

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 190
AUTOMOBILE RENTING USE TAX

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62 AUTHORITY: Implementing the Automobile Renting Occupation and Use Tax Act [35 ILCS
63 155] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois (Department
64 of Revenue Law) [20 ILCS 2505/2505-25].

65
66 SOURCE: Adopted at 9 Ill. Reg. 13098, effective August 12, 1985; amended at 16 Ill. Reg.
67 4867, effective March 12, 1992; amended at 25 Ill. Reg. 8329, effective June 22, 2001; amended
68 at 49 Ill. Reg. _____, effective _____.

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70 SUBPART A: NATURE OF THE TAX

71
72 **Section 190.101 Description, Rate and Base of the Tax**

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- 74 a) The Automobile Renting Use Tax (Section 4 of the Automobile Renting
- 75 Occupation and Use Tax Act (the Act) (~~35 ILCS 155/4~~~~Ill. Rev. Stat. 1991, ch.~~
- 76 ~~120, pars. 1701 et seq.~~) is a tax imposed upon the privilege of using, in this State,
- 77 an automobile rented from an automobile rentor under lease terms of one year or
- 78 less. The tax is imposed at the rate of 5% of the rental price paid to the rentor.
- 79
- 80 b) "Use" means any incident of control by a rentee, including the possession or the
- 81 right to possession, over an automobile pursuant to a rental agreement for that
- 82 automobile under a rental term of one year or less.
- 83
- 84 c) However, if the automobile rentor from whom the automobile is rented would not
- 85 be taxable under the Act despite all elements of the rental transaction occurring in
- 86 Illinois, then the tax imposed by the Act shall not apply to the use of the rented

87 automobile in this State. For example, a rentee of an automobile from a rentor
 88 who qualifies as an isolated or occasional rentor so as not to incur Automobile
 89 Renting Occupation Tax liability does not incur Automobile Renting Use Tax
 90 liability when using that rented automobile in Illinois.

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 92 d) "Rentor" means any person, firm, corporation or association engaged in the
 93 business of renting or leasing automobiles to users. For this purpose, the
 94 objective of making a profit is not necessary to make the renting activity a
 95 business. "Rentor" does not include a car-sharing program or a shared-vehicle
 96 owner, as defined in Section 5 of the Car-Sharing Program Act [815 ILCS 312], if
 97 tax due on the automobile under the Retailers' Occupation Tax Act or Use Tax
 98 Act was paid upon the purchase of the automobile or when the automobile was
 99 brought into Illinois. The car-sharing program shall ask a shared vehicle owner
 100 if the shared vehicle owner paid applicable taxes at the time of purchase.
 101 Notwithstanding any law to the contrary, the car-sharing program shall have the
 102 right to rely on the shared vehicle owner's response and to be held legally
 103 harmless for such reliance.

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 105 e) "Rentee" means any user to whom the possession, or the right to possession, of an
 106 automobile is transferred for a valuable consideration for a period of one year or
 107 less, whether paid for by the "rentee" or by someone else. "Rentee" does not
 108 include a shared-vehicle driver, as defined in Section 5 of the Car-Sharing
 109 Program Act [815 ILCS 312], if tax due on the automobile under the Retailers'
 110 Occupation Tax Act or Use Tax Act was paid upon the purchase of the automobile
 111 or when the automobile was brought into Illinois. The car-sharing program shall
 112 ask a shared vehicle owner if the shared vehicle owner paid applicable taxes at
 113 the time of purchase. Notwithstanding any law to the contrary, the car-sharing
 114 program shall have the right to rely on the shared vehicle owner's response and
 115 to be held legally harmless for such reliance.

