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DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
130.501	Amendment
130.535	Amendment
130.565	New Section
130.1520	Amendment
130.2500	Amendment
- 4) Statutory Authority: Implementing the Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Sections 2505-25 and 2505-795 of the Civil Administrative Code of 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 retailers may claim when remitting certain taxes 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 returns on which the vendor’s discount is capped at \$1,000 per month are Form ST-1 for non-titled property other than aviation fuel and cannabis; Form ST-70 for aviation fuel; Form CD-1 for cannabis; and Forms ST-556/ST-556-LSE for titled property.
- 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? Yes

<u>Section Numbers</u>	<u>Proposed Actions</u>	<u>Illinois Register Citations</u>
130.305	Amendment	48 Ill. Reg.13979; September 20, 2024

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130.1415	Amendment	48 Ill. Reg.13979; September 20, 2024
130.1955	Amendment	48 Ill. Reg.13979; September 20, 2024
130.1970	Amendment	48 Ill. Reg.13979; September 20, 2024
130.2100	Amendment	48 Ill. Reg.13979; September 20, 2024
130.2110	Amendment	48 Ill. Reg.13979; September 20, 2024
130.801	Amendment	48 Ill. Reg.14233; October 4, 2024
130.805	Amendment	48 Ill. Reg.14233; October 4, 2024
130.810	Amendment	48 Ill. Reg.14233; October 4, 2024
130.820	Amendment	48 Ill. Reg.14233; October 4, 2024
130.825	Amendment	48 Ill. Reg.14233; October 4, 2024
130.541	New Section	48 Ill. Reg. 15268; November 1, 2024
130.2532	New Section	48 Ill. Reg. 17483; December 6, 2024
130.120	Amendment	48 Ill. Reg. 17691; December 13, 2024
130.341	Repealed	48 Ill. Reg. 17691; December 13, 2024

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:

Samuel J. Moore  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62794  
REV.GCO@illinois.gov  
(217) 782-7055

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Retailers who report less than \$914,286 per month in taxable gross sales receipts at a 6.25% sales tax rate are not affected.

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- 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: July 2024

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

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**Section 130.501 Monthly Tax Returns – When Due – Contents**

- a) Except as provided in Section 130.502, 130.510 and 130.2045, on or before the twentieth day of each calendar month, every person engaged in the business of selling tangible personal property at retail in this State during the preceding calendar month shall file a return with the Department for the preceding month, stating the name of the seller, the seller's residence address and the address of the seller's principal place of business, and the address of the principal place of business (if that is a different address) from which the seller engaged in the business of selling tangible personal property at retail in this State. *On and after January 1, 2018, except for returns required to be filed prior to January 1, 2023, for motor vehicles, watercraft, aircraft, and trailers that are required to be registered with an agency of this State, with respect to retailers whose annual gross receipts average \$20,000 or more, all returns required to be filed pursuant to the Act shall be filed electronically. On and after January 1, 2023, with respect to retailers whose annual gross receipts average \$20,000 or more, all returns required to be filed pursuant to the Act, including, but not limited to, returns for motor vehicles, watercraft, aircraft, and trailers that are required to be registered with an agency of this State, shall be filed electronically. Retailers who demonstrate that they do not have access to the Internet or demonstrate hardship in filing electronically may petition the Department to waive the electronic filing requirement. [35 ILCS 120/3]*
- b) In addition, the return shall disclose the following:
  - 1) Total Receipts for the Month from Sales of Tangible Personal Property and Services. Real estate builders and construction contractors, who are also retailers, and who assume the responsibility for accounting for the tax on building materials they purchase, must include, in total receipts, not only their receipts from "over-the-counter" resales of those materials, but also their cost prices of the materials that they convert into real estate (see Section 130.2075). This may be accomplished in the case of a construction contractor by including the contractor's receipts from construction contracts in total receipts and by deducting those receipts from total receipts only to the extent to which those receipts exceed the cost price to the contractor of the

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tangible personal property that the contractor incorporates into real estate as a construction contractor.

