

**Illinois Department of Revenue
Regulations**

Title 86 Part 130 Section 120 Nontaxable Transactions
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**PART 130
RETAILERS' OCCUPATION TAX**

Section 130.120 Nontaxable Transactions

The tax does not apply to receipts from sales:

- a) of intangible personal property, such as shares of stocks, bonds, evidences of interest in property, corporate or other franchises and evidences of debt. These types of sales fall outside the scope of the Retailers' Occupation Tax Act;
- b) of real property, such as lands and buildings that are permanently attached to the land. These types of sales fall outside the scope of the Retailers' Occupation Tax Act;
- c) of tangible personal property for purposes of resale in any form as tangible personal property, provided that the purchaser (except in the case of an out-of-State purchaser who will always resell and deliver the property to his customers outside Illinois) has an active registration number or active resale number from the Department and gives the number to the vendor in connection with certifying to the vendor that the sale to the purchaser is nontaxable on the ground of being a sale for resale (see Subparts B and N of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- d) of personal services, where rendered as such (see various rules relating to particular service occupations); however, for information concerning the tax on persons engaged in the business of making sales of service, see the Regulations pertaining to the Service Occupation Tax Act (86 Ill. Adm. Code 140). These types of sales fall outside the scope of the Retailers' Occupation Tax Act;
- e) that are within the protection of the Commerce Clause of the Constitution of the United States (see Subpart F of this Part). These types of sales fall outside the scope of the Retailers' Occupation Tax Act;
- f) that are isolated or occasional (see Section 130.110 of this Subpart). This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- g) of newspapers and magazines (see Section 130.2105 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- h) that are made to any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, or any not-for-profit corporation, society, association, foundation, institution or organization that has no compensated officers or employees and that is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this subsection only if the limited liability company is organized and operated exclusively for educational purposes (see Section

130.2005 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;

- i) that are made to any governmental body (see Section 130.2080 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- j) of low sulfur dioxide emission coal-fueled devices. This exemption existed prior to the enactment of Section 2-70 and will not sunset [35 ILCS 120/1a-1] (see Section 130.355 of this Part);
- k) *of fuel consumed or used in the operation of ships, barges or vessels that are used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering on this State if the fuel is delivered by the seller to the purchaser's barge, ship or vessel while it is afloat upon that bordering river* [35 ILCS 120/2-5(24)] (see Section 130.315 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- l) of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce (see Section 130.340 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- m) except as otherwise provided in Section 130.605(b)(1)(C), of a motor vehicle in this State to a nonresident even though the motor vehicle is delivered to the nonresident in this State, if the motor vehicle is not to be titled in this State, and if a drive-away permit is issued to the motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code [625 ILCS 5/3-603], or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his home state (see Section 130.605). This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- n) until December 31, 2001, of merchandise in bulk when sold from a vending machine for 1¢; on and after January 1, 2002, of merchandise in bulk when sold from a vending machine for 50¢ or less (see 35 ILCS 120/1 and Section 130.2135 of this Part). These types of sales fall outside the scope of the Retailers' Occupation Tax Act;
- o) of food and beverages by a person who is the recipient of a grant or contract under Title VII of the Older Americans Act of 1965 (42 USC 3021) and serves meals to participants in the Federal Nutrition Program for the Elderly in return for contributions established in amount by the individual participant pursuant to a schedule of suggested fees as provided for in the Federal Act. This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- p) of farm chemicals (see Section 130.1955 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- q) of manufacturing machinery and equipment that qualifies for exemption under provisions of Section 130.330 of this Part. This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- r) of services included in gross receipts for purposes of the Retailers' Occupation Tax and that are designated mandatory service charges by vendors of meals to the extent that the proceeds of the service charge are in fact turned over to the employees who would normally have received tips had the service charge policy not been introduced. Service

charges that are used to fund or pay wages, labor costs, employee benefits or employer costs of doing business are taxable gross receipts. This exemption existed prior to the enactment of Section 2-70 and will not sunset;

- s) *of any petroleum product, if the seller is prohibited by federal law from charging tax to the purchaser [35 ILCS 120/2-5(16)].*
 - 1) For example, federal law prohibits sellers from charging tax to Amtrak when it purchases petroleum products. However, federal law does not relieve the seller of Retailers' Occupation Tax liability in these transactions. For that reason, the exemption set out in this subsection is necessary to relieve the seller of Retailers' Occupation Tax liability when making sales of petroleum products to Amtrak.
 - 2) The nontaxable transaction set out above is also applicable to local Retailers' Occupation Taxes imposed by municipalities, counties, the Regional Transportation Authority and Metro East Mass Transit District. This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- t) *of farm machinery and equipment, both new and used including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture, or state or federal agricultural programs, including individual replacement parts for the machinery and equipment and including machinery and equipment purchased for lease [35 ILCS 120/2-5(2)] (see Section 130.305). This exemption is statutorily exempt from the sunset provisions of Section 2-70;*
- u) *through June 30, 2003, and beginning again on September 1, 2004 through August 30, 2014, of graphic arts machinery and equipment, including repair and replacement parts [35 ILCS 120/2-5(4)] (see Section 130.325);*
- v) *through August 31, 2007, and beginning again on January 11, 2008:*
 - 1) *any motor vehicle of the first division that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act; or*
 - 2) *a motor vehicle of the second division that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act, and which:*
 - A) *is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat;*
 - B) *is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code; or*
 - C) *beginning on January 1, 2014, has a Gross Vehicle Weight Rating, as defined in Section 1-124.5 of the Illinois Vehicle Code, of 8,000 pounds or less [35 ILCS 120/2-5(5)]. This exemption is statutorily exempt from the sunset provisions of Section 2-70;*

