

ST 26-0009-GIL 03/26/2026 COMPUTER SOFTWARE:

Computer software provided via a cloud-based delivery system, where the software is never downloaded onto a client's computer and is only accessed remotely, is not subject to tax. See 86 Ill. Adm. Code 130.1935(a)(3). Voice Over Internet Protocol ("VoIP") is telecommunications subject to tax within the meaning of "Telecommunications" and "Gross Charges" pursuant to The Telecommunications Excise Tax. 86 Ill. Adm. Code 495.100. (This is a GIL).

March 26, 2026

NAME
COMPANY
ADDRESS
EMAIL

Dear NAME:

This letter is in response to your letter dated November 2, 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 Department's regulation "Public Information, Rulemaking and Organization" provides that "[w]hether to issue a private letter ruling in response to a letter ruling request is within the discretion of the Department. The Department will respond to all requests for private letter rulings either by issuance of a ruling or by a letter explaining that the request for ruling will not be honored." 2 Ill. Adm. Code 1200.110(a)(4). Further, the Department's regulations regarding Private Letter Rulings provide that "[i]f there is case law or there are regulations dispositive of the subject of the request, the Department will decline to issue a letter ruling on the subject." 86 Ill. Adm. Code 1200.110(a)(3)(D). The Department recently met and determined that it would decline to issue a Private Letter Ruling in response to your request. We hope, however, the following General Information Letter will be helpful in addressing your questions. In your letter you have stated and made inquiry as follows:

March 26, 2026

In your letter you have stated and made inquiry as follows:

I am writing to respectfully request a **Private Letter Ruling (PLR)** pursuant to 2 Ill. Adm. Code 120.110 regarding the sales tax treatment of certain transactions conducted by **COMPANY**.

1. Taxpayer Information

- **Name:** COMPANY
- **FEIN/ Account ID (if available):** FEIN
- **Mailing Address:** ADDRESS
- **Contact Person:** NAME
- **Email/ Phone:** EMAIL

2. Statement of Facts

Below are separate factual situations for which we seek clarification. Each fact pattern is independent and may warrant its own determination:

General Fact Pattern:

We are an IT service provider with an Illinois Resale Certificate #XXXX-XXXX. We purchase and resell PRODUCT licenses and have been charging sales tax on those services but have recently been challenged to why we are charging sales tax when others don't charge sales tax on the same licenses. I am looking for clarity to make sure we are complying with all appropriate laws.

Fact Pattern 1:

We resell PRODUCT1 to a company with offices in CITY, IL Cook County. PRODUCT includes a click-through license. PRODUCT restricts duplication outside of the license. PRODUCT prohibits transferring the license. PRODUCT provides alternate licenses if the software is damaged or lost. PRODUCT disables the software after the license is completed. PRODUCT1 includes both cloud-based services as well as downloaded software that is run locally to access and process those cloud-based services. Therefore I believe since this software includes downloaded applications and uses a click-through license this software is taxable at the 10% rate.

Fact Pattern 2:

We resell PRODUCT2 to a company in CITY1, IL Cook County. As the above pattern, this software also includes a click-through license but PRODUCT2 has no locally installed software; the software services are fully utilized through a cloud interface. Because there is no installed software, I believe

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this could be non-taxable as it is a service, however we have been charging a 10% tax on this as well but seeing some of the notes on line believe we may have been doing this incorrectly.

Fact Pattern 3:

We resell PRODUCT3 to a company in COUNTY, IL PRODUCT3 service is a service that incorporates the PRODUCT3 application locally but allows the end-user to make phone calls. We are not provided tax information for this by PRODUCT for the phone lines and believe the appropriate phone related taxes and regulatory fees are paid by PRODUCT directly based on the license cost. Are these licenses also separately taxed with sales tax?

Fact Pattern 4:

We resell PRODUCT4 cloud hosting to a company in CITY1, IL PRODUCT4 provides cloud hosted servers and services similar to PRODUCT5 or PRODUCT6. As these are completely cloud hosted services, we believe these services are not taxable. Do you agree?

4. Issues Presented

For each fact pattern above, we request clarification on the following issues:

- Whether the transactions described in **Fact Pattern 1** are taxable or non-taxable under Illinois sales tax law and what **tax rate** is appropriate.
- Whether the transactions described in **Fact Pattern 2** are taxable or non-taxable under Illinois sales tax law and what **tax rate** is appropriate.
- Whether the transactions described in **Fact Pattern 3** are **taxable or non-taxable** under Illinois sales tax law and what **tax rate** is appropriate.
- Whether the transactions described in **Fact Pattern 4** are **taxable or non-taxable** under Illinois sales tax law and what **tax rate** is appropriate.

