



Board of Commissioners of Cook County

118 North Clark Street
Chicago, IL

Legislation Text

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PROPOSED ORDINANCE AMENDMENT

USE TAX

NOW THEREFORE BE IT ORDAINED, by the Cook County Board of Commissioners that Chapter 74 - Taxation, Article VII. Use Tax, Sections 74-270 through 74-319 be amended as follows:

ARTICLE VII. - USE TAX

Sec. 74-270. - Short title.

This Article shall be known and may be cited as the Cook County Home Rule County Use Tax Ordinance.

Sec. 74-271. - Definitions.

The following words, terms, and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Aircraft means a device that is used or intended to be used for flight in the air.

~~*Aircraft hangar* means a shelter for housing or repairing aircraft.~~

~~*Aircraft hangar operator* means any person who is the owner, operator or manager of an aircraft hangar located in the County.~~

County means Cook County, Illinois.

Department means the Department of Revenue.

Director means the director of the Department of Revenue or duly authorized representative.

~~*Dock* means a waterfront, pier, harbor, port, that serve as a landing area for watercraft.~~

~~*Docking facility* means a place for securing or storing watercraft or a place where watercraft can be moored or secured from drifting away.~~

IDOR means the Illinois Department of Revenue.

Lessor means any person engaged in the business of leasing, to others, tangible personal property. Lessors of Tangible Personal Property are the users of such property.

Moor means to fasten with or as fastened with cables, lines, anchors or otherwise.

Motor vehicle means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, including, but not limited to, aircraft, watercraft, cars,

trucks, or other similar vehicles; the term motor vehicle does not include vehicles moved solely by human power, motorized wheelchairs, low-speed electric bicycles, and low-speed gas bicycles.

Motor vehicle dealer means any person who, in the ordinary course of business, is engaged in the business of selling new or used motor vehicles to consumers or other end users.

Person means any individual, corporation, limited liability corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity.

Pole trailer means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

Purchase at retail means the acquisition, through a sale at retail, of ownership of or title to tangible personal property which is titled or registered with an agency of the State of Illinois.

Purchaser means any person who, through a sale at retail, acquires the ownership of or title to tangible personal property which is titled or registered with an agency of the State of Illinois.

Recreational vehicle means every camping trailer, motor home, mini-motor home, travel trailer, truck camper or van camper used primarily for recreational purposes and not used commercially nor owned by a commercial business.

Retailer means every person engaged in the business of making sales at retail of tangible personal property which is titled or registered with an agency of the state. A person who is engaged in the business of leasing or renting motor vehicles to others and who in connection with such business sells any used motor vehicle to a purchaser for such purchaser's use and not for the purpose of resale, is a retailer engaged in the business of selling tangible personal property at retail under this Article to the extent of the value of the vehicle sold. For the purpose of this Section, the term "motor vehicle" shall have the meaning provided by 625 ILCS 5/1-146 (motor vehicle defined).

Retailer maintaining a place of business in the County or any like term means and includes any retailer:

- (1) Having or maintaining within the County, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business or any agent or other representative operating within the County under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located in the County permanently or temporarily;
- (2) Making or effectuating sales for delivery into the County; or
- (3) Owning or possessing real or personal property located or used in the County for the purpose of or incidental to the making of sales at retail as defined in this Article.
- (4) Any retailer engaged in the business of making, outside Cook County, sales of tangible personal property titled or registered with the State of Illinois at a location inside Cook County, who ~~has obtained a valid Cook County Use Tax certificate of registration~~ is currently registered with the Department.

Sale at retail means any transfer for valuable consideration of the ownership of or title to tangible personal property which is to be titled or registered to a person at a location in the County with an agency of the State, for use in the County, where such transfer is not for the purpose of resale in any form as tangible personal property. Transactions whereby the possession of property is transferred but the seller retains title as security for payment of the selling price with transfer of title effected upon full payment of the selling price shall be deemed to be sales at retail. Sale at retail shall be construed to include any transfer of the ownership of or title to tangible personal property which is titled or registered with an agency

of the state, to a purchaser for use by any other person, to whom such purchaser may transfer, whether made for or without valuable consideration, for resale in any form as tangible personal property as defined in this Article, unless made in compliance with Section 74-278. Sale at retail includes any transfer of, ownership of or title to tangible personal property as defined in this Article, for use in the County incidental to a sale of service. The isolated or occasional sale at retail by a person who does not hold himself out as being engaged in or who does not habitually engage in selling titled or registered tangible personal property at retail, is not a sale at retail.

