network (referred to on the provided sample contract as “SERVICE2”).⁴
- Company offers cloud-based video surveillance solutions that allow customers to record, store, and access videos in a secure online environment (referred to on the provided sample contract as “SERVICE3”).

The configuring and installation of the Equipment is performed by a professional technician who works with the CENTER to ensure that the Equipment is properly installed. The technician also trains the customer on the proper use of the Equipment. Customers interact with the Equipment’s

¹ Please see the attached sample contract (“Sample Contract”) (copy attached hereto as Exhibit “B”), which contains an itemized list of the Equipment components and the Services available. As the Sample Contract for Level 4 services is inclusive of the Equipment and the Services provided in Levels 1 through 3, the Sample Contract will be solely discussed in this private letter ruling request for ease of reference.

² See Section 9 on page 4 “IMPORTANT TERMS AND CONDITIONS” of the attached Sample Contract.

³ See “Section 2. Services to be Provided” of the attached Sample Contract.

⁴ Please see the attached sample invoice (“Sample Invoice”) (copy attached hereto as Exhibit “C”).

system by arming/disarming the system through a free mobile application that can be downloaded to their personal devices or through a control panel of the Equipment. Customers also have the ability to use the Equipment for other purposes, such as recording and accessing video footage on cameras, creating recording schedules, and programming lighting devices to follow pre-set schedules.

The typical Equipment that is provided as part of the monitoring system includes, but is not limited to, keypads, smoke detectors, carbon monoxide detectors, motion detectors, glass break detection devices, window sensors, and cameras, and a free-standing base which communicates with all the security sensors and devices. Company does not manufacture the component parts of the Equipment, and the Equipment is generally installed in the same form as it was purchased from the manufacturer. In other words, the Equipment is fully fabricated by the manufacturer and only negligible or no assembly is required for any component part of the Equipment before it is ready to be mounted, or after it has been mounted for that matter.

Company does not hardwire the Equipment to the electrical system of the customer's real property during the installation process (i.e., any "wired" component is simply plugged into an available electrical outlet).⁵ The Equipment is installed by mounting the devices and hardware to the customer's property using adhesive materials, and in certain cases limited screws, and are designed to provide a low-impact system that does not permanently attach to or impact the underlying property. Minimal to no assembly is required for the Equipment. This design is intentional and allows the customer to easily remove and move the components of Equipment from one area of the residence to another, as needed. For example, the base device that operates the Equipment is free-standing and can be carried from room to room in the home as desired. Similarly, the various detectors which are attached to the walls, doors, or other areas of the residence with adhesives can quickly be removed and moved to a new location in the home. Additionally, this design allows the customer to remove and transport the security system from one location to another (e.g., from an old apartment to a new one) as the customer moves to a new residence.

Under Company's sales model,⁶ Company enters into a AGREEMENT ("Agreement") with its customer to install the Equipment and to provide the

⁵ Company notes that there are limited instances where certain customers may require hardwired components, but these cases are rare and are not within the scope of this letter.

⁶ Please note that Company also provides a sales model ("Customer-Owned Sales Model") whereby Company sells the equipment to customers under a single charge for equipment plus applicable installation fees. However, for purposes of this private letter ruling request, the analysis is focused solely on the sales model discussed herein. Company does not request or seek a response from the Department concerning the application of Illinois law to the Customer-Owned Sales Model.

Services for a monthly recurring fee (“FEE”). Per the language of the Agreement, the ownership of the installed Equipment is retained by Company and provided to customers for use under the terms of the Agreement. In the event that a customer fails to make payments, or otherwise breaches the terms of the Agreement, Company holds the right to terminate the Agreement and repossess any Company-owned Equipment.

Company maintains an Agreement with all customers, who are responsible for paying the FEE, as well as a one-time installation fee (“Installation Fee”) for the installation of Equipment by a Company professional or, alternatively, a one-time installation fee by live remote assistance (“Remote Assistance Fee”).⁷ The Installation Fee is priced separately on the contract to the customer. The pricing for monitoring and installation varies by market and depends on the monitoring package and interactive features and specific pieces of Equipment selected by the customer. The invoice is comprised of materials, installation labor, and overhead. The invoice includes separate itemization of each piece of Equipment included in the contract and installed by Company. Company currently collects tax on the Installation Fee charged to each customer in Illinois.

