

TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUE

PART 180  
AUTOMOBILE RENTING OCCUPATION TAX

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39 AUTHORITY: Implementing the Automobile Renting Occupation and Use Tax Act [35 ILCS  
40 155] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois.  
41 (Department of Revenue Law) [20 ILCS 2505/2505-25].  
42

43 SOURCE: Adopted and codified at 7 Ill. Reg. 9397, effective July 25, 1983; amended at 13 Ill.  
44 Reg. 9332, effective June 6, 1989; amended at 16 Ill. Reg. 4859, effective March 12, 1992;  
45 amended at 24 Ill. Reg. 12063, effective July 28, 2000; amended at 25 Ill. Reg. 8323, effective  
46 June 22, 2001; amended at 26 Ill. Reg. 4935, effective March 15, 2002; amended at 38 Ill. Reg.  
47 12934, effective June 9, 2014; amended at 48 Ill. Reg. 10757, effective July 2, 2024; amended at  
48 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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50 SUBPART A: NATURE OF THE TAX

51  
52 **Section 180.101 Character And Rate Of The Tax**

- 53  
54 a) The Automobile Renting Occupation and Use Tax Act [35 ILCS 155] (the Act)  
55 *imposes a tax upon persons engaged in this State in the business of renting*  
56 *automobiles in Illinois under lease terms of one year or less at the rate of 5% of*  
57 *the gross receipts from such business.* [\[35 ILCS 155/3\]](#) ~~(Section 3 of the Act)~~  
58  
59 b) "Automobile" means any motor vehicle of the first division [that is used for](#)  
60 [automobile renting, as defined in the Act,](#) ~~that is used for automobile renting, as~~  
61 ~~defined in the Act,~~ or a motor vehicle of the second division [that is used for](#)  
62 [automobile renting, as defined in the Act, and](#) ~~that is used for automobile renting,~~  
63 ~~as defined in the Act, and~~ which is a self-contained motor vehicle designed or  
64 permanently converted to provide living quarters for recreational, camping or  
65 travel use, with direct walk through access to the living quarters from the driver's  
66 seat; is of the van configuration designed for the transportation of not less than 7  
67 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle  
68 Code [625 ILCS 5/1-146]; or, [beginning January 1, 2014,](#) ~~beginning January 1,~~  
69 ~~2014,~~ has a Gross Vehicle Weight Rating, as defined in Section 1-124.5 of the  
70 Illinois Vehicle Code, of 8,000 pounds or less. [\[35 ILCS 155/2\]](#) ~~(Section 2 of the~~  
71 ~~Act)~~ This includes motorcycles and motor driven cycles.  
72  
73 1) Under Section 1-146 of the Illinois Vehicle Code, a motor vehicle is  
74 defined as *every vehicle which is self-propelled and every vehicle which is*  
75 *propelled by electric power obtained from overhead trolley wires, but not*  
76 *operated upon rails, except for vehicles moved solely by human power,* ~~and~~  
77 *motorized wheelchairs, low-speed electric bicycles, as defined in Section*  
78 *140.10 of the Illinois Vehicle Code [625 ILCS 5/140.10], and low-speed*  
79 *gas bicycles, as defined in Section 1-140.15 of the Illinois Vehicle Code*  
80 *[625 ILCS 5/140.15].* [625 ILCS 5/1-146]  
81  
82 2) Under Section 1-146 of the Illinois Vehicle Code, motor vehicles are  
83 classified as either first or second division motor vehicles. The manner in  
84 which a vehicle is classified generally reflects the purpose for which it is  
85 primarily used. As a result of this classification, a motor vehicle will be

86 registered as either a first or second division vehicle, and will receive a  
87 plate reflecting such registration. The following examples are illustrative:  
88

89 A) Under Section 1-146 of the Illinois Vehicle Code, first division  
90 motor vehicles are defined as *motor vehicles which are designed*  
91 *for carrying not more than 10 persons.* [625 ILCS 5/1-146] Under  
92 Section 2 of the Act, all motor vehicles registered with the  
93 Secretary of State as first division motor vehicles qualify as  
94 automobiles subject to tax under the Act. Consequently, passenger  
95 cars and motorcycles are "automobiles" subject to tax under the  
96 Act.  
97