4. Relevant Law and Analysis

The taxpayer understands that under 35 ILCS 120/2 and 86 Ill. Adm. Code, tax applies to retail sales of tangible personal property and certain specified

services. However, due to the nature of these transactions- mixed tangible and digital components, bundled services, or online delivery -the correct classification is unclear.

5. Ruling Requested

We respectfully request a Private Letter Ruling confirming whether each of the transactions described above is taxable or non-taxable under Illinois law, and guidance on how sales tax should be applied and reported in each scenario.

6. Declarations

I certify that:

- The issue presented is not currently under audit or litigation by IDOR or any other tax authority.
- This request concerns actual business transactions, not hypothetical or speculative scenarios.
- To the best of my knowledge, all material facts are true, accurate, and complete.

Thank you for your time and consideration. Please contact me at PHONE if you require any additional details or supporting documentation.

DEPARTMENT'S RESPONSE:

Retailers' Occupation Tax

The Retailers' Occupation Tax Act imposes a tax upon persons (i.e., retailers) 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.

Service Occupation Tax

Retailers' Occupation Tax and Use Tax do not apply to sales of services. Under the Service Occupation Tax Act, persons (i.e., servicepersons) engaged in this State in the

business of making sales of service are taxed on tangible personal property transferred as an incident to such sales of service. See 35 ILCS 115/3; 86 Ill. Adm. Code 140.101. The transfer of tangible personal property to service customers may result in either Service Occupation Tax liability or Use Tax liability for servicepersons, depending upon which tax base they choose to calculate their liability. Servicepersons may calculate their tax base in one of four ways:

- (1) Service Occupation Tax on separately-stated selling price of tangible personal property transferred incident to service;
- (2) Service Occupation Tax on 50% of the serviceperson's entire bill;
- (3) Service Occupation Tax on the serviceperson's cost price if the serviceperson is a registered de minimis serviceperson; or
- (4) Use Tax on the serviceperson's cost price if the serviceperson is de minimis and is not otherwise required to be registered under Section 2a of the Retailers' Occupation Tax Act.

See 86 Ill. Adm. Code Sections 140.106; 140.108; and 140.109.

Using the first method, servicepersons may separately list the selling price of each item transferred as a result of a sale of service. The tax is then calculated based on the separately stated selling price of the tangible personal property transferred. If the servicepersons do not separately list the selling price of the tangible personal property transferred, they must use 50% of the total bill to the service customer as the tax base (the second method described above). Both methods specify that, under no circumstances, can the tax base be less than the serviceperson's cost price of the tangible personal property transferred. See 86 Ill. Adm. Code 140.106. These servicepersons also collect a corresponding amount of Service Use Tax from their customers, unless an exemption applies.

The third method servicepersons can use to account for their tax liability applies only to de minimis servicepersons who have either chosen to register or are required to do so because they incur Retailers' Occupation Tax liability with respect to a portion of their business. See 86 Ill. Adm. Code 140.109. Servicepersons may qualify as de minimis if they determine that the annual aggregate cost price of tangible personal property transferred as an incident of the sale of service is less than 35% of the total annual gross receipts from service transactions (75% in the case of pharmacists and persons engaged in graphics arts production). Registered de minimis servicepersons are authorized to pay Service Occupation Tax (which includes local taxes) based upon their cost of tangible personal property transferred incident to the sale of service. They should provide suppliers resale

certificates and remit Service Occupation Tax using the Service Occupation Tax rates for their locations. These servicepersons also collect a corresponding amount of Service Use Tax from their customers, unless an exemption applies.

Note that under the first three methods described above, if the Illinois Service Occupation Tax on a transaction is being remitted to the Department by the serviceperson, the serviceperson shall also pay any local Service Occupation Tax to the Department on the same transaction, based on the location where the serviceperson's selling activities took place, if that location is in a jurisdiction with a local Service Occupation Tax. See 86 Ill. Adm. Code 280.115 and 86 Ill. Adm. Code 270.115.

The final method for determining tax liability may be used by de minimis servicepersons who are not otherwise required to register under Section 2a of the Retailers' Occupation Tax Act. Such de minimis servicepersons handle their tax liability by paying Use Tax to their suppliers. If their suppliers are not registered to collect and remit tax, the servicepersons must register, self-assess, and remit Use Tax to the Department. The servicepersons are considered end users of the tangible personal property transferred incident to service. Consequently, they are not authorized to collect a "tax" from the service customers. See 86 Ill. Adm. Code 140.108.