Company also offers a do-it-yourself (“DIY”) installation method to customers as an alternative to professional installation or installation by remote assistance. If a customer opts for the DIY installation method, then the customer must pay the price of each piece of Equipment selected by the customer but is not responsible for payment of the Installation Fee.

Company currently purchases its inventory of Equipment in bulk for resale in 2025. Company therefore does not pay sales tax on the purchases and instead provides the appropriate Illinois resale certificates to its vendors at the time of purchase, as applicable.

II. ISSUES

- A. Whether Company’s Installation Fee is subject to ROT or, alternatively, to SOT?
- B. Whether Company’s FEE is subject to ROT or, alternatively, to SOT?
- C. If the Department determines that Company’s FEE and Installation Fee are subject to ROT or SOT, whether Company may collect and

⁷ The Installation Fee and the Remote Assistance Fee are charges for the installation of Equipment to the customer’s property. For purposes of this private letter ruling request, references to the Installation Fee include references to the Remote Assistance Fee. Thus, for ease of reading, only the Installation Fee will be referenced.

remit the applicable tax on a prospective basis?

III. ANALYSIS

A. Is Company's Installation Fee subject to ROT or, alternatively, to SOT?

General Overview of Illinois Sales Tax

In Illinois, ROT and SOT are privilege taxes imposed on businesses that sell tangible personal property for use or consumption or as an incident to services provided.⁸ The objective of ROT and SOT is to apply sales tax to transactions that result in the consumption or use of tangible personal property, and not merely to impose sales tax on the mere sale or use of the property.

The Equipment is Tangible Personal Property Upon Installation

While “tangible personal property” is not specifically defined in Illinois law or regulations, the term is generally understood to mean all material things with intrinsic value, but does not include real property, such as land, building, and attached fixtures, or intangibles.⁹ A person who incorporates tangible personal property into real property is considered a construction contractor for ROT purposes.¹⁰ The Department utilizes an intention test to determine whether items remain tangible personal property after installation or become part of real property: if circumstances indicate that the parties obviously intended that the item remain with the real property, then the Department gives effect to that intention.¹¹ If an obvious intent is not apparent, then the Department looks to the extent to which the item has been affixed. If the item cannot be removed without damage to the item or to the real estate, that is an indication that the parties intended that the item become part of the realty.¹²

In the present case, Company's installation of the Equipment in Illinois does not qualify as a permanent affixation to real property under the intention test. Company's Agreements with its customers do not contain any language that refers to the component parts or Equipment as a real property fixture. The property is designed to be minimally invasive and can easily be moved and repositioned by Company's customer as needed. Furthermore, Taxpayer's Agreements describe the system components as “wireless.” They are

⁸ ILCS § 120/2; ILCS § 115/3; Ill. Admin. Code 86 § 130.101; Ill. Admin. Code 86 § 140.101.

⁹ The Department of Revenue of the State of Illinois v. John Doe, Taxpayer, UT 02-2, 04/30/2002.

¹⁰ Ill. Admin. Code 130.1940.

¹¹ Illinois Dept. of Rev. General Information Letter ST 15-0063-GIL, 10/29/2015.

¹² Id.

designated in the customer catalogues as wireless equipment operated via battery power. Similar to furniture or appliances that simply plug in without being screwed in place and wired directly, the Equipment is designed to be detachable, transferable, and removal of the Equipment would not diminish the value of a customer's realty. Nor would there generally be any expectation that Taxpayer's Equipment would be treated as real property that transfers with the sale of the customer's home when vacating the premises for a new owner, unless the contract of sale specifically requires that the Equipment be left behind.

Even if the intent for the Equipment to remain tangible personal property after installation is not obviously apparent, the method of attachment of the Equipment clearly demonstrates that Company did not intend for the Equipment to become part of the customer's realty. The Equipment itself is almost entirely wireless and any items of Equipment which require additional power plug into the wall via a standard electrical outlet. None of the Equipment is required to be directly hard-wired into the electrical system of the real property in order to function. As noted above, the Equipment is designed to be minimally invasive, portable, can be easily detached and moved to various areas within the home (or from one home to another). Thus, the Equipment can be easily removed without damage to the item or to the real estate.

