Legislation Details (With Text)

File #:	16-1377	**Version:**	1	**Name:**	USE TAX (Purchaser paying tax directly to department; Books and records to be kept)
Type:	Ordinance Amendment			**Status:**	Approved
File created:	1/26/2016			**In control:**	Finance Committee
On agenda:	4/13/2016			**Final action:**	5/11/2016
Title:	PROPOSED ORDINANCE AMENDMENT				

USE TAX

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 74 - Taxation, Article VII. Use Tax, Sections 74-272, 74-273, 74-275 and 74-277 of the Cook County Code is hereby amended as Follows:

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 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 74-277273, 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.

Sec. 74-273. - Purchaser paying tax directly to department.

(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 who did not file returns with the Department as a retailer under Section 74-276, such purchaser or user shall, by the 20thlast day of calendar month following the month in which such purchase was made, file and return with the Department and pay the tax due under this Article.

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(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 last day of the calendar month in which such property reverts to the use of such lessor, file a return with the Department and pay the tax imposed by this Article upon the fair market value of such property on the date of reversion.

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

(d) A purchaser or user who is liable to pay use tax directly to the Department only occasionally and not on a frequent recurring basis, and who is not required to file returns with the Department 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.

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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 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 shall be kept for athe taxable time period as provided forlisted in the statute of limitations section of the in Chapter 34, Article III, Uniform Penalties, Interest and Procedures Ordinance, Article III, Sec. 34-60 et seq.

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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 twentieth 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 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 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) Tax collector Annual Return. Tax collectors shall file an annual information return, on forms and including such information as prescribed by the Department, on the last day of the month following the year for which the return is due.

(cd) Any 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.

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

Sponsors: TONI PRECKWINKLE (President)

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
5/11/2016	1	Board of Commissioners	approve	Pass
5/11/2016	1	Finance Committee	recommend for approval	Pass
4/13/2016	1	Board of Commissioners	refer	Pass

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(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 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-~~277~~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.

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(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 who did not file returns with the Department as a retailer under Section 74-276, such purchaser or user shall, by the 20th~~last~~ day of calendar month following the month in which such purchase was made, file and return with the Department 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

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imposed by this Article to the retailer at the time of purchase, such lessor shall, by the last day of the calendar month in which such property reverts to the use of such lessor, file a return with the Department and pay the tax imposed by this Article upon the fair market value of such property on the date of reversion.

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

(d) A purchaser or user who is liable to pay use tax directly to the Department only occasionally and not on a frequent recurring basis, and who is not required to file returns with the Department 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.

* * *

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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 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 shall be kept for ~~a~~the taxable time period ~~as provided for~~listed in the statute of limitations section of the ~~in Chapter 34, Article III,~~ Uniform Penalties, Interest and Procedures Ordinance, Article III, Sec. 34-60 *et seq*.

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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 twentieth 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 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 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.

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(c~~d~~) Any 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.

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