

ILLINOIS REGISTER

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DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Rental Purchase Agreement Occupation and Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 125
- 3) Section Number: 125.120                      Proposed Action: Amendment
- 4) Statutory Authority: Implementing the Rental Purchase Agreement Occupation and Use Tax Act [35 ILCS 180] and authorized by Section 40 of the Rental Purchase Agreement Occupation and Use Tax Act and Sections 2505-790 and 2505-795 of the Civil Administrative Code Illinois (Department of Revenue Law) [20 ILCS 2505].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking implements the provisions of P.A. 103-592 that impose a \$1,000-per-month cap, effective January 1, 2025, on the discount merchants may claim when remitting tax to the Department as reimbursement for the expenses incurred in keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on request (“vendor’s discount”). The corresponding return on which the vendor’s discount is capped at \$1,000 per month is Form ST-201.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These rules do not create or enlarge a mandate as described in Section 3(b) of the State Mandates Act.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

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13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Merchants who report less than \$914,286 per month in taxable gross sales receipts at the 6.25% tax rate are not affected.
- B) Reporting, bookkeeping or other procedures required for compliance: Basic accounting and computer skills.
- C) Types of professional skills necessary for compliance: Basic accounting and computer skills.

14) Small Business Impact Analysis:

- A) Types of businesses subject to the proposed rule:  
  
44-45 Retail Trade
- B) Categories that the agency reasonably believes the rulemaking will impact, including:
  - ii. regulatory requirements;
  - iii. purchasing;
  - viii. record keeping

15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because the vendor's discount cap legislation did not amend the Rental Purchase Agreement Occupation and Use Tax Act directly. However, the vendor's discount cap provisions in the

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Retailers' Occupation and Use Tax Acts are incorporated into the Rental Purchase Agreement Occupation and Use Tax Act in Sections 10 and 15 of the Act (35 ILCS 180/10 and 15).

The full text of the Proposed Amendment begins on the next page:

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**Section 125.120 Returns and Payment of Tax**

- a) Each person who is required to pay the tax imposed by the RPOT Act shall make a return to the Department on or before the 20<sup>th</sup> day of each month for the preceding calendar month stating the following:
  - 1) the taxpayer's name;
  - 2) the address of the taxpayer's principal place of business and the address of the principal place of business (if that is a different address) from which the taxpayer is engaged in the business of renting merchandise subject to the RPOT;
  - 3) the total amount of receipts received by the taxpayer during the preceding calendar month from renting merchandise subject to RPOT by the taxpayer;
  - 4) the total amount received by the taxpayer during the preceding calendar month from the renting of merchandise on an installment basis subject to the RPOT by the taxpayer;
  - 5) deductions allowed by the RPOT Act;
  - 6) gross receipts that were received by the taxpayer during the preceding calendar month and upon the basis of which the RPOT is imposed;
  - 7) the amount of RPOT due;
  - 8) the signature of the taxpayer; and
  - 9) any other information as the Department may request on the application form prescribed and furnished by the Department.
- b) *Any return or document that is required to be filed under the RPOT Act shall be filed electronically, in the form and manner required by the Department. Any payment required to be made under the RPOT Act shall be paid electronically, in the form and manner required by the Department. The Department shall grant a waiver of the electronic filing or payment*

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*requirement under Section 20 of the Act for any taxpayer who petitions the Department and demonstrates undue hardship in complying with the electronic filing or payment requirement. The waiver shall be for a period not to exceed 2 years but may be renewed an unlimited number of times for periods not to exceed 2 years each. [35 ILCS 180/20]*

- c) The taxpayer making the return provided for in this Section shall also pay to the Department, in accordance with this Section, the amount of tax, less a discount of 1.75%, not to exceed \$1,000 per month beginning on January 1, 2025, which is allowed to reimburse the taxpayer for the expenses incurred in keeping records, collecting tax, preparing and filing returns, remitting the tax, and supplying data to the Department upon request. No discount may be claimed by a taxpayer on returns not timely filed and for taxes not timely remitted. No discount may be claimed by a taxpayer for any return that is not filed electronically. No discount may be claimed by a taxpayer for any payment that is not made electronically, unless a waiver has been granted under subsection (b).
- d) Any amount that is required to be shown or reported on any return or other document under the RPOT Act shall, if the amount is not a whole-dollar amount, be increased to the nearest whole-dollar amount if the fractional part of a dollar is \$0.50 or more and decreased to the nearest whole-dollar amount if the fractional part of a dollar is less than \$0.50. If a total amount of less than \$1 is payable, refundable, or creditable, the amount shall be disregarded if it is less than \$0.50 and shall be increased to \$1 if it is \$0.50 or more.
- e) Any taxpayer who ceases to engage in the kind of business that makes the person responsible for filing returns under the RPOT Act shall file a final return under the RPOT Act with the Department within one month after discontinuing business.
- f) Each taxpayer under the RPOT Act shall make estimated payments to the Department on or before the 7<sup>th</sup>, 15<sup>th</sup>, 22<sup>nd</sup>, and last day of the month during which tax liability to the Department is incurred if the taxpayer's average monthly tax liability to the Department under this Act, the Use Tax Act, the Service Occupation Tax Act, and the Service Use Tax Act, excluding any liability for prepaid sales tax to be remitted in accordance with Section 2d of

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the Retailers' Occupation Tax Act, was \$20,000 or more during the preceding 4 complete calendar quarters, the taxpayer shall file a return with the Department each month by the 20th day of the month next following the month during which such tax liability is incurred and shall make payment to the Department on or before the 7<sup>th</sup>, 15<sup>th</sup>, 22<sup>nd</sup> and last day of the month during which such liability is incurred. The payments shall be in an amount not less than the lower of either 22.5% of the taxpayer's actual tax liability for the month or 25% of the taxpayer's actual tax liability for the same calendar month of the preceding year. The amount of the quarter-monthly payments shall be credited against the final tax liability of the taxpayer's return for that month. If any quarter-monthly payment is not paid at the time or in the amount required by this subsection, then the taxpayer shall be liable for penalties and interest on the difference between the minimum amount due as a payment and the amount of the quarter-monthly payment actually and timely paid, except insofar as the taxpayer has previously made payments for that month to the Department in excess of the minimum payments previously due as provided in this subsection.

- g) If any payment provided for in this Section exceeds the taxpayer's liabilities under the RPOT Act, as shown on an original monthly return, the Department shall, if requested by the taxpayer, issue to the taxpayer a credit memorandum no later than 30 days after the date of payment. The credit evidenced by the credit memorandum may be assigned by the taxpayer to a similar taxpayer under the RPOT Act. If no such request is made, the taxpayer may credit the excess payment against tax liability subsequently to be remitted to the Department under the RPOT Act. If the Department subsequently determines that all or any part of the credit taken was not actually due to the taxpayer, the taxpayer's discount shall be reduced, if necessary, to reflect the difference between the credit taken and that actually due, and that taxpayer shall be liable for penalties and interest on the difference.
- h) If a taxpayer fails to sign a return within 30 days after the proper notice and demand for signature by the Department is received by the taxpayer, the return shall be considered valid and any amount shown to be due on the return shall be deemed assessed.

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