For the foregoing reasons, the Equipment qualifies as tangible personal property after installation for Illinois SOT and ROT purposes.

Retailers' Occupation Tax

ROT is imposed on persons engaged in Illinois in the business of making retail sales of tangible personal property to purchasers for use or consumption and is measured by the seller's gross receipts from such sales made in the course of such business.¹³ "Gross receipts" means the total selling price or the amount of sales.¹⁴

Beginning January 1, 2025, a lease of tangible personal property (excluding items that must be titled or registered with a state government agency) is considered to be a sale at retail for purposes of ROT.¹⁵ "Sale at retail" means any transfer of the ownership of or title to tangible personal property to a purchaser for the purpose of use or consumption, and not for the purpose of resale in any form, for a valuable consideration.¹⁶ As such, effective January

¹³ ILCS § 120/2; Ill. Admin. Code 86 § 130.101(a).

¹⁴ ILCS § 110/1; ILCS § 120/2-10; Ill. Admin. Code 86 § 130.401(e).

¹⁵ ILCS § 120/1.

¹⁶ ILCS 120/1.

1, 2025, persons engaged in the business of leasing tangible personal property at retail in Illinois are subject to ROT on the gross receipts from leases of tangible personal property made in the course of business.¹⁷ ROT applies to lease receipts received on or after January 1, 2025 for leases in effect, entered into, or renewed on or after that date. For retail sales sourced outside of Illinois and made to Illinois customers, retailers were previously obligated to collect and remit use tax. Beginning January 1, 2025, retailers are now subject to destination-based ROT, which means that the total ROT rate calculated for a sale is the rate in effect at the Illinois location to which the tangible personal property is shipped or delivered, or at which possession is taken by the purchaser.¹⁸

Service Occupation Tax

While the provision of a service in Illinois that is not accompanied by the transfer of tangible personal property is not subject to ROT or SOT, the sale of a service that is accompanied by an incidental transfer of tangible personal property is subject to SOT.¹⁹ SOT is imposed on persons engaged in Illinois in the business of making sales of services (referred to as “servicemen”), based on the cost price of tangible personal property transferred incident to sales of services.²⁰ “Cost price” means the consideration paid by the serviceman for a purchase valued in money, whether paid in money or otherwise, including cash, credits and services, and is required to be determined without any deduction on account of the supplier's cost of the property sold or on account of any other expense incurred by the supplier.²¹ “Transfer” means any transfer of the title to property or of the ownership of property whether or not the transferor retains title as security for the payment of amounts due him from the transferee.²²

Effective January 1, 2025, persons engaged in the business of making sales of services are subject to SOT on all tangible personal property transferred by lease as an incident of a sale of service.²³ Thus, the term “transfer” also includes a lease.²⁴ 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

¹⁷ ILCS § 120/2.

¹⁸ Ill. Admin. Code 86 § 270.115.

¹⁹ Please note that gross receipts from the lease of property that is subject to the Chicago Personal Property Lease Transaction Tax are exempt from State and Department-administered ROT and SOT.

²⁰ ILCS § 115/3; ILCS § 115/3-10; Ill. Admin. Code 86 § 140.101.

²¹ Ill. Admin. Code 86 § 140.301(a).

²² ILCS § 115/2.

²³ ILCS § 115/3.

²⁴ ILCS § 115/2.

involve a transfer of possession or control from the lessor to the lessee.²⁵

Four Methods of Servicemen to Calculate Tax Base

In Illinois, SOT is imposed upon servicemen based on tangible personal property transferred incident to sales of service.²⁶ Effective January 1, 2025, servicemen are subject to SOT on all tangible personal property transferred by lease as an incident of a sale of service.²⁷ The rate of SOT incurred by a serviceman is based on the selling price of the tangible personal property.²⁸ "Selling price" means the consideration for a sale, including, on and after January 1, 2025, a lease, valued in money whether received in money or otherwise, including cash, credits and service, and must be determined without any deduction on account of the serviceman's cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever.²⁹ Selling price cannot be less than the cost price to the serviceman of the tangible personal property transferred.³⁰ "Cost Price" means the consideration paid by the serviceman for a purchase valued in money, whether paid in money or otherwise, including cash, credits and services, and must be determined without any deduction on account of the supplier's cost of the property sold or on account of any other expense incurred by the supplier.³¹

Servicemen may calculate their tax base in one of four methods:

- 1) SOT on the separately stated selling price of tangible personal property transferred incident to service;
- 2) SOT on 50% of the servicemen's entire bill;
- 3) SOT on the servicemen's cost price if the servicemen are registered de minimis servicemen; or
- 4) Use tax on the servicemen's cost price if the servicemen are de minimis and are not otherwise required to be registered under the ROT.

