

Auto repairmen and body shops incur Illinois Use Tax liability when purchasing consumable supplies not transferred to customers, but incur Illinois Service Occupation Tax liability when transferring or incorporating supplies and parts into repair services. See 86 Ill. Adm. Code 130.1401, 140.105. (This is a GIL.)

July 24, 2025

NAME
COMPANY
EMAIL

Dear NAME:

This letter is in response to your email dated June 11, 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:

Question, I run an auto body shop in COUNTY Illinois, years ago we were audited In which they found regarding our sales of the “material, paint” line of our bill was for the items that physically left with the car, meaning sand paper, reducers due to it evaporating, masking tape and paper, etc. as those items that do not leave with the car we are to pay tax on those items from our distributor’s. So, my question is due to arguing this matter with some insurance companies when I want to charge for these items, they want to say that it is included in the “material, paint” which by the way I take it from being audited it is not. I would like you to answer that question and most important provide me which documentation that says this as I would love to provide this information to those companies that claim it is. I would appreciate it. Thank you

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 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. If the purchases occur in Illinois, the purchasers must pay Use Tax to the retailer at the time of purchase. The retailers are then allowed to retain the amount of Use Tax paid to reimburse themselves for the Retailers' Occupation Tax liability incurred on those sales.

Retailers' Occupation and Use Taxes do not apply to sales of service. The Service Occupation Tax Act and Service Use Tax are imposed on the transfer of tangible personal property incident to sales of service. See 86 Ill. Adm. Code 140.101 and 160.101. If transactions do not involve the transfer of any tangible personal property, then they generally would not be subject to Service Occupation Tax or Service Use Tax. For general information, see 86 Ill. Code 140.101 through 140.109 regarding sales of service and Service Occupation Tax.

A serviceman's liability may be calculated in one of four ways: 1) separately stated selling price of tangible personal property transferred incident to service; 2) 50% of the serviceman's entire bill; 3) Service Occupation Tax on the serviceman's cost price if he is a registered de minimis serviceman; or, 4) Use Tax on the serviceman's cost price if he is a de minimis serviceman 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 incident to 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. 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 transferred. See 86 Ill. Adm. Code 140.106. These methods result in the customer incurring a Service Use Tax liability, which must be collected by the serviceman and remitted to the Department. See 86 Ill. Adm. Code 160.101.

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 incident to 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). Servicemen do not have the option of determining whether they are de minimis on a transaction-by-transaction basis. 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 incident to 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. Servicemen that incur Service Occupation Tax based upon their cost price must collect the Service Use Tax from their customers.

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. 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. Such 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 their service customers. See 86 Ill. Adm. Code 140.108.

Sales for resale do not incur sales tax. Purchases for use or consumption may not be made tax free for resale. To document that a sale to a purchaser is a sale for resale, a company must obtain a valid Certificate of Resale from a purchaser. For general information regarding resale certificates, the Department's regulation for resale certificates, "Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale," is found at 86 Ill. Adm. Code 130.1405.

The taxability of sales of tangible personal property to automobile repairmen and body shops will depend upon the use of the items being sold. See 86 Ill. Adm. Code 130.1401(a); 35 ILCS 120/1. An item of tangible personal property can be purchased tax free by an automobile repairmen or body shop on the basis of a sale for resale when it will be physically incorporated (transferred) into a product that will be sold to their customer. Purchases of tangible personal property that are not transferred to customers, but instead are used by the automobile repairmen or body shops for their services, are not purchases for resale. These purchases are taxable because the items are used or consumed by the purchasing business. Examples of such automobile repairmen items are paint thinners and paint reducers, masking tape, paintbrushes, sandpaper, towels, abrasives, paint guns, wrenches, shop tools, and other items used or consumed during repair jobs.

Purchasers, such as automobile repairmen or body shops, must provide proper Certificates of Resale to their suppliers if they are purchasing tangible personal property to be resold to their customers. Simply identifying the items on repair tickets or invoices for repair services will be insufficient to rebut a presumption that such items were not

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transferred to their customer. For more information, see 86 Ill. Adm. Code 130.1405(a) and 130.1405(d). Purchasers should not be cavalier in making such certifications solely through invoice and receipt line items. If the Department determines that purchases were not for resale, the automobile repairmen or body shops will be liable not only for Use Tax, but penalty and interest as well.

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,

George L. Encarnacion, Jr.
Associate Counsel

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