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 117 f) "Rental price" means the consideration for renting or leasing an automobile
 118 valued in money, whether received in money or otherwise, including cash credits,
 119 property and services, and shall be determined without any deduction on account
 120 of the cost of the property rented, the cost of materials used, labor or service cost,
 121 or any other expense whatsoever, but does not include charges that are added by
 122 a rentor on account of the rentor's tax liability under the Act or on account of the
 123 rentor's duty to collect, from the rentee, the tax that is imposed by Section 4 of the
 124 Act. The phrase "rental price" does not include compensation paid to a rentor by
 125 a rentee in consideration of the waiver by the rentor of any right of action or
 126 claim against the rentee for loss or damage to the automobile rented and also
 127 does not include a separately stated charge for insurance or recovery of refueling
 128 costs or other separately stated charges that are not for the use of tangible
 129 personal property. "Rental price" does not include consideration paid for peer-

130 *to-peer car sharing to a shared-vehicle owner or a car-sharing program, as those*
131 *terms are defined in Section 5 of the Car-Sharing Program Act [815 ILCS 312], if*
132 *tax due on the automobile under the Retailers' Occupation Tax Act or Use Tax*
133 *Act was paid upon the purchase of the automobile or when the automobile was*
134 *brought into Illinois. The car-sharing program shall ask a shared vehicle owner*
135 *if the shared vehicle owner paid applicable taxes at the time of purchase.*
136 *Notwithstanding any law to the contrary, the car-sharing program shall have the*
137 *right to rely on the shared vehicle owner's response and to be held legally*
138 *harmless for such reliance. [35 ILCS 155/2]*

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140 (Source: Amended at 49 Ill. Reg. _____, effective _____)

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142 **Section 190.105 Relation of Automobile Renting Use Tax to Automobile Renting**
143 **Occupation Tax**

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145 The Automobile Renting Use Tax [\[35 ILCS 155/4\]](#) complements the Automobile Renting
146 Occupation Tax [\[35 ILCS 155/3\]](#). That is why the Automobile Renting Use Tax is restricted to
147 situations in which automobiles are rented from automobile renters under lease terms of one year
148 or less.

149
150 (Source: Amended at 49 Ill. Reg. _____, effective _____)

151
152 **Section 190.110 Collection of the Tax from Rentees by Automobile Rentors Maintaining a**
153 **Place of Business in This State**

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155 a) The Automobile Renting Use Tax must be collected from rentees by all renters
156 maintaining a place of business in this State. "Renter maintaining a place of
157 business in this State" shall mean and include any automobile rentor having or
158 maintaining in this State, directly or by a subsidiary, an office, distribution point,
159 warehouse or other facility or place of business, or any agent or other
160 representative operating in this State under the authority of the rentor or its
161 subsidiary, irrespective of whether such place of business or agent or other
162 representative is located here permanently or temporarily, or whether such rentor
163 or subsidiary is licensed to do business in this State. The term "rentor maintaining
164 a place of business in this State" has the same scope and effect as does the term
165 "retailer maintaining a place of business in this State" by virtue of the
166 incorporation of Section 2 of the Use Tax Act [\[35 ILCS 105/2\]](#) (~~Ill. Rev. Stat.~~
167 ~~1991, ch. 120, par. 439.2~~) into Section 4 of the Act.

168
169 b) It does not matter that an agent may engage in business on his own account in
170 other transactions, or that the agent may act as agent for other persons in other
171 transactions, or that the agent is not an employee but is an independent contractor
172 acting as agent. The term "agent" is broader than the term "employee". "Agent"

includes anyone acting under the principal's authority in an agency capacity.

(Source: Amended at 49 Ill. Reg. _____, effective _____)

Section 190.115 Accounting for the Tax

- a) If the rentor is required or authorized to collect the Automobile Renting Use Tax, then the rentee must pay the tax to the rentor. However, the rentor's failure to collect the tax from the rentee does not prevent the Department of Revenue (the Department) from collecting the tax directly from the rentee whether the rentor's liability to remit tax is to remit it in the form of Automobile Renting Occupation Tax or in the form of Automobile Renting Use Tax. If the rentee rents an automobile from a rentor under lease terms of one year or less but does not pay the Automobile Renting Use Tax to that rentor, the rentee shall pay the Automobile Renting Use Tax directly to the Department.
- b) The rentor must remit the Automobile Renting Use Tax ~~the rentor~~he collects to the Department, but first reduces what ~~the rentor~~he must remit in this connection by the Automobile Renting Occupation Tax (if any) which ~~the rentor~~he is required to pay and does pay to the Department in connection with the same automobile rental transaction.