A serviceman may determine the "selling price" by the first two methods provided above. If the selling price of tangible personal property transferred incident to service can be shown as distinct items on the serviceman's billing to the service customer, then the first method may be used. SOT is then calculated on the separately stated selling price of the tangible personal property transferred incident to services. If no selling price is shown on the

²⁵ Illinois Dept. of Rev. Info. Bulletin, No. FY 2025-15, 12/01/2024.

²⁶ Ill. Admin. Code 86 § 140.101(a).

²⁷ ILCS § 115/3.

²⁸ ILCS § 115/3-10.

²⁹ ILCS § 110/2.

³⁰ ILCS § 115/3-10.

³¹ Ill. Admin. Code 86 § 140.301(a).

serviceman's billing, and the tangible personal property transferred incident to service is not separately stated, then the selling price is considered to be 50% of the serviceman's entire billing and the second method should be utilized to calculate the tax base. Both of the above methods provide that in no event may the tax base be less than the serviceman's cost price of the tangible personal property being transferred.³²

The third and fourth methods for calculating tax base only applies to qualifying de minimis servicemen. If a serviceman does not qualify as a de minimis serviceman, then the third and fourth methods are not available options. The third method only applies to de minimis servicemen who have either chosen to be registered or are required to be registered because they incur ROT liability with respect to a portion of their business. Servicemen may qualify as de minimis if their cost ratio is less than 35% (i.e., the annual aggregate cost price of tangible personal property transferred as an incident of the sale of service is less than 35% of the total annual gross receipts from service transactions).³³ Under the third method, registered de minimis servicemen may calculate their tax base to pay SOT (which includes local taxes) based upon their cost price of tangible personal property transferred incident to the sale of service.

The final method of determining tax liability may be used by de minimis servicemen that are not otherwise required to be registered for ROT. Such de minimis servicemen may calculate their tax liability by remitting use tax to their suppliers.³⁴ The servicemen are considered to be the end-users of the tangible personal property transferred incident to service. Consequently, the servicemen in this case are not authorized to collect tax from the service customers.³⁵

To the extent that the Department determines that Equipment is transferred by Company to its customers as an incident of the sale of the Services for purposes of establishing SOT liability, then Company will be deemed to be a serviceman. If the Department determines that Company is a serviceman for purposes of SOT, then Company will be taxed on the Equipment transferred and will incur SOT depending on one of the four methods used to calculate liability.

Determination of Sale of Services subject to SOT or Retail Sales subject to ROT

In order to distinguish a sale of service subject to SOT from a retail sale subject

³² Ill. Admin. Code 86 § 140.106(a)(1).

³³ Ill. Admin. Code 86 § 140.108(a).

³⁴ Ill. Admin. Code 86 § 140.108(a)(1).

³⁵ Ill. Admin. Code 86 § 140.108.

to ROT, the Illinois Supreme Court set the following standard in *Spagat v. Mahin*: if the article sold has no value to the buyer except as a result of services rendered by the seller and the transfer of the article to the buyer is an actual and necessary part of the service rendered, then the seller is in the business of rendering a service—not selling at retail.³⁶ If the article sold is the substance of the transaction and the service is merely part of the transfer to the buyer of the article sold, then the seller is in the business of selling at retail.³⁷

When the *Spagat* standard is applied to the Services and Equipment provided by Company to its customers, it is apparent that the nature of the Services is not one where the objective is the acquisition of property such as what would typically occur in a retail environment. The Equipment that Company is providing consists of monitoring system parts, such as smoke detectors, keypads, window sensors, and cameras. While such property has nominal value, it does not have meaningful value to the customer apart from the Services rendered by Company. In order to provide the Services, Company must provide and install Equipment to its customers in order to link the customers' properties to Company's CENTERS so that customers receive notifications in the event of triggering alerts, such as burglary, fire, carbon monoxide, or smoke detection. The Equipment itself does not provide value to Company's customers except as a result of receiving the Services through the Equipment. While the Equipment is an actual and necessary part of the Services rendered, the intended benefit of having Equipment installed is the monitoring of the customer's property by Company via the CENTER.

