

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 150
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
150.905	Amendment
150.1420	Amendment
- 4) Statutory Authority: Implementing the Use Tax Act [35 ILCS 105] and authorized by Sections 2505-90 and 2505-795 of the Department of Revenue Law [20 ILCS 2505].
- 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 retailers 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? No
- 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

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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: Retailers who report less than \$914,286 per month in taxable gross sales receipts at a 6.25% sales 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;
 - iii. purchasing;
 - viii. record keeping

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

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

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Section 150.905 Deduction for Collecting Tax

The retailer, in remitting the use tax collected from the purchaser, may deduct 1.75% thereof, not to exceed \$1,000 per month beginning on January 1, 2025, or \$5.00 per calendar year, whichever is greater, as an allowance for the retailer's cost *incurred in collecting the tax, keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on request. In the case of retailers who report and pay the tax on a transaction-by-transaction basis, as provided in Section 9 of the Act, such discount shall be taken with each such tax remittance instead of when such retailer files such periodic return. The discount allowed under this Section is allowed only for returns that are filed in the manner required by the Act.* [35 ILCS 105/9] This allowance is available when the tax is remitted with a return that is filed when due under the Act, but is not available in any case in which the tax is paid late (with or without a return, and whether formally assessed by the Department or not). *The Department may disallow the discount for retailers whose certificate of registration is revoked at the time the return is filed, but only if the Department's decision to revoke the certificate of registration has become final.* [35 ILCS 105/9] Also, this discount for collecting the tax is not allowable when the use tax is remitted directly to the Department by a user.

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

SUBPART M: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section 150.1420 Verified Credit

- a) Verified credit. 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

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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]

- 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 86 Ill. Adm. Code 700.230(a)(2)). Verified credits appear on a Taxpayer Statement listing a taxpayer's unpaid balance, available credits or returns not filed.
- 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 this Act, the Retailers' Occupation 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, by making a request to the Department using forms prescribed by the Department and available at <https://tax.illinois.gov/>. See 35 ILCS 120/6a, for information required to be included. Interest is not paid on verified credits that are converted to credit memoranda in accordance with this subsection (c)(2); and

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- 3) It can be converted to a credit memorandum at any time, starting 30 days after the date of over payment, 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 86 Ill. Adm. Code 150.1401, for information on limitations and procedures. 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. See 86 Ill. Adm. Code 150.1405.

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