**Section 150.310 Exemptions to Avoid Multi-State Taxation**

a) *To prevent actual or likely multistate taxation, the tax imposed by* the Act *does not apply to the use of tangible personal property in this State under the following circumstances:*

1) *the use, in this State, of tangible personal property acquired outside this State by a nonresident individual and brought into this State by the individual for* that individual's *own use while temporarily within this State or while passing through this State*; this includes stopping for fuel, energy, food, or overnight lodging in this State[35 ILCS 105/3-55(a)];

2) *the use, in this State, by owners, lessors, or shippers of tangible personal property that is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce as long as so used by the interstate carriers for hire, and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce* [35 ILCS 105/3-55(c)] (See also 86 Ill. Adm. Code 130.340 for more information concerning this exemption as the same principles apply for use tax purposes);

3) *the use, in this State, of tangible personal property* *that* *is acquired outside this State and caused to be brought into this State by a person who has already paid a tax in another* state *in respect to* *the* *sale, purchase, or use of* *that* *property, to the extent of the amount of* *the* *tax properly due and paid in* *the* *other* state; for this purpose, state includes the District of Columbia [35 ILCS 105/3-55(d)];

4) *the temporary storage, in this State, of tangible personal property that is acquired outside this State and that, after being brought into this State and stored here temporarily, is used solely outside this State or is physically attached to or incorporated into other tangible personal property that is used solely outside this State, or is altered by converting, fabricating, manufacturing, printing, processing, or shaping, and, as altered, is used solely outside this State* [35 ILCS 105/3-55(e)];

5) *the temporary storage in this State of building materials and fixtures that are acquired either in this State or outside this State by an Illinois registered combination retailer and construction contractor, and that the purchaser thereafter uses outside this State by incorporating that property into real estate located outside this State* [35 ILCS 105/3-55(f)];

6) the use, in this State, of a vehicle for which a drive-away decal has been issued under the provisions of 86 Ill. Adm. Code 130.605(b)(1). However, beginning July 1, 2008, if the purchaser of a motor vehicle claims the exemption provided in Section 130.605(b)(1) and the motor vehicle is then used in this State for more than 30 days in a calendar year, the purchaser is liable for use tax on the purchase price of that motor vehicle, subject to credit for tax properly due and paid to any other state as provided in subsection (a)(3). [35 ILCS 105/3-55(h) and (h-1)] The assessment of tax under this subsection (a)(6) by the Department is limited to the period for which it may issue a notice of tax liability under the Use Tax Act.

7) *Beginning July 1, 2007, the following* *exemptions* described in subsections (a)(7)(A), (B), or (C) *apply with respect to certain aircraft, as defined in Section 3 of the Illinois Aeronautics Act* [620 ILCS 5]*.* [35 ILCS 105/3-55(h-2)(1-3)]

A) If the aircraft is purchased in this State, *no tax is imposed if all of the following conditions are met:*

i) *the aircraft leaves this State within 15 days after the later of either the issuance of the final billing for the purchase of the aircraft or the authorized approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection as required by 14 CFR 91.407;*

ii) *the aircraft is not based or registered in this State after the purchase of the aircraft; and*

iii) *the purchaser provides the Department with a signed and dated certification, on a form prescribed by the Department, certifying that the requirements of this* subsection (a)(7)(A) *are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require.* [35 ILCS 105/3-55(h-2)(1)(A-C)]

B) If the aircraft *is temporarily located in this State for the purpose of a prepurchase evaluation, no tax is imposed if all of the following conditions are met:*

i) *the aircraft is not based or registered in this State after the prepurchase evaluation; and*

ii) *the purchaser provides the Department with a signed and dated certification, on a form prescribed by the Department, certifying that the requirements of this* subsection (a)(7)(B) *are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require.* [35 ILCS 105/3-55(h-2)(2)(A-B)]

C) If the aircraft *is temporarily located in this State for the purpose of a post-sale customization, no tax is imposed if all of the following conditions are met:*

i) *the aircraft leaves this State within 15 days after the authorized approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection, as required by 14 CFR 91.407;*

ii) *the aircraft is not based or registered in this State either before or after the post-sale customization; and*

iii) *the purchaser provides the Department with a signed and dated certification, on a form prescribed by the Department, certifying that the requirements of this* subsection (a)(7)(C) *are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require.* [35 ILCS 105/3-55(h-2)(3)(A-C)]

D) The exemption provided under subsections (a)(7)(B) and (C) does not apply to tax incurred on any service transactions performed on the aircraft.

E) For purposes of this subsection (a)(7):

*"Based in this State" means hangared, stored, or otherwise used, excluding post-sale customizations as defined in this* subsection (a)(7)(E)*, for 10 or more days in each 12-month period immediately following the date of the sale of the aircraft.*

*"Post-sale customization" means any improvement, maintenance, or repair that is performed on an aircraft following a transfer of ownership of the aircraft.*

*"Prepurchase evaluation" means an examination of an aircraft to provide a potential purchaser with information relevant to the potential purchase.*

*"Registered in this State" means an aircraft registered with the Department of Transportation, Aeronautics Division, or titled or registered with the Federal Aviation Administration to an address located in this State.*

F) *If tax becomes due under this* subsection (a)(7) *because of the purchaser's use of the aircraft in this State, the purchaser shall file a return with the Department and pay the tax on the fair market value of the aircraft. This return and payment of the tax must be made no later than 30 days after the aircraft is used in a taxable manner in this State. The tax is based on the fair market value of the aircraft on the date that it is first used in a taxable manner in this State.* [35 ILCS 105/3-55(h-2)]

8) *The use or purchase of tangible personal property by a common carrier by rail or motor that receives the physical possession of the property in Illinois, and that transports the property, or shares with another common carrier in the transportation of the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois.* [35 ILCS 105/3-55(g)]

b) Since exemptions described in subsections (a)(1), (3) and (4) do not exist as far as the Retailers' Occupation Tax Act is concerned, and since it would therefore serve no purpose to say that the exemptions exist for use tax purposes insofar as the seller is merely collecting use tax to reimburse the seller for retailers' occupation tax on the same transaction, the Department believes that the legislative intention in these references to the acquisition of tangible personal property outside this State was to make the references apply to cases in which the only tax liability that could be involved is use tax liability.

c) Therefore, exemptions described in subsections (a)(1), (3) and (4) would not apply except when the tangible personal property is acquired outside Illinois by the purchaser in such a way that there is no retailers' occupation tax liability on the part of the seller in the same transaction.

d) For information as to when sellers do or do not incur retailers' occupation tax liability when shipping the tangible personal property from outside Illinois, see 86 Ill. Adm. Code Part 131.

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