- w) *of personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois [35 ILCS 120/2-5(6)] (see Section 130.2006). This exemption existed prior to the enactment of Section 2-70 and will not sunset;*
- x) *of personal property sold to an Illinois county fair association for use in conducting, operating or promoting the county fair [35 ILCS 120/2-5(8)]. This exemption existed prior to the enactment of Section 2-70 and will not sunset;*
- y) *of personal property sold to any not-for-profit arts or cultural organization that establishes that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code (26 USCA 501) and that is organized and operated for the presentation or support of arts or cultural programming, activities, or services. On and after July 1, 2001, the qualifying organizations listed in this subsection (y) must also be organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations [35 ILCS 120/2-5(9)] (see Section 130.2004 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;*
- z) *of personal property sold by a corporation, society, association, foundation, institution or organization that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise [35 ILCS 120/2-5(10)] (see Section 130.2008). This exemption existed prior to the enactment of Section 2-70 and will not sunset;*
- aa) *of legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America or the government of any foreign country and bullion [35 ILCS 120/2-5(18)], unless the items are transferred as jewelry and therefore subject to tax. This exemption existed prior to the enactment of Section 2-70 and will not sunset;*
- bb) *of photoprocessing machinery and equipment, including repair and replacement parts [35 ILCS 120/2-5(20)] (see Section 130.2000). This exemption existed prior to the enactment of Section 2-70 and will not sunset;*
- cc) *beginning July 1, 2003, of coal and aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Motor Vehicle Code. The Department, however, will not approve any claims or refunds on or after August 16, 2013, for taxes due or paid during the period beginning July 1, 2003 through August 16, 2013. This exemption will terminate by operation of the sunset provisions of Section 2-70 of the Retailers' Occupation Tax Act on August 15, 2018 [35 ILCS 120/2-5(21)] (see Sections 130.350 and 130.351);*
- dd) *until June 30, 2013, of fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier, for a flight destined for or returning*

from a location or locations outside the United States without regard to previous or subsequent domestic stopovers. Beginning July 1, 2013, fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight that is engaged in foreign trade or is engaged in trade between the United States and any of its possessions and that transports at least one individual or package for hire from the city of origination to the city of final destination on the same aircraft, without regard to a change in the flight number of that aircraft. This exemption will terminate by operation of the sunset provisions of Section 2-70 of the Retailers' Occupation Tax Act on August 15, 2018 [35 ILCS 120/2-5(22)] (see Section 130.321);

- ee) *of semen used for artificial insemination of livestock for direct agricultural production. [35 ILCS 120/2-5(26)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and date of signing and a statement that the semen purchased will be used for artificial insemination of livestock for direct agricultural production. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit. This exemption existed prior to the enactment of the sunset provisions of Section 2-70 and will not sunset;*
- ff) *of a transaction in which the purchase order is received by a florist who is located outside Illinois, but who has a florist located in Illinois deliver the property to the purchaser or the purchaser's donee in Illinois [35 ILCS 120/2-5(23)]. This exemption existed prior to the enactment of Section 2-70 and will not sunset;*
- gg) *of horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This exemption applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 for taxes paid during the period beginning May 30, 2000 and ending January 1, 2008 [35 ILCS 120/2-5(27)]. This exemption is statutorily exempt from the sunset provisions of Section 2-70;*
- hh) *effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001, of computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act [35 ILCS 120/2-5(36)] (see Section 130.2011). This exemption is statutorily exempt from the sunset provisions of Section 2-70;*
- ii) *effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001, of personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act [35 ILCS 120/2-5(37)] (see Section 130.2012). This exemption is statutorily exempt from the sunset provisions of Section 2-70;*

- jj) *of tangible personal property sold to 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 120/2-5(17)]. This exemption existed prior to the enactment of Section 2-70 and will not sunset;*
- kk) Game Birds
 - 1) beginning July 1, 1999 through August 15, 2011, of game or game birds purchased at:
 - A) a game breeding and hunting preserve area licensed by the Department of Natural Resources (see Section 3.27 of the Wildlife Code [520 ILCS 5/3.27]);
 - B) an exotic game hunting area licensed by the Department of Natural Resources (see Section 3.34 of the Wildlife Code [520 ILCS 5/3.34]); or
 - C) a hunting enclosure approved through rules adopted by the Department of Natural Resources;
 - 2) beginning August 16, 2011, of *game or game birds sold at a "game breeding and hunting preserve area" as that term is used in the Wildlife Code*. This exemption is statutorily exempt from the sunset provisions of Section 2-70;
- ll) *beginning January 1, 2000, of personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This subsection (ll) does not apply to fundraising events:*
 - 1) *for the benefit of private home instruction; or*
 - 2) *for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity [35 ILCS 120/2-5(34)]. This exemption is statutorily exempt from the sunset provisions of Section 2-70;*
- mm) *of machinery or equipment used in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act. "High impact service facility" means a facility used primarily for the sorting, handling and redistribution of mail, freight, cargo, or other parcels received from agents or employees of the handler or shipper for processing at a common location and redistribution to other employees or agents for delivery to an ultimate destination on an item-by-item basis, and which:*