Determination of Company's Installation Fee

Company must provide and install Equipment for its customers in order to provide the Services. Prior to executing the contract, each customer selects the quantity of peripheral devices to be included in the contract (such as cameras, sensors, and motion detectors). Then each piece of Equipment is separately itemized on the customer's contract and a separate price is listed for each component of the system.³⁸ This is done in the form of an Installation Fee, which is charged by Company to all customers who maintain an Agreement with Company for the installation of Equipment and who have not opted for the DIY method of installation.

Upon installation, Company retains title to the Equipment but transfers operation and control of the Equipment to the customer. Customers may

³⁶ *Martin Spagat et al., Appellees, v. George Mahin, Director of Revenue, et al., Appellants.*, 50 Ill 2d 183 277 NE2d 834, 11/30/1971.

³⁷ *Id.*

³⁸ The cost of the components which are charged to the customer generally exceeds 35% of the total installation fee, and in some instances exceeds 35% of the total combined installation and monitoring fees charged to the customer in a standard 3-year contract. Consequently, Company does not qualify as a de minimis serviceman for purposes of establishing the SOT owed on the contractual charges.

interact with the Equipment's system by arming/disarming the system through a free mobile application that can be downloaded to their personal devices or through a control panel of the Equipment. Customers also have the ability to use and control the Equipment for other purposes, such as recording and accessing video footage on cameras, creating recording schedules, and programming lighting devices to follow pre-set schedules.

Effective January 1, 2025, the term "sale" includes a lease of tangible personal property, and SOT applies to charges for tangible personal property transferred by lease by servicemen in Illinois. "Lease" means 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.³⁹ Since the term "sale" includes a lease as of January 1, 2025, the imposition of sales tax, or SOT, on tangible personal property transferred by lease by servicemen applies to leases in effect, entered into, or renewed on or after January 1, 2025. In the case of leases, except as otherwise provided, the serviceman who is a lessor must remit for each tax return period only the tax applicable to that part of the selling price actually received during such tax return period.⁴⁰ For existing contracts for lease or rental entered into prior to January 1, 2025, tax is imposed on all gross receipts received on or after January 1, 2025 under a lease or rental contract.⁴¹ While tax does not apply to receipts received before January 1, 2025, any amounts received on or after January 1, 2025 are subject to tax, including amounts received on contracts with current customers that were in place before January 1, 2025.⁴²

When Company charges the customer an Installation Fee for each piece of Equipment provided to the customer in conjunction with the services, and Company retains title to the Equipment during the duration of the Agreement, Company believes the Installation Fee is subject to SOT under the described serviceman treatment. Consequently, SOT should be calculated on the separately stated "selling price" of the Equipment transferred incident to Company's Services in the form of the Installation Fee. Company respectfully requests guidance from the Department that its understanding is correct with respect to the treatment of this Fee for Illinois tax purposes.

B. Is Company's FEE subject to ROT or, alternatively, to SOT?

In addition to the Installation Fee charged for each piece of Equipment, Company charges the customer a separate recurring monthly FEE. The

³⁹ ILCS § 105/2

⁴⁰ ILCS § 115/3

⁴¹ Illinois Dept. of Rev. Info. Bulletin, No. FY 2025-15, 12/01/2024

⁴² *Id.*

monitoring services are contracted for separately in the Agreement⁴³ and appear as separate charges on each customer invoice. Furthermore, the FEE is not impacted by the amount of Equipment selected by the customer. For example, if the customer chooses to include one security camera in the contract, the customer is charged an Installation Fee for the camera and a separate FEE for each month's monitoring service. If the customer chooses to include 15 security cameras in the contract, the customer is charged an Installation Fee for each of the 15 cameras, however the amount of the FEE remains the same. It is not impacted by the amount of Equipment selected by the customer, since it is independent from the Installation Fee.

The Company believes the FEE constitutes a charge for nontaxable services in Illinois, and in such a case, this Fee would not be subject to ROT or SOT. The Company respectfully requests guidance from the Department that its understanding is correct.