98 B) Second division motor vehicles generally include motor vehicles  
99 serving purposes other than or in addition to serving as passenger  
100 cars. Second division vehicles include *motor vehicles which are*  
101 *designed for carrying more than 10 persons, those vehicles*  
102 *designed or used for living quarters, those motor vehicles designed*  
103 *for pulling or carrying freight, cargo or implements of husbandry;*  
104 *motor vehicles designed for carrying more than 10 persons; motor*  
105 *vehicles designed or used for living quarters; and those motor*  
106 *vehicles of the First Division remodeled ~~first division remodeled~~ for*  
107 *use and used as motor vehicles of the Second Division ~~second~~*  
108 *division.* [625 ILCS 5/1-146] A pick-up truck is a second division  
109 vehicle because it is designed for pulling or carrying freight.  
110 Section 2 of the Act provides that the only types of second division  
111 vehicles subject to tax include:  
112

- 113 i) self-contained motor vehicles designed or permanently  
114 converted to provide living quarters for recreational,  
115 camping or travel use, with direct walk through access to  
116 the living quarters from the driver's seat;  
117  
118 ii) motor vehicles which are of the van configuration designed  
119 for the transportation of not less than 7 nor more than 16  
120 passengers; and  
121  
122 iii) beginning January 1, 2014, a motor vehicle that has a Gross  
123 Vehicle Weight Rating, as defined in Section 1-124.5 of the  
124 Illinois Vehicle Code, of 8,000 pounds or less.  
125

126 C) Pick-up Trucks  
127

- 128 i) Through ~~Until~~ December 31, 2013, pick-up trucks are not

- 129 subject to tax under the Act because they are not one of the  
130 types of second division motor vehicles specified as  
131 automobiles under the terms of the Act.  
132
- 133 ii) Beginning January 1, 2014, pick-up trucks are subject to  
134 tax under the Act only if they are one of the types of second  
135 division motor vehicles specified as automobiles under  
136 subsection (b)(2)(B)(iii).  
137
- 138 D) SUVs  
139
- 140 i) Multipurpose passenger vehicles, commonly referred to as  
141 "sport utility vehicles (SUVs)", may be registered as either  
142 first or second division motor vehicles. If an SUV is  
143 registered as a first division motor vehicle, it is an  
144 automobile subject to tax under the Act. ~~Through~~Until  
145 December 31, 2013, if an SUV is registered as a second  
146 division motor vehicle, it is not an automobile subject to  
147 tax under the Act because it is not one of the types of  
148 second division motor vehicles specified as automobiles  
149 under the terms of the Act.  
150
- 151 ii) Beginning January 1, 2014, if an SUV is registered as a  
152 second division motor vehicle, it is an automobile subject  
153 to tax only if it is one of the types of second division motor  
154 vehicles specified as automobiles under subsection  
155 (b)(2)(B)(iii).  
156
- 157 3) Lessors engaged in the business of leasing motor vehicles that are not  
158 subject to tax under the Act generally incur a Use Tax liability on the cost  
159 price of motor vehicles purchased for leasing purposes. For more  
160 information on the liability of lessors, see the provisions of 86 Ill. Adm.  
161 Code 130.220 and 130.2010.  
162
- 163 c) How To Determine Effective Rate  
164 Automobile Renting Occupation Tax liability shall be computed by applying to  
165 the gross receipts from taxable rental transactions, the tax rate in effect during the  
166 rentee's possession of the rented automobile. Where a rate change takes effect  
167 during a rentee's possession, all rental receipts received from that rentee after the  
168 effective date of the rate change are subject to the new rate. If a rentee takes  
169 possession after a rate change in a rental transaction in which the rentor received  
170 rental receipts before the date of the rate change and the tax was paid on such  
171 receipts when received by the rentor at the rate in effect when the rentor received

172 those receipts, no additional tax will be due or credit allowed because the rentee  
173 took possession after the effective date of the rate change.

174  
175 d) Effective Date of New Taxes

176 When something that has been exempted becomes taxable as to rental transactions  
177 that are made on and after some particular date, the date of rental for this purpose  
178 shall be deemed to be the date of possession or right to possession of the  
179 automobile. This is true even if such possession is taken under a contract that was  
180 entered into before the effective date of the new tax.