(Source: Amended at 49 Ill. Reg. _____, effective _____)

Section 190.120 Automobile Renting Use Tax Must be Separately Stated~~How to Avoid Paying Tax on Automobile Renting Use Tax Collected from the Rentee~~

- a) In collecting the Automobile Renting Use Tax from a rentee, the rentor must state the tax as a distinct item separate and apart from the rental price of the automobile. If the tax is not stated as a separate item, it will be presumed that the tax was not collected from the rentee, and the rentor will be entitled to no deduction from total rental receipts for collection of the tax from the rentee. The best evidence that the tax was stated as a separate item is a receipt given to the rentee which shows the tax as a distinct item separate and apart from the rental price of the automobile. [35 ILCS 155/4]
- b) If a rentor does not keep a detailed record for the return period of the ARUT which the rentor collects so as clearly to segregate these added charges from other receipts, absent information to the contrary, it will be assumed that the ARUT collected equals 5% of the taxable receipts received in such return period from taxable automobile rentals.

215 c) The rentor may eliminate the amount of ARUT the rentor collects from total
216 rental receipts to arrive at his taxable rental receipts by 1) subtracting the amount
217 collected from the rentee as ARUT, as shown by such rentor's books and records,
218 from total rental receipts; or 2) by subtracting, from the total rental receipts which
219 the rentor receives from taxable automobile rentals, the figure obtained by
220 dividing such rental receipts by 105 and multiplying the result by 5.

221
222 a) ~~Taxable rental receipts, on the basis of which Automobile Renting Use Tax must~~
223 ~~be collected and remitted to the Department in transactions that are subject to the~~
224 ~~Automobile Renting Use Tax despite being exempt from the Automobile Renting~~
225 ~~Occupation Tax because of interstate commerce, do not include separately stated~~
226 ~~charges which are added to the rental price on account of the rentor's duty to~~
227 ~~collect the Automobile Renting Use Tax.~~

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229 b) ~~If a rentor does not keep a detailed record for the return period of the Automobile~~
230 ~~Renting Use Tax which he collects so as clearly to segregate these added charges~~
231 ~~from other receipts, absent information to the contrary, it will be assumed that the~~
232 ~~Automobile Renting Use Tax collected equals 5% of the taxable receipts received~~
233 ~~in such return period from taxable automobile rentals if the rentor collects the~~
234 ~~Automobile Renting Use Tax in accordance with the bracket system prescribed by~~
235 ~~the Department in 86 Ill. Adm. Code 150. Table A and states such tax to renters~~
236 ~~separately from the rental price of the automobile as the rentor is required to do.~~

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238 e) ~~The rentor may eliminate the amount of Automobile Renting Use Tax he collects~~
239 ~~from total rental receipts to arrive at his taxable rental receipts by subtracting the~~
240 ~~amount collected from the rentee as Automobile Renting Use Tax, as shown by~~
241 ~~such rentor's books and records, from those total rental receipts. The rentor may~~
242 ~~also accomplish this result by subtracting, from the total rental receipts which he~~
243 ~~receives from taxable automobile rentals, the figure obtained by dividing such~~
244 ~~rental receipts by 105 and multiplying the result by 5.~~

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246 d) ~~In collecting the Automobile Renting Use Tax from a rentee, the rentor must state~~
247 ~~the tax as a distinct item separate and apart from the rental price of the~~
248 ~~automobile. If the tax is not stated as a separate item, it will be irrebutably~~
249 ~~presumed that the tax was not collected from the rentee, and the rentor will be~~
250 ~~entitled to no deduction from total rental receipts for collection of the tax from the~~
251 ~~rentee. The best evidence that the tax was stated as a separate item is a receipt~~
252 ~~given to the rentee which shows the tax as a distinct item separate and apart from~~
253 ~~the rental price of the automobile. (Section 4 of the Act)~~

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255 (Source: Amended at 49 Ill. Reg. _____, effective _____)

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257 SUBPART B: EXEMPT AUTO RENTING USES AND AUTO

RENTEES NOT SUBJECT TO THE TAX

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Section 190.125 Exemptions to Avoid Multi-State Transactions

a) To prevent actual multi-state taxation, the Automobile Renting Use Tax does not apply to the use in this State of automobiles rented under lease terms of one year or less under the following circumstances:

- 1) the use, in this State, of an automobile rented outside this State by a non-resident and brought into this State by that non-resident for the non-resident's~~his or her~~ own use while temporarily within this State or while passing through this State, and
- 2) the use, in this State, of an automobile rented outside this State by any person who has already paid a rental tax in another state to the extent of the amount of such tax properly due and paid in such other state (for this purpose, "State" includes the District of Columbia).

b) Since the exemptions set out immediately above at subsections (a)(1) and (2) of this Section do not exist as far as the Automobile Renting Occupation Tax is concerned, these two exemptions have application only where the sole tax liability involved is Automobile Renting Use Tax. If the rentor in the same transaction incurs Automobile Renting Occupation Tax liability, these exemptions have no application.