- 1) *will make an investment in a business enterprise project of \$100,000,000 or more;*
 - 2) *will cause the creation of at least 750 to 1,000 jobs or more in an enterprise zone established pursuant to the Illinois Enterprise Zone Act; and*
 - 3) *is certified by the Department of Commerce and Economic Opportunity as contractually obligated to meet the requirements specified in subsection (mm)(1) and (2) within the time period as specified by the certification. The certificate of eligibility for exemption shall be presented by the business enterprise to its supplier when making the initial purchase of machinery and equipment for which an exemption is granted by Section 1j of the Act, together with a certification by the business enterprise that such machinery and equipment is exempt from taxation under Section 1j of the Act and by indicating the exempt status of each subsequent purchase on the face of the purchase order [35 ILCS 120/1i]. This exemption existed prior to the enactment of Section 2-70 and will not sunset;*
- nn) *beginning August 23, 2001 and through June 30, 2016, of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or a licensed facility as defined in the ID/DD Community Care Act [210 ILCS 47], the MC/DD Act [210 ILCS 46], or the Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49]. [35 ILCS 120/2-5(35-5)];*
- oo) *beginning July 1, 2007, of an aircraft, as that term is defined in Section 3 of the Illinois Aeronautics Act, if all of the following conditions are met:*
- 1) *the aircraft leaves this State within 15 days after the later of either the final billing for the sale of the aircraft or the 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;*
 - 2) *the aircraft is not based or registered in this State after the sale of the aircraft; and*
 - 3) *the seller retains documents as required by the Department. [35 ILCS 120/2-5(25-7)] (See Section 130.605). This exemption is statutorily exempt from the sunset provisions of Section 2-70;*
- pp) *effective October 11, 2007, of tangible personal property sold to a public-facilities corporation, as described in 65 ILCS 5/11-65-10, for purposes of constructing or furnishing a municipal convention hall. If, before October 11, 2007, a municipality has incorporated a public-facilities corporation and the public-facilities corporation complies with the requirements set forth in Section 11-65-10, then this exemption applies to that public-facilities corporation. [65 ILCS 5/11-65-10, 15 and 25 and 35 ILCS 120/2-5(41)]. This exemption is statutorily exempt from the sunset provisions of Section 2-70;*

- qq) *beginning January 1, 2008, of tangible personal property used in the construction or maintenance of certain community water supplies [35 ILCS 120/2-5(39)]. This exemption is statutorily exempt from the sunset provisions of Section 2-70;*
- rr) *Aircraft Maintenance*
- beginning January 1, 2010, of materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to the sale of qualifying tangible personal property to persons who modify, refurbish, complete, replace, or maintain an aircraft and who:*
- 1) *hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration;*
 - 2) *have a Class IV Rating; and*
 - 3) *conduct operations in accordance with 14 CFR 145 (Federal Aviation Regulations). The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under 14 CFR 121 or 129. This exemption sunset on December 31, 2014 by operation of law pursuant to the sunset provisions of Section 2-70 [35 ILCS 120/2-5(40)];*
- ss) *effective July 12, 2006, of building materials to be incorporated into real estate within a River Edge Redevelopment Zone in accordance with the River Edge Redevelopment Zone Act by remodeling, rehabilitating, or new construction may deduct receipts from those sales when calculating the tax imposed by the Act [35 ILCS 120/2-54] (see Section 130.1954). This exemption is statutorily exempt from the sunset provisions of Section 2-70;*
- tt) *of electricity delivered to customers by wire; natural or artificial gas that is delivered to customers through pipes, pipelines, or mains; and water that is delivered to customers through pipes, pipelines, or mains. These provisions are declaratory of existing law as to the meaning and scope of the Retailers' Occupation Tax Act [35 ILCS 120/2]. These types of sales fall outside the scope of the Retailers' Occupation Tax Act;*
- uu) *effective on January 1, 2002 through June 30, 2016, tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or*

consumed solely outside this State [35 ILCS 120/2-5(38)] (see 86 Ill. Adm. Code 150.310);

- vv *beginning January 1, 2017, of menstrual pads, tampons, and menstrual cups* [35 ILCS 120/2-5(42)]. This exemption will terminate by operation of the sunset provisions of Section 2-70 of the Retailers' Occupation Tax Act on August 18, 2021.

(Source: Amended at 42 Ill. Reg. 2850, effective January 26, 2018)