181  
182 e) Relation of Automobile Renting Occupation Tax To The Automobile Renting Use  
183 Tax

184  
185 1) The Automobile Renting Occupation Tax is an occupation tax, the legal  
186 incidence of which is on the rentor rather than on the rentee.

187  
188 2) However, the rentor becomes a tax collector under the Automobile  
189 Renting Use Tax and is required to collect that tax from rentees. In  
190 making that collection, rentors may rely on the tax collection schedules  
191 prescribed in the Department's Use Tax Regulations for the collection of  
192 the Use Tax by retailers from users. Consequently, the tax collection  
193 schedules set out in 86 Ill. Adm. Code 150. Table A are incorporated by  
194 reference herein.

195  
196 (Source: Amended at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

197  
198 SUBPART B: GROSS RECEIPTS, AUTHORIZED DEDUCTIONS  
199 AND NON-TAXABLE TRANSACTIONS

200  
201 **Section 180.120 The Meaning of Gross Receipts**

202  
203 a) "Gross receipts" or "rent" means all consideration received by a rentor from the  
204 rentee or someone else as the rental price for the rental of automobiles under lease  
205 terms of one year or less. Where a rentor receives the rental price in installment  
206 payments, the rentor shall include the amounts of such payments only as and  
207 when the payments are received by the rentor from the rentee or someone else.

208  
209 b) All consideration received as the rental price must be included in gross receipts  
210 *whether received in money or otherwise, including cash, credits, property and*  
211 *services.* ~~[35 ILCS 155/2](Ill. Rev. Stat. 1981, ch. 120, par. 1702.)~~

212  
213 c) There is no deduction from gross receipts on account of the cost of the property  
214 rented, the cost of materials used, labor or service cost or any other expense

215 whatever.

- 216
- 217 d) "Rental price" does not include consideration paid for peer-to-peer car sharing to
- 218 a shared-vehicle owner or a car-sharing program, as those terms are defined in
- 219 Section 5 of the Car-Sharing Program Act [815 ILCS 312], if tax due on the
- 220 automobile under the Retailers' Occupation Tax Act or Use Tax Act was paid
- 221 upon the purchase of the automobile or when the automobile was brought into
- 222 Illinois.
- 223
- 224 e) "Rentor" means any person, firm, corporation or association engaged in the
- 225 business of renting or leasing automobiles to users. For this purpose, the
- 226 objective of making a profit is not necessary to make the renting activity a
- 227 business. "Rentor" does not include a car-sharing program or a shared-vehicle
- 228 owner, as defined in Section 5 of the Car-Sharing Program Act [815 ILCS 312], if
- 229 tax due on the automobile under the Retailers' Occupation Tax Act or Use Tax
- 230 Act was paid upon the purchase of the automobile or when the automobile was
- 231 brought into Illinois.
- 232
- 233 f) "Rentee" means any user to whom the possession, or the right to possession, of an
- 234 automobile is transferred for a valuable consideration for a period of one year or
- 235 less, whether paid for by the "rentee" or by someone else. "Rentee" does not
- 236 include a shared-vehicle driver, as defined in Section 5 of the Car-Sharing
- 237 Program Act [815 ILCS 312], if tax due on the automobile under the Retailers'
- 238 Occupation Tax Act or Use Tax Act was paid upon the purchase of the automobile
- 239 or when the automobile was brought into Illinois. [35 ILCS 155/2]

240 (Source: Amended at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

241

242

243 **Section 180.125 Authorized Deductions from Gross Receipts**

244

- 245 a) "Gross receipts" on which the Automobile Renting Occupation Tax must be
- 246 computed do not include receipts from the following separately stated charges
- 247 added to rentees' billings:
- 248
- 249 1) charges added on account of the rentor's duty to collect the Automobile
- 250 Renting Use Tax from rentees or passed on because of the rentor's liability
- 251 under the Automobile Renting Occupation Tax or passed on because of
- 252 the rentor's liability under Municipal, County, Metropolitan Pier and
- 253 Exposition Authority, Regional Transportation Authority, or Metro East
- 254 Mass Transit District Automobile Renting Occupation Taxes;
- 255
- 256 2) receipts from rentees in consideration of waivers of claims for loss or
- 257 damage to automobiles rented;

