**Section 150.305 Effect of Limitation that Purchase Must be at Retail from a Retailer to be Taxable**

a) The limitation in the Use Tax Act ("Act") to the effect that the tangible personal property must be purchased at retail from a retailer excludes, from the use tax, the use of tangible personal property produced by the user or acquired by the user by way of a gift or in some manner other than by means of a purchase.

b) However, although the user is not taxable on the value of the finished product which the user produces, such user is taxable on the purchase price of the tangible personal property that the user purchases and incorporates into such finished product which the user uses in this State, such purchase being a purchase at retail or a purchase for use.

c) Although the donee in a gift situation is not a taxable user, the donor who purchases the property and gives it away makes a taxable use of the property when making such gift. For example, if a cellular phone company gives cellular phones to its customers as part of a sales promotion, it owes use tax on its cost price of the phones that are given away. In this situation, the cellular company, as donor, is considered to have used items by giving them away.

d) The limitation that the purchase must be made at retail from a retailer for the Use Tax Act to apply also excludes, from the tax, the use of tangible personal property purchased from an isolated or occasional seller who is not engaged in the business of selling such tangible personal property. The exclusions discussed in this paragraph are necessary to make the Use Tax Act complementary to the Retailers' Occupation Tax Act.

e) The Use Tax Act does not apply to the rental payments made by a lessee to a lessor. However, except as is noted in Section 150.306 of this Part, the lessor is legally the user of the property and is taxable on the purchase price thereof.

(Source: Amended at 48 Ill. Reg. 6836, effective April 24, 2024)