(Source: Amended at 49 Ill. Reg. _____, effective _____)

Section 190.140 Exempt Rentees

The ARUT does not apply to the following:

- a) *Governmental bodies are exempt from the Automobile Renting Use Tax.*
- b) *Corporations, societies, associations, foundations or institutions organized and operated exclusively for charitable, religious or educational purposes are exempt from Automobile Renting Use Tax.*
- c) *Not-for-profit corporations, societies, associations, foundations, institutions or organizations which have no compensated officers or employees and which are organized and operated primarily for the recreation of persons 55 years of age or older are exempt from Automobile Renting Use Tax. [35 ILCS 155/4](~~Ill. Rev. Stat. 1983, ch. 120, par. 1703~~).*

(Source: Amended at 49 Ill. Reg. _____, effective _____)

SUBPART D: INFORMATION CONCERNING PAYMENT OF
THE AUTOMOBILE RENTING USE TAX

**Section 190.155 Procedure for Claiming Exemption from Automobile Renting Use Tax to
Obtain Letter Ruling Documenting Exemption**

When a rentee does not incur any Automobile Renting Use Tax liability with respect to a particular transaction due to its status as an exempt entity (e.g., the purchaser is a church, charity, school or governmental body that has applied for and obtained an exemption identification number), it must provide its exemption identification number to the rentor at the time of making the rental in order to document the exempt nature of the transaction. ~~If the rentee is exempt from Automobile Renting Use Tax liability with respect to a particular transaction (as would be the case, for example, where the rentee is a church, charity, school or governmental body), the rentee may present pertinent facts to the Department and secure from the Department an exemption ruling documenting the exempt status of the rentee or of the particular rental transaction.~~

(Source: Amended at 49 Ill. Reg. _____, effective _____)

SUBPART E: REGISTRATION OF OUT-OF-STATE RENTORS

Section 190.160 When Out-of-State Rentors Must Register to Collect Automobile Renting Use Tax

- a) A rentor who is registered under the Automobile Renting Occupation ~~and Use~~ Tax Act [35 ILCS 155/3] need not obtain a separate Certificate of Registration under the Automobile Renting ~~Occupation and Use~~ Tax Act [35 ILCS 155/4]. However, any automobile rentor maintaining a place of business in this State, if not registered under the Automobile Renting Occupation ~~and Use~~ Tax Act must apply to the Department for a Certificate of Registration on an application form furnished by the Department. Each such rentor shall list with the Department the names and addresses of all agents operating in this State and the location of any and all distribution points, warehouses, offices or other places of business in this State.
- b) For a definition of "rentor maintaining a place of business in this State", see Section 190.110(a) of this Part.
- c) Every rentor maintaining a place of business in this State must act as an Automobile Renting Use Tax collector for this State when that rentor makes delivery of the rental automobile to the rentee in Illinois even though that rentor does not incur any Automobile Renting Occupation Tax liability as a result of the

344 transaction. For example:

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1) Out-of-State rentors having Illinois rental outlets which are subject to the Automobile Renting Occupation ~~and Use~~-Tax Act are required to collect and remit Automobile Renting Use Tax, as such, when shipping or delivering rental automobiles to renters in Illinois, from outside Illinois in transactions which have no connection with the Illinois rental outlets. This is true even though the interstate delivery would not subject the out-of-State rentor to Automobile Renting Occupation Tax.

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2) Out-of-State rentors having any kind of business in Illinois or any kind of representative or agent either stationed in Illinois or coming into Illinois from time to time must collect and remit Automobile Renting Use Tax, as such, when shipping or delivering the automobile to the rentee in Illinois. This is true even though the rentor would not incur Automobile Renting Occupation Tax liability on the transaction because the Illinois agent has no authority to accept orders so as to create Illinois rental contracts but is authorized only to solicit orders in Illinois for acceptance by the rentor outside Illinois and because the automobile is not located in Illinois at the time it is rented.