Selling price shall have the meaning as set forth in the Illinois Use Tax Act, 35 ILCS 105/2, or any successor statute.

Tangible personal property means tangible personal property, which is titled or registered, with an agency of the State of Illinois, to a person at a location within the corporate limits of the County.

Tax or use tax means the tax imposed by this Article, unless the context requires construction otherwise.

Tax collector means a retailer maintaining a place of business within the County.

Trailer means Recreational Trailers; TA Trailers; and Flat Weight (625 ILCS 5/1-209) titled or registered with the State of Illinois at a location inside Cook County.

Use means the exercise by any person of any right to or power over tangible personal property incident to the ownership of that property. The term "use" does not mean the interim holding of tangible personal property by a retailer before the retailer sells such tangible personal property or the incidental use of such property in the regular course of such business for sales demonstration purposes.

Use in Cook County means tangible personal property titled or registered, at a location in Cook County, with an agency of the State of Illinois.

User means any person whose name is on the tangible personal property title or registration.

Watercraft means every description of watercraft used or capable of being used as a means of transportation on water, except a seaplane on the water, inner-tube, air mattress or similar device, and boats used for concession rides in artificial bodies of water designed and used exclusively for such concessions.

~~*Watercraft dock operator* means any person who owns, operates, or manages a dock located in the County~~

Sec. 74-272. - Tax imposed, tax rate; collection; purchaser; and tax collector.

(a) *Tax imposed on user.* The tax imposed by this Article and the obligation to pay the same is upon the user, as described in this Article.

(b) *Tax Rate.* Except as provided in Section 74-273, a tax is imposed at the rate of one percent on the selling price of tangible personal property, purchased through a sale at retail, which is titled or registered with an agency of the State of Illinois at location inside Cook County.

(c) *Collection; remittance; sales receipt.* The tax imposed by this Article shall be collected from the purchaser by the tax collector as defined by Section 74-271, and remitted to the Department or its designee as provided in this Article. The tax imposed by this Article shall, when collected, be stated as a distinct item separate and apart from the selling price of tangible personal property; and, the tax collector when collecting the tax shall give to the purchaser a receipt for such tax in the manner and form prescribed by the Department. Such receipt shall be sufficient to relieve the purchaser from further liability for the tax to which such receipt may refer.

(d) *Tax paid by Purchaser.* Except as provided in Section 74-273, the purchaser shall pay the tax imposed by

this Article to the tax collector.

(e) *Tax Collector liable.* The tax collector shall be liable to the County for the amount of tax that it is required to collect; and, shall collect the tax from purchasers by adding the tax to the selling price of tangible personal property, when sold for use in the County, in the manner prescribed by this Article and the Department. If any retailer in collecting the amount which purports to constitute use taxes measured by receipts from sales which are subject to tax under this Article, collects more from the purchaser than the actual use tax liability on the transaction, the purchaser shall have a legal right to claim a refund of such amount from such retailer. However, if such amount is not refunded to the purchaser for any reason, the retailer is liable to pay such amount to the Department or its designee.

Sec. 74-273. - Purchaser paying tax directly to department or its designee.

(a) When tangible personal property is purchased from a retailer for use in the County by a purchaser or user subject to the tax imposed by this Article, and who did not pay the tax imposed by this Article to the retailer, and/or who did not file returns with the Department or its designee, as a retailer under Section 74-276, such purchaser or user shall, by the 20th day of calendar month following the month in which such purchase was made, file ~~and a~~ a return with the Department or its designee and pay the tax due under this Article.

~~(b) When tangible personal property is purchased by a lessor, which is subject to a lease for one year or longer, executed or in effect at the time of purchase, to an interstate carrier for hire, where such lessor did not pay the tax imposed by this Article to the retailer at the time of purchase, such lessor shall, by the 20th day of the calendar month following the month in which such property reverts to the use of such lessor, file a return with the Department or its designee and pay the tax imposed by this Article upon the fair market value of such property on the date of reversion.~~

(eb) When a purchaser or user pays the tax imposed by this Article directly to the Department or its designee, the Department or its designee shall issue an appropriate receipt to such purchaser or user showing that the tax has been paid to the Department or its designee. Such receipt shall be sufficient to relieve the purchaser or user from further liability for the tax to which the receipt may refer.