Computer Software

"Computer software" means a set of statements, data, or instructions used directly or indirectly in a computer to produce a specific result, in any form in which those statements, data, or instructions may be embodied, transmitted, or stored, by any method now known or hereafter developed. This applies regardless of whether the statements, data, or instructions can be perceived or communicated by humans, and includes prewritten or canned software. 35 ILCS 120/2-25. Computer software encompasses all types, including operational, applicational, utility, compiler, template, shell, and other forms. See 86 Ill. Adm. Code 130.1935(a). Generally, sales or transfers of "canned" computer software intended for widespread or repeated use are taxable retail sales in Illinois. Canned software is considered tangible personal property regardless of its form, including tape, disc, card, electronic means, or other media.

Software License

The sale or transfer by a retailer of computer software that is subject to manufacturer licenses restricting its use or reproduction is also taxable. See 86 Ill. Adm. Code 130.1935(a). However, if all the criteria in subsection (a)(1) of Section 130.1935 are met, then neither the sale nor transfer of the software nor the subsequent software updates is subject to Retailers' Occupation Tax. Specifically, a license of software is not a taxable retail sale if:

- A) It is evidenced by a written agreement signed by the licensor and the customer;
- B) It restricts the customer's duplication and use of the software;
- C) It prohibits the customer from licensing, sublicensing or transferring the software to a third party (except to a related party) without the permission and continued control of the licensor;
- D) The licensor has a policy of providing another copy at minimal or no charge if the customer loses or damages the software, or permitting the licensee to make and keep an archival copy, and such policy is either stated in the license agreement, supported by the licensor's books and records, or supported by a notarized statement made under penalties of perjury by the licensor; and
- E) The customer must destroy or return all copies of the software to the licensor at the end of the license period. This provision is deemed to be met, in the case of a perpetual license, without being set forth in the license agreement.

See 86 Ill. Adm. Code 130.1935(a)(1).

If a license for canned computer software does not satisfy all the criteria, the software is taxable. Note that it is common for software to be licensed online, with the customer checking a box to accept the license terms. This form of acceptance does not constitute a written agreement signed by both the licensor and the customer, as required by subsection (a)(1)(A) of Section 130.1935. To fulfill the signature requirement for an exempt software license, the agreement must include the written signatures of both parties. An electronic agreement that includes a verifiable, authenticatable electronic signature from the customer, attached to or incorporated into the license, will meet this requirement. See 86 Ill. Adm. Code 130.1935(a)(1)(A).

Software as a Service

A provider of software as a service is acting as a serviceperson. Software as a service refers to computer software delivered through a cloud-based system, where the software is never downloaded onto a client's computer and is accessed remotely. Provided no tangible personal property is downloaded as part of the transaction, the sale of such service generally would not be subject to Retailers' Occupation Tax or Service Occupation Tax or their companion use taxes. Illinois generally does not tax software as a service subscriptions. 86 Ill. Adm. Code 130.1935(a)(3).

If a service provider offers the subscriber an API, applet, desktop agent, or remote access agent to enable the subscriber to access the provider's network and services, the subscriber is receiving computer software. 86 Ill. Adm. Code 130.1935(a)(4). Although there may not be a separate fee for the computer software, the service provider is still subject to tax under one of the four methods for taxing servicepersons described above, unless the transfer qualifies as a non-taxable license of computer software or is otherwise not taxable. Conversely, if an Illinois customer downloads computer software, separate from their subscription of software as a service, for free from an out-of-State retailer's website or server that is also located out-of-State, the retailer, even though it is providing tangible personal property to the customer, has exercised no power or control over the property in Illinois. In this instance, the retailer would not have made any taxable use of the property in Illinois. The customer would incur no Use Tax liability as the customer did not acquire the software from a retail transaction.

Telecommunications

The Illinois Telecommunications Excise Tax Act imposes a tax on the act or privilege of originating or receiving intrastate or interstate telecommunications by persons in Illinois at the rate of 8.65%, effective July 1, 2025, of the gross charges for such telecommunications purchased at retail by such persons. See 35 ILCS 630/3(c) and 4(c), as amended by Public Act 104-0006; 86 Ill. Adm. Code 495.140. The Simplified Municipal Telecommunications Tax Act allows municipalities to impose a tax on the act or privilege of originating or receiving in such municipality, intrastate or interstate telecommunications by persons in Illinois at a rate not to exceed 6% for municipalities with a population of less than 500,000, and at a rate not to exceed 7% for municipalities with a population of 500,000 or more, of the gross charges for such telecommunications purchased at retail from retailers by such persons. 35 ILCS 636/5-10 and 5-15.