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(Source: Amended at 49 Ill. Reg. _____, effective _____)

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SUBPART F: RENTORS' RETURNS

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Section 190.170 When and Where to File Rentors' Returns

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a) Every rentor required or authorized to collect the Automobile Renting Use Tax must file a return each month by the twentieth day of the month covering the preceding calendar month, except when the rentor is authorized to file returns on an annual basis as hereinafter provided. The return shall be filed on a form prescribed by the Department.

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b) Since Automobile Renting Occupation Tax and Automobile Renting Use Tax are due only as and when rental receipts are actually received, the rentor, in collecting Automobile Renting Use Tax, may collect, for each return period, only the tax applicable to those rental receipts actually received during the return period.

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c) If the rentor's average monthly tax liability to the Department does not exceed \$50.00, the Department may authorize returns to be filed on an annual basis, with the return for a given year due by January 20 of the following year.

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d) Annual returns, as to form and substance, shall be subject to the same

requirements as monthly returns.

(Source: Amended at 49 Ill. Reg. _____, effective _____)

SUBPART G: INCORPORATION BY REFERENCE

Section 190.175 Incorporation of Certain Sections of 86 Ill. Adm. Code

a) The substance and provisions of the Sections of 86 Ill. Adm. Code set out below are incorporated herein by reference and are made a part hereof. For purposes of this incorporation, references in the incorporated Sections to:

- 1) persons engaged in the business of selling tangible personal property at retail mean persons engaged in the business of renting automobiles for periods of one year or less for valuable consideration;
- 2) sellers and retailers mean automobile renters;
- 3) users and purchasers mean automobile rentees;
- 4) sales or sales at retail mean automobile rentals under lease terms of one year or less;
- 5) the Retailers' Occupation Tax Act [\[35 ILCS 120\]](#) means ~~(Ill. Rev. Stat. 1991, ch. 120, pars. 440 et seq.) mean~~ the Automobile Renting Occupation and Use Tax Act;
- 6) the Use Tax Act [\[35 ILCS 105\]](#) means ~~(Ill. Rev. Stat. 1991, ch. 120, pars. 439.1 et seq.) mean~~ the Automobile Renting Occupation and Use Tax Act;
- 7) selling price ~~means~~ mean receipts from the rental of automobiles under lease terms of one year or less;
- 8) purchase price ~~means~~ mean the rental price paid to an automobile renter for the rental of an automobile under lease terms of one year or less; and
- 9) returns mean Automobile Renting Use Tax returns or that portion of the Automobile Renting Occupation Tax Return on which Automobile Renting Use Tax can be reported.

b) On that basis, the following Sections and Subparts of 86 Ill. Adm. Code 150 (Use Tax Regulations) are incorporated herein:

- 430 86 Ill. Adm. Code 150.120
431 86 Ill. Adm. Code 150.510
432 86 Ill. Adm. Code 150.515
433 86 Ill. Adm. Code 150.520
434 86 Ill. Adm. Code 150.1001
435 86 Ill. Adm. Code 150.1301
436 86 Ill. Adm. Code 150.1305 – except for references to the impossibility of
437 showing the tax as a separate item and
438 except for language authorizing the posted
439 sign method of showing tax as a separate
440 item.
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442 86 Ill. Adm. Code 150.1315
443 86 Ill. Adm. Code 150: Subpart M
444 86 Ill. Adm. Code 150.Table A
445
446 c) 86 Ill. Adm. Code 180.101 – except subsection (a) and except that the
447 reference in subsection (c) to Automobile
448 Renting Occupation Tax means Automobile
449 Renting Use Tax.
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451 86 Ill. Adm. Code 180.125 – except that the reference to gross receipts on
452 which the Automobile Renting Occupation
453 Tax must be computed means rental price on
454 which Automobile Renting Use Tax must be
455 computed.
456
457 86 Ill. Adm. Code 180.130
458 86 Ill. Adm. Code 180.135 – except that the reference to exemption from
459 Automobile Renting Occupation Tax in
460 subsection (a) means exemption from
461 Automobile Renting Use Tax.
462
463 d) On the same basis, the following Sections and Subparts of 86 Ill. Adm. Code 130
464 (Retailers' Occupation Tax Regulations) are incorporated herein:
465
466 86 Ill. Adm. Code 130.505(a)
467 86 Ill. Adm. Code 130.510
468 86 Ill. Adm. Code 130.515
469 86 Ill. Adm. Code 130.520
470 86 Ill. Adm. Code 130.525
471 86 Ill. Adm. Code 130.535(a)
472 86 Ill. Adm. Code 130.545