C. If it is determined by the Department that Company's Installation Fee or FEE are subject to SOT, Company requests confirmation that it may collect and remit the applicable tax on a prospective basis.

Prior to January 1, 2025, lessors who rented or leased tangible personal property under true leases were deemed end users of the property to be leased.⁴⁴ As end users of tangible personal property located in Illinois, lessors owed use tax on their cost price of such property.⁴⁵ Since Illinois did not impose tax on rental receipts, lessees incurred no tax liability.⁴⁶

However, effective January 1, 2025, persons engaged in the business of making sales of services are now subject to SOT on all tangible personal property transferred by lease as an incident of a sale of service.⁴⁷ The serviceman who is a lessor must remit for each tax return period only the tax applicable to that part of the selling price actually received during such tax return period.⁴⁸ For existing contracts for lease or rental entered into prior to January 1, 2025, tax is imposed on all gross receipts received on or after January 1, 2025 under a lease or rental contract.⁴⁹ While tax does not apply to receipts received before January 1, 2025, any amounts received on or after January 1, 2025 are subject to tax, including amounts received on contracts with current customers that were in place before January 1, 2025.⁵⁰ Here,

⁴³ See Section 2. "Services to be Provided" of the Sample Contract.

⁴⁴ Ill. Admin. Code 86 § 130.220.

⁴⁵ Ill. Admin. Code 86 § 130.2010(b) ; Ill. Admin. Code 86 § 150.305(e) .

⁴⁶ Illinois Dept. of Rev. General Information Letter ST 10-0018-GIL, 03/15/2010.

⁴⁷ ILCS § 115/3

⁴⁸ ILCS § 115/3

⁴⁹ Illinois Dept. of Rev. Info. Bulletin, No. FY 2025-15, 12/01/2024

⁵⁰ *Id.*

Company enters into Agreements with its customers for the sale of the Services, which includes the use and installation of Equipment. Prior to January 1, 2025, Company was not required to collect tax from its customers on payment of the Installation Fee and the FEE. As neither security services nor rental receipts were subject to tax in Illinois, no tax was collected from Company's customers in Illinois. However, because the term "sale" now includes a "lease" as of January 1, 2025, Company requires guidance from the Department concerning the proper application of Illinois tax to the fees charged to its customers in Illinois.

Given the complexity of Company's service offerings and the structuring of Company's service contracts, Company requests the Department's guidance in confirming the correct approach. Upon confirmation of the correct approach, Company will be in a position to collect and report the appropriate tax and modify its current process, if applicable. Consequently, Company believes it is appropriate that any modifications to its tax collection on the fees should be on a prospective basis upon issuance of the PLR.

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Thank you for your consideration of this private letter ruling request. Your assistance in this matter is greatly appreciated. If you have any questions regarding this private letter ruling request, please contact me by e-mail at EMAIL or by telephone at PHONE.

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 at retail to purchasers for use or consumption. See 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 86 Ill. Adm. Code 150.101. These taxes comprise what is commonly known as "sales" tax in Illinois.

The provision of a service in Illinois that is not accompanied by the transfer of tangible personal property is not subject to Retailers' Occupation Tax or Service Occupation Tax liability. The sale of service that is accompanied by a transfer of tangible personal property would be subject to liability under the Service Occupation Tax Act. For general information see 86 Ill. Adm. Code 140.101 through 140.109 regarding sales of service and Service Occupation Tax.

Effective January 1, 2025, in accordance with the provisions of Article 75 of Public Act

103-592, persons engaged in the business of making sales of service are subject to State and local service occupation tax on all tangible personal property transferred by lease as an incident of a sale of service. See 35 ILCS 115/3. 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 service occupation taxes, the term “transfer” includes a lease. See 35 ILCS 115/2. The tax applies to tangible personal property transferred by lease by persons engaged in the business of making sales of service in which leases are in effect, entered into, or renewed on or after January 1, 2025. The serviceman who is a lessor must remit for each tax return period only the tax applicable to that part of the selling price actually received during such tax return period. See 35 ILCS 115/3.

