



# Board of Commissioners of Cook County

118 North Clark Street  
Chicago, IL

## Legislation Text

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### PROPOSED ORDINANCE AMENDMENT

#### COOK COUNTY USE TAX ON NON-RETAILER TRANSFERS OF NEW MOTOR VEHICLES

**BE IT ORDAINED**, by the Cook County Board of Commissioners that, Chapter 74, Taxation, Article XVII, Cook County Use Tax on Non-Retailer Transfers of Motor Vehicles, Section 74-595 through 74-604 of the Cook County Code shall be amended as follows:

#### ARTICLE XVII. - COOK COUNTY USE TAX ON NON-RETAILER TRANSFERS OF MOTOR VEHICLES

##### **Sec. 74-595. Short title.**

This Article shall be known and may be cited as the "Cook County Home Rule Use Tax Ordinance for Non-retailer Transfers of Motor Vehicles." The tax shall be known as the "Cook County Home Rule Use Tax for Non-retail Transfers of Motor Vehicles" and is imposed in addition to all other taxes imposed by the County of Cook, the State of Illinois or any other municipal corporation or political subdivision of the State of Illinois.

##### **Sec. 74-596. 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:

*County* means Cook County, Illinois.

*Department* means the Cook County Department of Revenue.

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

*Illinois Use Tax Act* means the Use Tax Act, effective July 14, 1955, as amended, 35 ILCS 105/1 et seq.

*Illinois Vehicle Code* means the Illinois Vehicle Code, effective July 1, 1970, as amended, 625 ILCS 5/1 et seq.

*Motorcycle* means motorcycle, motor-driven cycle, three- or four-wheel all-terrain vehicle (ATV), or motorized pedalcycle.

*Motor vehicle* means a motor vehicle, as defined by the Illinois Vehicle Code, which is titled or registered with an agency of the State of Illinois at a location within the corporate limits of the County of Cook.

*Tax* or *use tax* means the tax imposed by this article, unless the context requires construction.

*Use* has, to the extent applicable, the meaning set forth in the Illinois Use Tax Act.

*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 motor vehicle title or registration.

**Sec. 74-597. Tax imposed and tax rate.**

(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.

(1) Except as otherwise provided by this chapter, a tax is imposed upon the privilege of using in the County any motor vehicle that is acquired by purchase, gift or transfer. The ultimate incidence of and obligation for payment of the tax is on the person that acquires the motor vehicle by purchase, gift or transfer.

(2) Notwithstanding Subsection (a)(1) of this section, the tax shall not apply if the motor vehicle is purchased at retail from a retailer and the purchaser is required to pay Use Tax per Article VII [of this chapter] of the County's Code or is exempt pursuant to Section 74-599 of this Article.

(b) Nothing in this article shall be construed to impose a tax upon any business or activity which, under the constitutions of the United States and the State of Illinois, may not be made the subject of taxation by the County.

(c) Tax rate on motor vehicles through July 31, 2013. A use tax at the following rates is hereby imposed on the non-retailer transfers of motor vehicles in Cook County through July 31, 2013.

Age of Motor Vehicle	Tax Due
5 years or newer	\$225.00
6 to 10 years	\$200.00
11 or older	\$175.00

The rate of the use tax imposed shall be reduced to \$25.00 regardless of the age of each motor vehicle acquired from a non-retailer under the following circumstances:

(1) The transferee or purchaser is the spouse, mother, father, brother, sister or child of the transferor and proof of family relationship is established;

(2) The transfer is a gift to a beneficiary in the administration of an estate and the beneficiary is not a surviving spouse;

(3) The motor vehicle has been taxed pursuant to the Illinois Retailers' Occupation Tax Act, 35 ILCS 120/1 et seq., as amended, or the Illinois Use Tax Act or any other state retailers' occupation tax, sales tax or use tax and the motor vehicle is transferred in connection with the organization, reorganization, dissolution or partial liquidation of an incorporated or unincorporated business provided that the beneficial ownership is not changed.

(d) Tax rate on motor vehicles effective August 1, 2013. A use tax at the following rates is hereby imposed on the non-retailer transfers of motor vehicles other than motorcycles.

Age of Motor Vehicle	Tax Due
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3 years or newer	\$225.00
4 to 8 years	\$175.00
9 years or older	\$90.00

Except as provided in Subsection (e), the rate of the use tax imposed shall be reduced to \$25.00 regardless of the age of each motor vehicle acquired from a non-retailer under the following circumstances:

(1) The transferee or purchaser is the spouse, mother, father, brother, sister or child of the transferor and proof of family relationship is established in a manner prescribed by the Department; or, in the event the tax is collected on behalf of the County by the Illinois Department of Revenue pursuant to Section 74-598(c), in a manner prescribed by the Illinois Department of Revenue; or

(2) The transfer is a gift to a beneficiary in the administration of an estate and the beneficiary is not a surviving spouse; or

(3) The motor vehicle has been taxed pursuant to the Illinois Retailers' Occupation Tax Act, 35 ILCS 120/1 et seq., as amended, or the Illinois Use Tax Act or any other state retailers' occupation tax, sales tax or use tax and the motor vehicle is transferred in connection with the organization, reorganization, dissolution or partial liquidation of an incorporated or unincorporated business provided that the beneficial ownership is not changed; or

(4) The motor vehicle was purchased by an individual who can document in a manner proscribed by the Director that he or she:

(i) Currently receives Social Security Disability; or

(ii) Currently receives Supplemental Security Income and is enrolled in a degree program, continuing education, job training program and/or employed.