- 2) Deductions Allowed by Law  
The taxpayer should include in the taxpayer's total receipts, but should deduct before computing the amount of the tax:
  - A) taxes collected from sales of the following:
    - i) general merchandise retail sales;
    - ii) general merchandise service sales;
    - iii) food, drugs and medical appliances retail sales;
    - iv) food, drugs and medical appliances service sales;
  - B) receipts from sales of tangible personal property for purposes of resale in any form as tangible personal property (see Subparts B and N);
  - C) receipts from sales that are within the protection of the Commerce Clause of the Constitution of the United States (see Section 130.605);
  - D) cash refunds for returned merchandise (see Section 130.401);
  - E) receipts from the sales of newspapers and magazines (see Section 130.2105);
  - F) State motor fuel taxes collected;
  - G) the exempt receipts or exempt percentage of receipts from sales of gasohol, biodiesel, renewable diesel, and blended fuels as described in Section 130.320;
  - H) receipts from sales of any kind to any corporation, society, association, foundation or institution organized and operated

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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 and older (see Section 130.2005);

- I) receipts from sales of any kind to a governmental body (see Section 130.2080);
  - J) receipts from nontaxable sales of service;
  - K) any other deduction allowed by law, such as receipts from isolated or occasional sales (see Section 130.110); federal taxes that are imposed at the level of the retail sale, but not federal excise taxes on manufacturers, etc. (see Section 130.445); and
  - L) total of all deductions allowed by law.
- 3) Total receipts that are obtained by subtracting deductions from total receipts.
- 4) The Amount of Tax Due
- A) An allowance, not to exceed \$1,000 per month beginning on January 1, 2025, is available to reimburse the taxpayer for the expenses incurred in keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on request. The minimum discount, over the entire period of any given calendar year, for any single taxpayer (if the taxpayer incurs that much tax liability) shall be \$5.00 for that calendar year. This allowance is available when the tax is remitted with a return that is filed when due under the Act, but is not available in any case in which the tax is paid late (with or without a return, and whether or not formally assessed by the Department); in the case of retailers who report and pay the tax on a transaction by transaction basis, the discount shall be

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taken with each tax remittance instead of when the retailer files its periodic return. Retailers required to file returns electronically pursuant to the Act who fail to file their returns electronically may not take the discount allowed to reimburse retailers for the expenses incurred in keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on request.

B) Balance of Tax Due

- i) The return should also show the amount of penalty (if any) that is due, the total of the tax and penalty due, and such other reasonable information as the Department may require.
- ii) *If a total amount of less than \$1 is payable, refundable or creditable, the amount shall be disregarded if it is less than 50 cents and shall be increased to \$1 if it is 50 cents or more. Any amount that is required to be shown or reported on any return or other document under the Act shall, if the amount is not a whole-dollar amount, be increased to the nearest whole-dollar amount in any case in which the fractional part of a dollar is 50 cents or more, and decreased to the nearest whole-dollar amount when the fractional part of a dollar is less than 50 cents (Section 3 of the Act).*
- iii) *The Department may require returns to be filed on a quarterly basis. If so required, a return for each calendar quarter shall be filed on or before the twentieth day of the calendar month following the end of such calendar quarter. The taxpayer shall also file a return with the Department for each of the first two months of each calendar quarter, on or before the twentieth day of the following calendar month, stating:*
  - *The name of the seller;*

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- *The address of the principal place of business from which the seller engages in the business of selling tangible personal property at retail in this State;*
  - *The total amount of taxable receipts received by the seller during the preceding calendar month or quarter from sales of tangible personal property by the seller during the preceding calendar month or quarter, including receipts from charge and time sales, but less all deductions allowed by law;*
  - *The amount of credit provided in Section 2d of the Act;*
  - *The amount of tax due;*
  - *The amount of penalty due, if any; and*
  - *Such other reasonable information as the Department may require. (Section 3 of the Act)*
- c) Returns must be signed by the taxpayer. *If a taxpayer fails to sign a return within 30 days after the proper notice and demand for signature by the Department, the return shall be considered valid and any amount shown to be due on the return shall be deemed assessed. (Section 3 of the Act)*