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- 3) receipts from separately stated charges for insurance;
- 4) receipts from separately stated charges for recovery of refueling costs;
- 5) receipts from any other separately stated charges which are not for the use of tangible personal property. [\[35 ILCS 155/2\]](#)

b) [Effective July 20, 1999](#), ~~Effective July 20, 1999~~, "gross receipts" does not include receipts received by an automobile dealer from a manufacturer or service contract provider for the use of an automobile by a person while that person's automobile is being repaired by that automobile dealer and the repair is made pursuant to a manufacturer's warranty or a service contract where a manufacturer or service contract provider reimburses that automobile dealer pursuant to a manufacturer's warranty or a service contract and the reimbursement is merely made to recover the costs of operating the automobile as a loaner vehicle. [\[35 ILCS 155/2\]](#)

- 1) For example, an automobile dealer makes repairs for an automobile owner under the terms of a manufacturer's warranty. The manufacturer's warranty provides that the manufacturer will provide the owner with another automobile to drive while the owner's automobile is being repaired. Pursuant to the terms of an agreement between the manufacturer and the dealer, the dealer provides the owner with a replacement automobile either from its sales inventory or from its rental inventory. In exchange, the manufacturer compensates the dealer for that replacement automobile. However, under the terms of the agreement between the manufacturer and the dealer, that compensation is limited to an amount intended only to reimburse the dealer for the dealer's costs of operating the replacement automobile as a loaner vehicle. Compensation paid to a dealer by a manufacturer or service contract provider under these circumstances that merely reimburses the dealer for [the dealer's](#)~~his~~ cost of operating the replacement automobile as a loaner vehicle is not subject to the tax. However, if the dealer charges a customer amounts that exceed the compensation paid to [the dealer](#)~~him~~ by the manufacturer or service contract provider as reimbursement for the cost of operating the replacement vehicle as a loaner vehicle, the excess receipts are subject to the tax.

- A) Costs of operating the replacement automobile as a loaner vehicle may include the cost of paperwork to issue the loaner vehicle or to receive reimbursement from the manufacturer; time needed by the dealership employee to fill out the paperwork; preparing the

301                    loaner; giving keys to the customer; instructing the customer on  
302                    use and when to return the loaner; depreciation of the loaner  
303                    vehicle; cost of insurance on the loaner vehicle; needed time and  
304                    materials used to clean the loaner vehicle when returned; and  
305                    fueling and servicing the loaner vehicle.

307                    B)     In order to exclude receipts from a manufacturer or service  
308                    contract provider that merely reimburse him for his costs of  
309                    operating the replacement automobile as a loaner vehicle, a dealer  
310                    must maintain books and records documenting such costs.

312                    2)     Sometimes, the dealer does not provide the owner with a replacement  
313                    automobile from its own inventory. Rather, the automobile dealer rents an  
314                    automobile from a separate automobile rentor and then provides that  
315                    automobile to the owner whose automobile is being repaired pursuant to  
316                    the manufacturer's warranty. In this situation, the dealer's rental from the  
317                    automobile rentor is a non-taxable rental so long as all the requirements of  
318                    Section 180.135 of this Part are satisfied. The dealer's subsequent  
319                    provision of an automobile to the owner is non-taxable so long as the  
320                    requirements of this subsection (b) are satisfied.

322                    3)     If an owner rents an automobile from an automobile rentor that is not the  
323                    dealer making the repairs to his automobile, the exclusion set out in this  
324                    subsection (b) is not available. In addition:

326                    A)     The exclusion does not apply even though the dealer reimburses  
327                    the owner for the rental.

329                    B)     The exclusion does not apply even though the automobile rentor is  
330                    a separate entity related to the automobile dealer. For example, if  
331                    one person operates an automobile dealership as one corporation  
332                    and an automobile rental business as a separate corporation, the  
333                    procedure set out in subsection (b)(2) must be followed in order for  
334                    the exclusion to apply.