"Gross charges" means the amount paid for the act or privilege of originating or receiving telecommunications in this State and for all services and equipment provided in connection therewith by a retailer, valued in money whether paid in money or otherwise, including cash, credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of materials used, labor or service costs or any other expense whatsoever. "Amount paid" means the amount charged to the taxpayer's service address in this State, regardless of where such amount is billed or paid. See 35 ILCS 630/2(a) and 35 ILCS 636/5-7.

Further, the definition of telecommunications under each Act is very broad and encompasses Voice Over Internet Protocol communications. More specifically, both Acts define "Telecommunications" as, in addition to the meaning ordinarily and popularly ascribed to that term, including, without limitation, messages or information transmitted through use of local, toll and wide area telephone service; private line services; channel

services; telegraph services; teletypewriter; computer exchange services; cellular mobile telecommunications service; specialized mobile radio; stationary two-way radio; paging service; or any other form of mobile and portable one-way or two-way communications; or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber-optics, laser, microwave, radio, satellite or similar facilities. See 35 ILCS 636/5-7 and 35 ILCS 630(2)(c). “Telecommunications” does not include “value added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission.” (Emphasis added.) See 35 ILCS 636/5-7 and 35 ILCS 630/2(c).

Voice Over Internet Protocol (“VoIP”) is telecommunications subject to tax within the meaning of “Telecommunications” and “Gross Charges” pursuant to The Telecommunications Excise Tax, 86 Ill. Adm. Code 495.100; the Telecommunications Infrastructure Maintenance Fee, 35 ILCS 635/10; and the Simplified Municipal Telecommunications Tax Act, 35 ILCS 636/5-7. Neither the Telecommunications Excise Tax Act nor the Simplified Municipal Telecommunications Tax Act provide any exemption for VoIP services.

Further, federal law has preserved States’ ability to tax VoIP services. The Internet Tax Freedom Act imposes a federal moratorium on state or municipal taxes on Internet access. 47 USCA § 151 note; § 1101. However, states are allowed to tax VoIP services as Congress specifically excluded them, defining “Internet access” as:

- (A) means a service that enables users to connect to the Internet to access content, information, or other services offered over the Internet;
- (B) includes the purchase, use or sale of telecommunications by a provider of a service described in subparagraph (A) to the extent such telecommunications are purchased, used or sold- (i) to provide such service; or (ii) to otherwise enable users to access content, information or other services offered over the Internet;
- (C) includes services that are incidental to the provision of the service described in subparagraph (A) when furnished to users as part of such service, such as a home page, electronic mail and instant messaging (including voice and videocapable electronic mail and instant messaging), video clips, and personal electronic storage capacity;
- (D) does not include voice, audio or video programming, or other products and services (except services described in subparagraph (A), (B), (C), or (E)) that utilize Internet protocol or any successor protocol and for which there is a charge, regardless of whether such charge is separately stated or aggregated

with the charge for services described in subparagraph (A), (B), (C), or (E); and (E) includes a homepage, electronic mail and instant messaging (including voice and video-capable electronic mail and instant messaging), video clips, and personal electronic storage capacity, that are provided independently or not packaged with Internet access.

47 USCA § 151 note; § 1105.

Additionally, in a note on section 152 of the Federal Communications Act (of which the Internet Tax Freedom Act is a part), Congress specified, in relevant part, that nothing in the Act or the amendments made by it “shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or supersession of, any State or local law pertaining to taxation,” subject to certain unrelated exceptions. See Pub. L. 104-104, Title VI, §601, 110 Stat. 143, 47 U.S.C. §152 note (1996) (“Pub. L. 104-104”).

As such, VoIP communications either originating in or received in a municipality that has imposed the Simplified Municipal Telecommunications Tax are subject to the applicable tax rate for that municipality. Additionally, VoIP communications are subject to the Illinois Telecommunications Excise Tax.

I hope this information is helpful. If you have further questions related to the Illinois sales tax laws, please visit our website at <https://tax.illinois.gov/> or contact the Department’s Taxpayer Information Division at (800) 732-8866.

Very truly yours,

Thomas Grudichak
Associate Counsel

TG:slc