

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Service Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 140
- 3) Section Numbers:
140.401
140.1420
Proposed Actions:
Amendment
Amendment
- 4) Statutory Authority: Implementing the Service Occupation Tax Act [35 ILCS 115] and authorized by Section 2505-100 of the Civil Administrative Code of Illinois. (Department of Revenue Law) [20 ILCS 2505/2505-100].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking implements the provisions of P.A. 103-592 that impose a \$1,000-per-month cap, effective January 1, 2025, on the discount servicemen may claim when remitting certain taxes to the Department as reimbursement for the expenses incurred in keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on request (“vendor’s discount”). The corresponding returns on which the vendor’s discount is capped at \$1,000 per month are Form ST-1 for non-titled property other than aviation fuel and cannabis; Form ST-70 for aviation fuel; Form CD-1 for cannabis; and Forms ST-556/ST-556-LSE for titled property.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Actions</u>	<u>Illinois Register Citations</u>
140.430	Amendment	48 Ill. Reg. 15283; November 1, 2024
140.124	Repealed	48 Ill. Reg. 17725; December 13, 2024
140.125	Amendment	48 Ill. Reg. 17725; December 13, 2024

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11) Statement of Statewide Policy Objectives: These rules do not create or enlarge a mandate as described in Section 3(b) of the State Mandates Act.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Samuel J. Moore
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
REV.GCO@illinois.gov
(217) 782-7055

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Servicemen who report less than \$914,286 per month in taxable gross receipts at a 6.25% tax rate are not affected.
- B) Reporting, bookkeeping or other procedures required for compliance: Basic accounting and computer skills.
- C) Types of professional skills necessary for compliance: Basic accounting and computer skills.

14) Small Business Impact Analysis:

- A) Types of businesses subject to the proposed rule:

44-45 Retail Trade
- B) Categories that the agency reasonably believes the rulemaking will impact, including:
 - ii. regulatory requirements;

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- iii. purchasing;
- viii. record keeping

15) Regulatory Agenda on which this rulemaking was summarized: July 2024

The full text of the Proposed Amendments begins on the next page:

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Section 140.401 Monthly Returns When Due – Contents of Returns

- a) Except as provided in Section 140.405 of this Subpart, on or before the twentieth day of each calendar month, every serviceman registered with the Department is required to file a return with the Department covering the preceding month, stating the name of the person filing the return, his residence address, the address of his or her principal place of business and the address of his or her principal place of business in this State (if that is a different address) and each address from which he or she engages in that taxable business as a serviceman. When the serviceman has more than one business registered with the Department under separate registrations, that serviceman shall file separate returns for each separately registered business. *On and after January 1, 2018, with respect to servicemen whose annual gross receipts average \$20,000 or more, all returns required to be filed pursuant to the Act shall be filed electronically. Servicemen who demonstrate that they do not have access to the Internet or demonstrate hardship in filing electronically may petition the Department to waive the electronic filing requirement.* [35 ILCS 115/9]
- b) Information Required in Taxpayer's Return. A taxpayer's return shall disclose the following:
- 1) total tax base for the return period;
 - 2) the amount of tax due;
 - 3) the total of the tax and penalty; and
 - 4) other information the Department may require on the tax form.
- c) **1.75% Allowance to Serviceman for Collecting State Tax**
After entering his or her State Service Occupation Tax liability on the return, the serviceman may then deduct 1.75%, not to exceed \$1,000 per month beginning on January 1, 2025, of that liability as compensation for acting as a collector of the tax. The minimum discount, over the entire period of any given calendar year, for any single serviceman (if that serviceman has that much tax to remit) shall be \$5.00 for the calendar year. This allowance against the State tax is available only when the tax is remitted with a return

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that is filed when due under the Act; it is not available in any case in which the tax is paid late. Servicemen required to file returns electronically pursuant to the Act who fail to file their returns electronically may not take the discount allowed to reimburse servicemen for the expenses incurred in keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on request.

(Source: Amended at 49 Ill. Reg. _____, effective _____)

SUBPART N: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section 140.1420 Verified Credit

- a) Verified credits. A verified credit is a specific type of credit arising under Section 3 of the Retailers' Occupation Tax Act, which states:

If any payment provided for in this Section exceeds the taxpayer's liabilities under this Act, the Use Tax Act, the Service Occupation Tax Act and the Service Use Tax Act, as shown on an original monthly return, the Department shall, if requested by the taxpayer, issue to the taxpayer a credit memorandum no later than 30 days after the date of payment. The credit evidenced by such credit memorandum may be assigned by the taxpayer to a similar taxpayer under this Act, the Use Tax Act, the Service Occupation Tax Act or the Service Use Tax Act, in accordance with reasonable rules and regulations to be prescribed by the Department. If no such request is made, the taxpayer may credit such excess payment against tax liability subsequently to be remitted to the Department under this Act, the Use Tax Act, the Service Occupation Tax Act or the Service Use Tax Act, in accordance with reasonable rules and regulations prescribed by the Department. If the Department subsequently determined that all or any part of the credit taken was not actually due to the taxpayer, the taxpayer's vendor's discount shall be reduced, if necessary, to reflect the difference between the credit taken and that actually due, and that taxpayer shall be liable for penalties and interest on such difference.

[35 ILCS 120/3]

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- b) Verified credit – explanation – no interest paid. A verified credit is an amount of tax overpaid in a prior period that may be rolled over and applied to subsequent tax liabilities without the need to comply with the formalities involved in submitting a claim for credit. Since the taxpayer has the immediate use of the verified credit to apply against its liability without the need to file a claim for credit and prove the overpayment, interest is not paid on verified credits (See also, 86 Ill. Adm. Code 700.230(a)(2)). Verified credits appear on a taxpayer's Statement of Account.
- c) Verified credit – How used. A verified credit may be used by a taxpayer in only 3 ways:
- 1) It can be used to offset liability of the taxpayer that arises under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act, or the Service Use Tax Act subsequent to the origination of the verified credit;
 - 2) It can be converted to a credit memorandum no later than 30 days after the date of overpayment, upon request made to the Department upon forms prescribed by the Department. Interest is not paid on verified credits that are converted to credit memoranda in accordance with this subsection (c)(2); and
 - 3) It can be converted to a credit memorandum at any time, starting 30 days after the date of the overpayment, by making a request to the Department using forms prescribed by the Department and available at <https://tax.illinois.gov> , and without regard to the limitations on claims for refund. See also 86 Ill. Adm. Code 140.1401, for limitations on claims. Interest is not paid on verified credits that are converted to credit memoranda in accordance with this subsection (c)(3).
- d) A verified credit that is converted to a credit memorandum under this subsection (d) may be assigned to another taxpayer in the same manner as other credit memoranda issued to taxpayers by the Department.

(Source: Amended at 49 Ill. Reg. _____, effective _____)