336                    (Source: Amended at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

338     **Section 180.130 Nontaxable Transactions**

339     The tax does not apply to rental receipts from the following transactions:

341                    a)     *The renting of automobiles to any governmental body, nor to any corporation,*  
342                    *society, association, foundation or institution organized and operated exclusively*  
343



344 *for charitable, religious or educational purposes, nor to any not-for-profit*  
345 *corporation, society, association, foundation, institution or organization which*  
346 *has no compensated officers or employees and which is organized and operated*  
347 *primarily for the recreation of persons 55 years or older* [\[35 ILCS 155/3\]](#)  
348 *(Section 3 of the Act);*

- 349
- 350 b) isolated or occasional automobile renting transactions;
- 351
- 352 c) the renting of automobiles under lease terms of more than one year;
- 353
- 354 d) the renting of motor vehicles which do not fall within the definition of automobile
- 355 as set forth in ~~Section~~[Subsection](#) 180.101(b);
- 356
- 357 e) transactions protected by the Commerce Clause of the United States Constitution
- 358 (U.S. Const. art. 1, sec. 8, cl. 3);
- 359
- 360 f) transactions in which the rentor furnishes the service of operating the automobile,
- 361 so that the rentor or the rentor's agent remains in possession of the automobile [\[35](#)
- 362 [ILCS 155/2\]](#);
- 363
- 364 g) transactions in which an automobile dealer makes a charge for the use of an
- 365 automobile as a demonstrator in connection with that dealer's business of selling
- 366 automobiles so long as the charge is made only to recover the costs of operating
- 367 the automobile as a demonstrator [and is not intended as a rental or a leasing](#)
- 368 [charge in the ordinary sense](#); nor
- 369
- 370 h) the renting of automobiles under lease terms of one year or less to persons who
- 371 will re-rent those automobiles to others under lease terms of one year or less.
- 372

373 (Source: Amended at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

374

#### 375 SUBPART E: ADMINISTRATION AND ENFORCEMENT

#### 376 Section 180.150 Administration and Enforcement

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- 378
- 379 a) The Department shall have full power to administer and enforce Section 3 of the
- 380 Act, to collect all taxes and penalties due, to dispose of taxes and penalties so
- 381 collected in the manner provided, and to determine all rights to credit
- 382 memoranda, arising on account of the erroneous payment of tax or penalty. In
- 383 the administration of, and compliance with, Section 3 of the Act, the Department
- 384 and persons who are subject to Section 3 of the Act shall have the same rights,
- 385 remedies, privileges, immunities, powers and duties, and be subject to the same
- 386 conditions, restrictions, limitations, penalties and definitions of terms, and employ

387 the same modes of procedure, as are prescribed in Sections 1, 1a, 2 through 2-65  
388 (in respect to all provisions therein other than the State rate of tax), 2a, 2b, 2c, 3  
389 (except provisions relating to transaction returns, electronic filing of returns, and  
390 quarter monthly payments), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 7,  
391 8, 9, 10, 11, 11a, 12 and 13 of the Retailers' Occupation Tax Act and Section 3-7  
392 of the Uniform Penalty and Interest Act as fully as if those provisions were set  
393 forth herein. [35 ILCS 155/3]

394  
395 b) The tax imposed by Section 3 of the Act does not apply to any amounts paid or  
396 received for peer-to-peer car sharing, as defined in Section 5 of the Car-Sharing  
397 Program Act [815 ILCS 312], or the privilege of sharing a shared vehicle through  
398 a car-sharing program, as defined in Section 5 of the Car-Sharing Program Act,  
399 if the shared vehicle owner paid applicable taxes upon the purchase of the  
400 automobile. As used in this Section, "applicable taxes" means, with respect to  
401 vehicles purchased in Illinois, the retailers' occupation tax levied under the  
402 Retailers' Occupation Tax Act or the use tax levied under the Use Tax Act.  
403 "Applicable taxes", with respect to vehicles not purchased in Illinois, refers to the  
404 sales, use, excise, or other generally applicable tax that is due upon the purchase  
405 of a vehicle in the jurisdiction in which the vehicle was purchased.  
406 Notwithstanding any law to the contrary, the car-sharing program shall have the  
407 right to rely on the shared vehicle owner's response and to be held legally  
408 harmless for such reliance. [35 ILCS 155/6]

409  
410 (Source: Added at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)