

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Service Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 160
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
160.135	Amendment
160.151	Amendment
- 4) Statutory Authority: Implementing the Service Use Tax Act [35 ILCS 110] 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? 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: Servicemen 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 160.135 Serviceman's Return

- a) Every serviceman required or authorized to collect the Service Use Tax must file a return each month by the twentieth day of the month covering the preceding calendar month except when the serviceman is authorized to file tax returns on a quarterly or annual basis as hereinafter provided. The Department has combined the Service Use Tax return form, the Service Occupation Tax return form and the Use Tax return with the Retailers' Occupation Tax return form. *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. Beginning on October 1, 2002, a taxpayer who has a tax liability in the amount set forth in subsection (b) of Section 2505-210 of the Department of Revenue Law shall make all payments required by rules of the Department by electronic funds transfer.* [35 ILCS 110/9]
- b) Where the sale of service is made under a conditional sales contract, or under any other form of sale wherein the payment of the principal sum, or a part thereof, is extended beyond the close of the return period for which the return is filed, the serviceman, in collecting the tax, may collect, for each return period, only the tax applicable to that part of the selling price actually received during such return period.
- c) In the serviceman's regular return, each serviceman shall also include the total amount of Service Use Tax due upon the selling price or cost price of tangible personal property transferred by him as an incident to a sale of service. Such serviceman shall remit the amount of such tax to the Department when filing such return.
- d) In general, the provisions of Subpart D of the Service Occupation Tax (86 Ill. Adm. Code 140) (including the provisions pertaining to quarterly and annual tax returns, but not the provisions pertaining to annual information returns) shall apply to returns of servicemen under the Service Use Tax Act.

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- e) The serviceman who collects the Service Use Tax from a purchaser and who remits, as Service Use Tax, the amount so collected is allowed to deduct the 1.75%, not to exceed \$1,000 per month beginning on January 1, 2025, collection allowance or \$5 per calendar year, whichever is greater, in the same manner as is allowed under 86 Ill. Adm. Code 150.905. *The discount under this subsection is not allowed for the 1.25% portion of taxes paid on aviation fuel that is subject to the revenue use requirements of 49 U.S.C. 47107(b) and 49 U.S.C. 47133. The discount allowed under this subsection is allowed only for returns that are filed in the manner required by the Act. [35 ILCS 110/9]* Where a purchaser from a serviceman, however, does not pay the Service Use Tax to the serviceman, but pays it to the Department, that purchaser is not allowed to deduct any amount as a collection allowance.

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

Section 160.151 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 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 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 Service Occupation Tax Act, the Retailers' Occupation Tax Act or the 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 made to the Department using forms prescribed by the Department and available at <https://tax.illinois.gov>. See 35 ILCS 120/6a, for information to be included. 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 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 160.150 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.

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