~~occasionally and not on a frequent recurring basis, and who is not required to file returns with the Department or its designee as a retailer under Section 74-276 concerning the filing of regular monthly tax returns and all provisions concerning the requirements of registrants to post bond or other security with the Department shall apply to such purchasers or users.~~

Sec. 74-274. - Transactions not subject to tax.

Notwithstanding any other provisions of this Article, uses of tangible personal property, as defined in Section 74-271, which are exempt under the applicable provisions of 55 ILCS 5/5-1008 (home rule county use tax) and the Use Tax Act (35 ILCS 105/1 et seq.) shall not be subject to the tax imposed by this Article.

Sec. 74-275. - Books and records to be kept.

It shall be the duty of all retailers, tax collectors and persons required by this Article to collect and/or to pay the taxes imposed in this Article to keep and maintain all books, papers and records related to all transactions taxable or non-taxable under this Article and to make such records available to the Director or his/her designee on request for inspection, audit and/or copying during regular business hours. Books, papers and records which relate to a return filed or required to be filed with the Department or its designee shall be kept for the taxable time period listed in statute of limitations section of the Uniform Penalties, Interest and Procedures Ordinance, Article III, Section 34-60 et seq.

Sec. 74-276. - Retailer registration and personal property; surety and cash bonds.

(a) *Retailer Registration.* Every retailer maintaining a place of business in the County, except those retailers

~~engaging in isolated or occasional sales as defined in 35 ILCS 105/2, shall register with the Department, to obtain a certificate of Use Tax registration, in accordance with policies and procedures prescribed by the Department. It shall be a violation for any retailer maintaining a place of business in the County to engage in the business of selling tangible personal property titled or registered, at an address or location in Cook County, with the State of Illinois without a Use Tax certificate of registration properly registering with the Department.~~

(b) *Surety; Cash Bonds.* To protect the County against the failure to pay an amount which may become due, retailers maintaining a place of business in the County shall provide to the Department or its designee a Surety or Cash Bond in the amount of \$5000.00 for each location in the County at which the retailer intends to act as a motor vehicle dealer. Such surety and cash bonds shall be for the term of registration, including its renewal and shall become due or owed to the beneficiary in accordance with rules promulgated by the Department. The Department shall be the surety or cash bond beneficiary. The Surety Bond shall be obtained from a surety bonding or insurance company authorized to do business in the state of Illinois, ~~and shall expire not sooner than December 31 of the year for which the registration was issued or renewed.~~ Retailers shall maintain active surety bonds on-record with the Department throughout the duration of registration.

Sec. 74-277. - Filing of returns and remittances.

(a) *Monthly returns; remittances; due date.* Except as provided in this Section, a tax collector, as described in this Article, shall file a return and remit payment on or before the 20th day of each calendar month following the month for which the tax is due. A tax collector shall file a monthly return even when no tax is due.

(b) *Final monthly return; remittance.* Any tax collector who ceases to engage in the business of making retail sales of tangible ~~person~~ personal property, which is titled or registered with an agency of the State of Illinois, at a location in the County shall file a final return under this Article with the Department or its designee not later than one calendar month after making the last sale at retail. All taxes due to be paid to the County shall be remitted to the County at the time the final return is filed with the Department.

(c) Any ~~tax collector retailer filing an information return under this Section~~ shall also report, for the purpose of paying taxes due thereon, the total tax, if any, imposed upon it for the use of tangible personal property purchased by it for its own use, where such tax was not otherwise collected by the selling retailer. Such filing retailer shall remit the tax to the Department when filing such return.

(d) Notwithstanding the provisions of this Article, in the event IDOR collects all or part of the tax imposed by this Article, the part of the tax being collected by IDOR must be remitted in accordance with IDOR policies and procedures on forms and in the manner designated by IDOR.

Sec. 74-278. - Resellers of tangible personal property. Reserved.

(a) If a purchaser is not registered with the Department as a tax collector, but claims to be a reseller of tangible personal property in such a way that the purchaser's use is not taxable under this Article, such purchaser shall apply to the Department for a County resale number. Such applicant shall state facts which demonstrate to the Department why the applicant is not liable for tax under this Article and shall furnish such additional information as the Department may reasonably require.

