

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).

September 19, 2025

NAME
COMPANY
ADDRESS

Dear NAME:

This letter is in response to your letter dated June 4, 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.

Whether to issue a private letter ruling in response to a letter ruling request is within the discretion of the Department. 2 Ill. Adm. Code 1200.110(a)(4). If there is case law or there are regulations dispositive of the subject of the request, the Department will decline to issue a private letter ruling on the subject. 2 Ill. Adm. Code 1200.110(a)(3)(D). Having reviewed your request, the Department notes that there are laws and regulations dispositive of the subject of the request. Thus, the Department is declining to issue a private letter ruling in response to your request. However, 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:

Please allow this letter to serve as a request for a Private Letter Ruling (“PLR”) pursuant to the Illinois’ Department Code Section 1200.110. The undersigned

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individual is an employee authorized to request the private letter ruling on behalf of COMPANY. An executed power of attorney is attached hereto as Exhibit "I."

Taxpayer Incorporated's identifying information is set out as follows:

Taxpayer's Name and State of Formation: COMPANY, Formed in STATE

Location: ADDRESS, Federal ID: ##-#####

Illinois Taxpayer ID: #####-####

Statement of Relevant Facts

COMPANY is a provider of financing solutions for material handling equipment (i.e., lender for PRODUCTS). Through its network of dealers and team of dedicated service representatives, COMPANY offers a variety of lease and loan products and programs to help its customers finance their equipment.

COMPANY leases material handling equipment such as forklifts under long-term lease types (i.e., greater than 36 months). For operating lease contracts ("True leases") commenced before 1/1/2025, COMPANY had paid and remitted the lessor use tax obligations on cost of purchases for all leased equipment under operating leases to the Illinois Department of Revenue. COMPANY made contractual agreements with the lessees under which the lessees reimbursed COMPANY for the tax paid by COMPANY.

Statements Relating to Request

This issue is not under consideration by the Illinois Department of Revenue in connection with an audit examination of any type, a refund request, a voluntary disclosure agreement, an administrative hearing, or litigation for Taxpayer Incorporated. Additionally, COMPANY has not made a similar request from a taxing jurisdiction of another state. Should COMPANY see a need to make a similar request in another state, it may make a request depending on the law and regulations of that state.

Requested Ruling

COMPANY requests a private letter ruling regarding the following:

Whether COMPANY is required to assess or collect additional sales taxes on operating leases commenced before 1/1/2025, despite COMPANY paying use tax on the cost of equipment the subject of these operating leases to the Illinois Department of Revenue.

Authorities in Support of Requested Ruling

86 Ill. Adm. Code 150.101

86 Ill. Adm. Code 130.220

Article 75 of Public Act 103-592

Explanation of Grounds for Requested Ruling

We examined the Illinois Administrative Code, agency rules, and the 2025 Sales Tax Letter Rulings issued by the Department after 1/1/2025 under the Leasing subject to determine a possible answer to our inquiry. However, we were not able to find a similar scenario or a clear answer to our question.

Article 75 of Public Act 103-592

Based on our reading of some of the General Information Letter (“GIL”), it appears that the tax applies to lease receipts received on or after January 1, 2025, for leases in effect, entered, or renewed on or after that date. In the case of COMPANY, the existing operating leases in question commenced or entered before that date (i.e., **before** January 1, 2025). As stated in the statement of relevant facts, COMPANY had paid and remitted the lessor use tax obligations on cost of purchases for all leased equipment under operating leases to the Illinois Department of Revenue. COMPANY made contractual agreements with the lessees under which the lessees reimbursed COMPANY for the tax paid.

However, the lessee continued to make payment under the operating leases until the leases reach maturity dates in 2025 and beyond. COMPANY is seeking to confirm whether the receipts from the old leases of which the tax obligations had been met are subject to sales tax effective from January 1, 2025.

Authorities Contrary to Requested Ruling

In relation to the operating leases commenced before January 1, 2025, of which COMPANY had met the tax obligations to the Department. Our understanding that assessing sales tax on the receipts after 1/1/2025 may be considered excessive taxation because COMPANY met its tax obligation for the equipment when the operating leases commenced prior to January 1, 2025.

DEPARTMENT’S RESPONSE:

The 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. 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.

Through December 31, 2024, and in the case of what was considered a “true lease”, lessors of tangible personal property being used in Illinois were the end users of that property and, as such, incurred Use Tax obligations thereon. The lessors would either pay their suppliers, who were liable for Retailers’ Occupation Tax on the property sold at retail to the lessor, or self-assess and remit their Use Tax to the Department. If the lessors had already paid use tax in another state with respect to the purchase at retail of the tangible personal property, they would be exempt from Illinois Use Tax to the extent of the amount of such tax properly due and paid in such other state. See 86 Ill. Adm. Code 150.310(a)(3). The State of Illinois imposed no Retailers’ Occupation Tax or Use Tax on lease receipts, and as such lessors were not permitted to “pass through” their Use Tax obligation to the lessees as taxes. However, it was typical of true leases to contain contractual provisions stating that the lessees would reimburse the lessors for their tax costs. This was not a matter of Illinois tax law but private agreement between lessors and lessees. If the lessees agreed to such provisions, they were bound to satisfy that duty because of a contractual agreement, not because of Illinois tax law.

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 now 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. This includes the extension of all exemptions from retailers’ occupation tax and use tax to leases. See 35 ILCS 120/2-5. 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.

Prior to January 1, 2025, Illinois did not tax gross receipts from the lease of tangible personal property as described in this letter. Under the Retailers’ Occupation Tax Act as amended by Article 75 of Public Act 103-592, with the exception of certain items required to be registered with an agency of this State, lessors are, however, subject to tax on the gross receipts received on or after January 1, 2025, from existing or new leases of tangible

COMPANY

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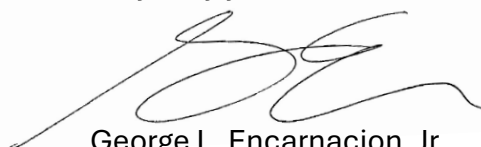
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personal property. The fact that a lessor of tangible personal property was subject to tax under the Use Tax Act on its purchase of that property, prior to January 1, 2025, does not exempt or exclude the lessor from Retailers' Occupation Tax on lease receipts received on or after January 1, 2025, on the taxable lease of the property. The incidence of tax prior to January 1, 2025, was on a different transaction than the incidence of tax beginning January 1, 2025. As the First District Illinois Appellate Court stated in *New Heights Recovery & Power, LLC v. Bower*, "A right, to be within the protection of the constitution, must be a vested right. It must be something more than a mere expectancy based upon an anticipated continuance of an existing law." *New Heights Recovery & Power, LLC v. Bower*, 347 Ill. App. 3d 89, 96 (2004). "Our supreme court has held there is no vested right in the mere continuation of a law and the legislature has an ongoing right to amend a statute." *Id.*

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 1st, 2025 (i.e., suppliers owe Retailers' Occupation Tax, lessors owe Use Tax, and lessees of these items are not subject to Retailers' Occupation or Use Tax).

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 (217) 782-3336.

Very truly yours,

A handwritten signature in black ink, appearing to read "GE", with a long horizontal line extending to the left.

George L. Encarnacion, Jr.
Associate Counsel

GLE:sce