Under the Service Occupation Tax Act, businesses providing services (i.e. servicemen) are taxed on tangible personal property transferred as an incident to sales of service. See 86 Ill. Adm. Code 140.101. Tangible personal property that is transferred to the service customer may result in either service occupation tax liability or use tax liability for the serviceman depending upon the serviceman’s activities. The serviceman’s liability may be calculated in one of four ways:

- (1) Service Occupation Tax on the separately stated selling price of tangible personal property transferred incident to service;
- (2) Service Occupation Tax on 50% of the servicemen’s entire bill;
- (3) Service Occupation Tax on the servicemen’s cost price if the servicemen are registered de minimis servicemen; or
- (4) Use Tax on the servicemen’s cost price if the servicemen are de minimis and are not otherwise required to be registered under Section 2a of the Retailers’ Occupation Tax Act.

Using the first method, servicemen may separately state the selling price of each item transferred as a result of the sale of service. The tax is then calculated on the separately stated selling price of the tangible personal property transferred. If the servicemen do not separately state the selling price of the tangible personal property transferred, they must use 50% of the entire bill to the service customer as the tax base (the second method described above). Both of the above methods provide that in no event may the tax base be less than the servicemen’s cost price of the tangible personal property transferred. See 86 Ill. Adm. Code 140.106.

The third way servicemen may account for their tax liability only applies to de minimis servicemen who have either chosen to be registered or are required to be registered because they incur Retailers' Occupation Tax liability with respect to a portion of their business. See 86 Ill. Adm. Code 140.109. Servicemen may qualify as de minimis if they determine that the annual aggregate cost price of tangible personal property transferred as an incident of the sale of service is less than 35% of the total annual gross receipts from service transactions (75% in the case of pharmacists and persons engaged in graphics arts production). Registered de minimis servicemen are authorized to pay Service Occupation Tax (which includes local taxes) based upon their cost price of tangible personal property transferred as an incident of the sale of service. Such servicemen should give suppliers resale certificates and remit Service Occupation Tax using the Service Occupation Tax rates for their locations. Such servicemen also collect a corresponding amount of Service Use Tax from their customers, absent an exemption.

The final method of determining tax liability may be used by de minimis servicemen that are not otherwise required to be registered under Section 2a of the Retailers' Occupation Tax Act (referred to as "unregistered de minimis servicemen"). Such de minimis servicemen handle their tax liability by paying Use Tax to their suppliers. If their suppliers are not registered to collect and remit tax, the servicemen must register, self-assess and remit Use Tax to the Department. The servicemen are considered to be the end-users of the tangible personal property transferred incident to service. Consequently, they are not authorized to collect a "tax" from the service customers. See 86 Ill. Adm. Code 140.108.

Security monitoring equipment

Section 1 of the Retailers' Occupation Tax Act provides that "[c]onstruction contracts for the improvement of real estate consisting of engineering, installation, and maintenance of voice, data, video, security, and all telecommunication systems do not constitute engaging in a business of selling tangible personal property at retail within the meaning of this Act if they are sold at one specified contract price." See 35 ILCS 120/1. However, in the opinion of the Department, based on the information provided, the CONTRACTS COMPANY enters into are not construction contracts subject to the provisions of Section 1 of the Retailers' Occupation Tax Act, but rather service contracts. For purposes of the Illinois sales tax laws, the Department uses an intention test to determine whether items remain tangible personal property after installation or become part of realty. If circumstances indicate that the parties obviously intended that the item remain with the realty, we give effect to that intention. If an obvious intent is not apparent, we look to the extent to which the item has been affixed. If the item cannot be removed without damage to the item or to the real estate, that is an indication the parties intended for the item to become part of the realty. The information provided indicates COMPANY does not hardwire the equipment to the electrical system of the customer's real property, and the equipment is installed by mounting the devices and hardware to the customer's property using adhesive materials and, in certain cases, limited screws. The materials are designed to provide a low-impact system that does not

permanently attach to or impact the underlying property. You also indicate this design is intentional and allows the customer to easily remove and move the equipment from one area of the residence to another and even to a new residence. Based on the representations in this letter and the attached documents, the Department agrees that the security monitoring equipment transferred to customers as part of the security monitoring services remains tangible personal property after installation and is not incorporated into the real estate.

Sale of security monitoring service

The transactions you describe in your letter constitute the sale of security monitoring services. The security monitoring equipment is leased as an incident of the sale of the security monitoring service. This conclusion is consistent with the true object test set forth by the Illinois Supreme Court.