(b) Upon approval of the application, the Department shall assign a resale number to the applicant and shall certify such number to the applicant. The Department may cancel any such number which is obtained through misrepresentation, or which is used to make a use tax-free purchase when the purchaser in fact is not a purchaser for resale, or where the purchaser has discontinued the reselling of property. Except as provided in this Section, no use shall be made tax-free on grounds of the retailer's sale being a sale for resale unless the purchaser has an active County registration number or County resale number from the Department, and furnishes that number to the retailer in connection with certifying to the retailer that any use by such purchaser is nontaxable because of the retailer's sale being a sale for

resale.

Sec. 74-279. - Duty of department to collect.

(a) It shall be the duty of the Department to collect and receive the tax imposed by this Article. The Department shall keep an accurate and separate account of all such tax payments received by it showing the name and address of the person remitting the tax and the date of each payment.

(b) The Director is hereby empowered to adopt, promulgate and enforce, rules and regulations not inconsistent with this Article, relating to the administration and enforcement of the provisions of this Article, including provisions for examination, reexamination, correction and amendment of all returns filed or required to be filed pursuant to this Article or request the Department of Administrative Hearings to conduct hearings, to aid in establishing liability for payment of taxes due under this Article.

(c) The Director or any person designated by the Director, including, but not limited to, the County Auditor, is hereby authorized to examine the books, papers and records of any tax collector during regular business hours, in order to verify the accuracy of any return made, or if no return was made, to ascertain the tax imposed by this Article.

(d) Pursuant to Section 55 ILCS 5/5-1008 of the Illinois Counties Code, as amended, IDOR may collect, administer, and enforce the tax imposed by this Article when tangible personal property is purchased at retail from a retailer located in the State of Illinois outside of Cook County. At such time that IDOR begins to collect the tax, including any civil penalties that may be assessed as an incident thereto, IDOR shall have full power to administer and enforce the provisions of this Article; with respect to the portion of the tax it collects. The Department retains the right to administer and enforce the provisions of this Article on all tax that the Department continues to collect.

Sec. 74-280. - Tax additional.

The tax imposed in this Article is in addition to all other taxes imposed by the County, the State or any municipal corporation or political subdivision thereof.

Sec. 74-281. - Aircraft hangar and watercraft dock operators. Reserved.

(a) ~~Aircraft hangar and watercraft dock operator registration.~~ To enforce the collection of Use Tax on aircraft and watercraft titled or registered at a location in Cook County with an agency of the State of Illinois, every aircraft hangar and watercraft dock operator, as described in this Article, shall register with the Department within 30 days of the effective date of this ordinance.

(b) ~~Docking facility information returns.~~ Aircraft hangar and watercraft dock operators shall file an annual information return on forms, including such information as prescribed by the Department, on the last day of the month following the year for which the return is due.

(b) ~~Motor vehicle dealer remittance.~~ Motor vehicle dealers maintaining a place of business in the County shall remit all taxes imposed by this Article directly to the Department. The IDOR shall have the authority to collect and remit to the Department all other taxes imposed by this Article that are collected by motor vehicle dealers who do not maintain a place of business in the County.

Sec. 74-282. - Violations; penalty.

(a) Any person determined to have violated this Article, as amended, shall be subject to a fine of \$1,000.00 for the first offense, and a fine of \$2,000.00 for the second and each subsequent offense. Separate and distinct offense shall be regarded as committed each day upon which said person shall continue any such violation; or permit any such violation to exist after notification thereof. It shall be deemed a violation of this Article for any person to knowingly furnish false or

inaccurate information to the Department. Criminal prosecution pursuant to this Article shall in no way bar the right of the County to institute civil proceedings to recover delinquent taxes, interest, and penalty due and owing as well as costs incurred for such proceeding.

(b) In the event all or a portion of this tax is collected on behalf of the County by IDOR, the Uniform Penalty and Interest Act, 35 ILCS 735, shall govern the types of fees and fines that may be collected and the amounts of said fees and fines with respect to the portion of the tax they collect. Notwithstanding the applicability of the Uniform Penalty and Interest Act for this purpose, any fees and fines collected by IDOR on behalf of the County shall be disbursed to the County in accordance with Section 55 ILCS 5/5-1008 of the Counties Code.

Sec. 74-283. - Application of uniform penalties, interest, and procedures ordinance.

Whenever not inconsistent with the provisions of this Article or whenever this Chapter is silent, the provisions of the uniform penalties, interest and procedures ordinance, Chapter 34 Finance, Article III, Uniform Penalties, Interest and Procedures, of this Code shall apply and supplement this Article.

Secs. 74-284-74-319. - Reserved.

Effective date: This ordinance amendment shall be in effect immediately upon adoption.