(e) In the event the tax referenced in Subsection (d) above is collected on behalf of the County by the Illinois Department of Revenue pursuant to Section 74-598, individuals who meet the criteria of Subsection (d)(4) above must pay the applicable \$225.00, \$175.00 or \$90.00 rate in Subsection (d) to the Illinois Department of Revenue but are entitled to apply for a tax rebate from the County for any amount paid above \$25. Claims for the rebate must be made with the Department within 60 days of paying the original tax, upon forms prescribed by the Department, and accompanied by such proof required by the Department to substantiate eligibility for the rebate..

(fe) Tax rate on motorcycles effective August 1, 2013. The rate of the use tax imposed on the non-retailer transfer of motorcycles shall be \$90.00 for each non-retailer transfer. The rate of the tax imposed on the non-retailer transfer of motorcycles shall be reduced to \$25.00 under the following circumstances:

(1) The transferee or purchaser is the spouse, mother, father, brother, sister or child of the transferor and proof of family relationship is established in a manner prescribed by the Department; or, in the event the tax is collected on behalf of the County by the Illinois Department of Revenue pursuant to Section 74-598(c), in a manner prescribed by the Illinois Department of Revenue; or

(2) The transfer is a gift to a beneficiary in the administration of an estate and the beneficiary is not a surviving spouse; or

(3) The motorcycle has been taxed pursuant to the Illinois Retailers' Occupation Tax Act, 35 ILCS 120/1 et seq., as amended, or the Illinois Use Tax Act or any other state retailers' occupation tax, sales tax or use tax and the motorcycle is transferred in connection with the organization, reorganization, dissolution or partial liquidation of

an incorporated or unincorporated business provided that the beneficial ownership is not changed.

#### **Sec. 74-598. Duty of department to collect.**

(a) ~~Except as provided in Subsection (c) 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 Hearing to conduct hearings, to aid in establishing liability for payment of taxes due under this article.

(c) The Department may enter into and execute an Agreement with the Illinois Department of Revenue to allow the Illinois Department of Revenue to collect and transmit the tax imposed by this article on behalf of and to the County. At such time that the Illinois Department of Revenue begins to collect the tax pursuant to such an agreement, including any civil penalties that may be assessed as an incident thereto, the Illinois Department of Revenue shall have full power to administer and enforce the provisions of this Article.

#### **Sec. 74-599. Exemptions.**

Notwithstanding any other provision of this article, the tax imposed by this article shall not apply to:

(a) A motor vehicle that is purchased and used by a governmental agency or a society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes;

(b) The use of a motor vehicle that is exempt under the ~~applicable provisions of Section 3-55(b), (c), (d), (e) or (f) of the Illinois Use Tax Act;~~

(c) Implements of husbandry;

(d) A motor vehicle for which a junking certificate has been issued pursuant to Section 3-117.1(a) of the Illinois Vehicle Code;

~~(e) A motor vehicle that is subject to the replacement vehicle tax imposed by either Section 3-2001 of the Illinois Vehicle Code;~~

~~(ef) A motor vehicle that is transferred as a gift to a beneficiary in the administration of an estate and the beneficiary is a surviving spouse.~~

#### **Sec. 74-600. - Obligation of taxpayers to file returns and pay tax.**

(a) Every person that is required to pay the tax imposed by this article shall file a return on a form prescribed by the Director and pay all applicable tax to the Department or its designee within 30 days after~~on or before the last day of the calendar month following the month that~~ the motor vehicle or motorcycle was acquired.

(b) In the event this tax is collected on behalf of the County by the Illinois Department of Revenue pursuant to Sec. 74-598, payment of this tax shall be a condition to titling or registering the vehicle if such condition is permitted or required under state law, and, upon request of the payor, a receipt acknowledging payment of this tax will be provided by

the Illinois Department of revenue as evidence of payment, if such receipt is permitted or required under state law. 625 ILCS 5/3-1002

**Sec. 74-601. - Rules and regulations.**

The director is authorized to adopt, promulgate and enforce reasonable rules and regulations pertaining to the administration and enforcement of this article.

**Sec. 74-602. - 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. 74-603. - Violations; penalty.**

(a) Except as provided in Subsection (b), aAny user determined to have violated this article, as amended, shall be subject to fees and fines as stated in the uniform penalties, interest and procedures ordinance, Chapter 34, Finance, Article III, Uniform Penalties, Interest and Procedures. 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 this tax is collected on behalf of the County by the Illinois Department of Revenue, 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. Notwithstanding the applicability of the Uniform Penalty and Interest Act for this purpose, any fees and fines collected by the Illinois Department of Revenue on behalf of the County shall be disbursed to the County in accordance with the terms of the intergovernmental agreement that governs the collection of that tax. It shall be deemed a violation of this article for any person to knowingly furnish false or inaccurate information to the County or Illinois Department of Revenue. Criminal prosecution shall in no way bar the right of the Illinois Department of Revenue to institute civil proceedings to recover delinquent taxes, interest and penalties due and owing as well as costs incurred for such proceeding.

**Sec. 74-604. - Application of uniform penalties, interest and procedures ordinance.**

Whenever not inconsistent with the provisions of this article or whenever this article 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.

**BE IT FURTHER ORDAINED**, by the Cook County Board of Commissioners that the Clerk of the Board shall transmit a certified copy of this Ordinance Amendment to the Cook County Director of Revenue and the Director of the Illinois Department of Revenue within five days after its effective date.

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