473 86 Ill. Adm. Code 130.701(f)(1)
 474 86 Ill. Adm. Code 130.701(f)(2)
 475 86 Ill. Adm. Code 130.701(f)(3)
 476 86 Ill. Adm. Code 130.701(g)
 477 86 Ill. Adm. Code 130.710
 478 86 Ill. Adm. Code 130.725
 479 86 Ill. Adm. Code 130.730
 480 86 Ill. Adm. Code 130.735
 481 86 Ill. Adm. Code 130.745

482
 483 86 Ill. Adm. Code 130:
 484 Subpart H

- except for Subsection 810(c) and except for the reference to sales for resale and the reference to services in Subsections 130.810(a) and (b). In addition, the reference to exemptions from Retailers' Occupation Tax in Subsection 130.810(a) means exemption from Automobile Renting Use Tax liability.

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 493 86 Ill. Adm. Code 130:
 494 Subpart I

- except for those provisions in Subsections 130.905(a) and (b) which refer to interest being due at less than 2% per month.

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 498 86 Ill. Adm. Code 130:
 499 Subpart J

500 86 Ill. Adm. Code 130:
 501 Subpart L

502 86 Ill. Adm. Code 130:
 503 Subpart M

504 86 Ill. Adm. Code 130:
 505 Subpart O

506 86 Ill. Adm. Code 130:
 507 Subpart P

- except for Section 130.1605.

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 509 86 Ill. Adm. Code 130:
 510 Subpart Q

511 86 Ill. Adm. Code 130:
 512 Subpart R

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(Source: Amended at 49 Ill. Reg. _____, effective _____)

SUBPART H: ADMINISTRATION AND ENFORCEMENT

Section 190.180 Administration and Enforcement

a) The Department shall have full power to administer and enforce the Automobile Renting Occupation Use Tax; to collect all taxes, penalties and interest due; to dispose of taxes, penalties and interest so collected in the manner provided, and to determine all rights to credit memoranda or refunds arising on account of the erroneous payment of tax, penalty or interest. In the administration of, and compliance with, the Automobile Renting Use Tax, the Department and persons who are subject to the Automobile Renting Use Tax shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties and definitions of terms, and employ the same modes of procedure, as are prescribed in Sections 2, 3 through 3-80, 4, 6, 7, 8, 9 (except provisions relating to transaction returns, electronic filing of returns, and quarter monthly payments), 10, 11, 12, 12a, 12b, 13, 14, 15, 19, 20, 21 and 22 of the Use Tax Act, and are not inconsistent with this Section, as fully as if those provisions were set forth herein. [35 ILCS 155/4]

b) The taxes imposed by Section 4 of the Automobile Renting Use Tax Act do not apply to any amounts paid or received for peer-to-peer car sharing, as defined in Section 5 of the Car-Sharing Program Act [815 ILCS 312], or the privilege of sharing a shared vehicle through a car-sharing program, as defined in Section 5 of the Car-Sharing Program Act, if the shared vehicle owner paid applicable taxes upon the purchase of the automobile. As used in this subsection, "applicable taxes" means, with respect to vehicles purchased in Illinois, the retailers' occupation tax levied under the Retailers' Occupation Tax Act or the use tax levied under the Use Tax Act. "Applicable taxes", with respect to vehicles not purchased in Illinois, refers to the sales, use, excise, or other generally applicable tax that is due upon the purchase of a vehicle in the jurisdiction in which the vehicle was purchased. Notwithstanding any law to the contrary, the car-sharing program shall have the right to rely on the shared vehicle owner's response and to be held legally harmless for such reliance.

(Source: Added at 49 Ill. Reg. _____, effective _____)