

ST 26-0003-GIL 01/22/2026 LEASING

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. Public Act 103-592 did not include any provision allowing lessors who became subject to the tax on lease receipts to claim credits for tax paid on tangible personal property purchased before January 1, 2025 for the purpose of leasing to their customers. See 35 ILCS 120/2 as amended by Article 75 of Public Act 103-592. (This is a GIL).

January 22, 2026

NAME  
COMPANY  
ADDRESS  
EMAIL

Dear NAME:

This letter is in response to your letter dated December 14, 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:

This letter concerns the recent enactment of the aforementioned tax act. This act has resulted in sales tax being applied to a piece of construction equipment we are leasing, specifically a 2022 JCB 409 front end loader. This additional tax began being applied to our monthly payment in MONTH of YEAR. This lease was originally signed in MONTH of YEAR1. When the lease was originated sales tax was paid in the amount of \$\$\$\$\$\$ to the State, I confirmed this with the lender, COMPANY1. The payment schedule as per my

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original agreement had a total of XX full payments of \$\$\$\$\$\$ + tax and XX payments of \$\$\$\$\$\$ + tax. The lease is structured such that we pay X “larger” payments during the winter months and X “smaller” payment during the spring/summer months as the machine is mostly used for snow removal operations. The leasing company has chosen to add the sales tax only to the “larger payments” to recover the original sales tax that was paid at the lease’s origination. The payment amount we have been paying since MONTH1 of YEAR1 is \$\$\$\$\$\$, which includes the base payment of \$\$\$\$\$\$ plus the sales tax of \$\$\$\$\$\$. Please reference the stated payment schedule on page X of the attached lease agreement.

It is our understanding that sales tax is now being applied to the “stream of payments” instead of a lump sum at the origination of the lease as it previously was. This is fine; however, it does mean that individuals in our situation would in fact be double taxed under this new law. There does seem to be an exemption for titled or registered equipment, such as vehicles. Construction equipment such as ours (skid loaders, wheel loaders, excavators, etc.) do not have a title or require registration, such as plates, but is subject to sales tax just as titled equipment would be.

Under the current interpretation of this law, we are being “double taxed”, which we do not believe to be fair or accurate as our current lease payment already includes sales tax. We are looking for an amendment to this law to allow entities such as ours to avoid the double taxation we are now subjected to. We find the blanket statement that “no credit will be given for taxes previously paid” to be unjust and unfairly applies tax to leases that already had tax applied.

Please contact us with any questions or for additional information.

#### **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 35 ILCS 120/2; 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 35 ILCS 105/3; 86 Ill. Adm. Code 150.101. These taxes comprise what is commonly known as “sales” tax in Illinois.

Prior to January 1, 2025, Illinois treated leases two ways for sales tax purposes: as conditional sales or true leases. Conditional sales, usually characterized by a nominal or

one dollar purchase option at the close of the lease term, were considered sales at the outset of the transaction, and thus all receipts of such sales were subject to Retailers' Occupation Tax. For true leases, which generally did not have a buyout provision at the close of the lease, the lessor was considered to be the end user of the property to be leased. See 86 Ill. Adm. Code 130.2010(b). As end users of tangible personal property located in Illinois, lessors owed Use Tax on their cost price of such property at the time they purchased it. The State of Illinois imposed no sales tax on rental receipts from true leases; consequently, lessees incurred no tax liability.

For tangible personal property purchased for lease to customers prior to January 1, 2025, lessors were not allowed to "pass through" their Use Tax obligation to 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 and remain 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, with the exception of certain items required to be registered with an agency of this State, 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. 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. Effective January 1, 2025, for purposes of State and local retailers' occupation taxes, the term "sale" includes a lease. See 35 ILCS 120/1. Lessors are subject to tax on the gross receipts received on or after January 1, 2025 from existing or new leases of tangible personal property. 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.

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).

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“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.*

Public Act 103-592 did not include any provision allowing lessors who became subject to the tax on lease receipts to claim credits for tax paid on tangible personal property purchased before January 1, 2025 for the purpose of leasing to their customers. As noted above, the purpose of this letter is to provide information about the law and other sources of information regarding the topic in question. Amending the law to address your concern would require a legislative solution beyond the scope of the Department’s authority.

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,

Edward Mroczkowski  
Associate Counsel

EM:slc