If the article sold has no value to the purchaser except as a result of services rendered by the vendor and the transfer of the article to the purchaser is an actual and necessary part of the service rendered, then the vendor is engaged in the business of rendering service and not in the business of selling at retail. If the article sold is the substance of the transaction and the service rendered is merely incidental to and an inseparable part of the transfer to the purchaser of the article sold, then the vendor is engaged in the business of selling at retail.

Spagat v. Mahin, 50 Ill. 2d 183 (1971); *Velten & Pulver, Inc. v. Department of Revenue*, 29 Ill. 2d 524, 529; *Dow Chemical Co. v. Department of Revenue*, 26 Ill. 2d 283, 285; *Kellogg Switchboard & Supply Corp. v. Department of Revenue*, 14 Ill. 2d 434, 437. If the tangible personal property leased or rented would have value even without the services a company provides, the substance of the transaction is the tangible personal property. Without the security monitoring service, the equipment is of no value to the customer. As such, the provisions of the Service Occupation Tax Act apply to your sales of security monitoring services.

Separately stated selling price – Installation

COMPANY represents that the annual aggregate cost price of the tangible personal property (security monitoring equipment) transferred incident to the sale of the security monitoring services exceeds 35% of the total annual gross receipts from sales of security monitoring services. While the Department is unable to verify this assertion based only on the information provided, this is consistent with the pricing information provided and the Department assumes for purposes of this letter ruling that COMPANY is not a de minimis serviceman. As such, COMPANY is subject to Service Occupation Tax on the separately stated selling price of security monitoring equipment transferred by lease incident to the sale of security monitoring services or, if not separately stated, on 50% of its entire service bill, but not less than its cost price of the tangible personal property transferred. 86 Ill. Adm. Code

140.106(a). "Selling price" is defined in relevant part as the consideration for a sale valued in money, whether received in money, or otherwise, including cash, credits and service, and shall be determined without any deduction on account of the serviceman's cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever. For purposes of calculating the serviceman's tax base, the selling price shall not be less than the cost price to the serviceman of the tangible personal property transferred to the service customer. 86 Ill. Adm. Code 140.201(h).

COMPANY's "INVOICE" sheet contains two columns. One column labeled "Install" itemizes the separately stated selling price for each item of security monitoring equipment as installed. The other column labeled "Monthly" itemizes the monthly security monitoring service charges. Based on the invoices provided, COMPANY separately states the selling price of the security monitoring equipment, as installed, from the charge for the monthly security monitoring service. Therefore, COMPANY owes service occupation tax on the separately stated selling price of the security monitoring equipment, as installed, but not less than its cost price of the security monitoring equipment transferred.

We note that gross receipts from the lease of property that is subject to a tax on lease receipts imposed by a home rule unit of local government are exempt from the State and Department-administered local retailers' occupation and service occupation taxes if the ordinance imposing the home rule tax was adopted prior to January 1, 2023. See 35 ILCS 115/3-5(36)(2) as added by Article 75 of Public Act 103-592. Specifically, gross receipts from the lease of property that is subject to Chicago's Personal Property Lease Transaction Tax are exempt from the State and Department-administered local retailers' and service occupation taxes. However, if the lease of this property would, but for this exemption, be subject to the tax on leases implemented by Article 75 of Public Act 103-592, then a sale to the lessor of this tangible personal property, for the purpose of leasing that property, shall be made State and local retailers' occupation tax-free as a sale for resale. To the extent that COMPANY's receipts from the lease of security monitoring equipment are subject to tax by a home rule unit whose tax was adopted prior to January 1, 2023, they are exempt from State and local Retailers' and Service Occupation Tax on the same transaction.

We are unable to authorize that the conclusions of a Private Letter Ruling apply prospectively only.

The factual representations upon which this ruling is based are subject to review by the Department during the course of any audit, investigation, or hearing and this ruling shall bind the Department only if the factual representations recited in this ruling are correct and complete. This Private Letter Ruling is revoked and will cease to bind the Department 10 years after the date of this letter under the provisions of 2 Ill. Adm. Code 1200.110(e) or earlier if there is a pertinent change in statutory law, case law, rules or in the factual representations recited in this ruling.

COMPANY/NAME

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September 15, 2025

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
Chairman, Private Letter Ruling

SJM:KAR:slc