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

**Section 130.535 Payment of the Tax, Including Quarter Monthly Payments in Certain Instances**

- a) Except as noted hereinafter, at the same time that a tax return required by the provisions of the Act is filed with the Department, the taxpayer shall pay the tax that is due with such return to the Department.
- b) Before October 1, 2000, if the taxpayer's average monthly tax liability to the Department under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, excluding any liability



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for prepaid sales tax to be remitted in accordance with Section 2d of the Act, was \$10,000 or more during the preceding 4 complete calendar quarters, he shall file a return with the Department each month by the 20<sup>th</sup> day of the month next following the month during which such tax liability is incurred and shall make 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 such liability is incurred. If the month during which such tax liability is incurred begins on or after January 1, 1988 and prior to January 1, 1989, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year. If the month during which such tax liability is incurred begins on or after January 1, 1989, and prior to January 1, 1996, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year or 100% of the taxpayer's actual liability for the quarter monthly reporting period. If the month during which such tax liability is incurred begins on or after January 1, 1996, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year. The amount of such payments shall be credited against the final tax liability of the taxpayer's return for that month. Prior to January 1, 1999, if any such payment is not paid at the time or in the amount required in this subsection, then the taxpayer's 2%, 2.1% or 1.75% vendors' discount shall be reduced by 2%, 2.1% or 1.75% of the difference between the minimum amount due as a payment and the amount of such quarter monthly payment actually and timely paid, and the taxpayer shall be liable for penalties and interest on such difference 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 Section. Beginning on and after January 1, 1999, if any such payment is not paid at the time or in the amount required in 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 such 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 Section.

*On and after October 1, 2000, if the taxpayer's average monthly tax liability to the Department under the Act, the Use Tax Act, the Service Occupation Tax*

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*Act, and the Service Use Tax Act, excluding any liability for prepaid sales tax to be remitted in accordance with Section 2d of the Act, was \$20,000 or more during the preceding 4 complete calendar quarters, he shall file a return with the Department each month by the 20<sup>th</sup> 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. (Section 3 of the Act)*

- c) *Before October 1, 2001, without regard to whether a taxpayer is required to make quarter monthly payments as specified above, any taxpayer who is required by Section 2d of this Act to collect and remit prepaid taxes and has collected prepaid taxes which average in excess of \$25,000 per month during the preceding 2 complete calendar quarters, shall file a return with the Department as required by Section 2f and shall make 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 such liability is incurred. If the month during which such tax liability is incurred begins on or after January 1, 1987, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 26.25% of the taxpayer's liability for the same calendar month of the preceding year. The amount of such quarter monthly payments shall be credited against the final tax liability of the taxpayer's return for that month filed under this Section or Section 2f, as the case may be. Once applicable, the requirement of the making of quarter monthly payments to the Department pursuant to this paragraph shall continue until such taxpayer's average monthly prepaid tax collections during the preceding 2 complete calendar quarters is \$25,000 or less. If any such quarter monthly payment is not paid at the time or in the amount required, the taxpayer shall be liable for penalties and interest on such difference, except insofar as the taxpayer has previously made payments for that month in excess of the minimum payments previously due. (Section 3 of the Act)*

*On and after October 1, 2001, without regard to whether a taxpayer is required to make quarter monthly payments as specified above, any taxpayer who is required by Section 2d of the Act to collect and remit prepaid taxes and has collected prepaid taxes that average in excess of \$20,000 per month during the preceding 4 complete calendar quarters shall file a return with the Department as required by Section 2f and shall make 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*

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*which the liability is incurred. Each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's 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 filed under this Section or Section 2f of the Act, as the case may be. Once applicable, the requirement of the making of quarter monthly payments to the Department pursuant to this paragraph shall continue until the taxpayer's average monthly prepaid tax collections during the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability) is less than \$19,000 or until such taxpayer's average monthly liability to the Department as computed for each calendar quarter of the 4 preceding complete calendar quarters is less than \$20,000. If any such quarter monthly payment is not paid at the time or in the amount required, the taxpayer shall be liable for penalties and interest on such difference, except insofar as the taxpayer has previously made payments for that month in excess of the minimum payments previously due. (Section 3 of the Act)*

- d) If any such payment or deposit provided for herein exceeds the taxpayer's present and probable future liabilities under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act and the Service Use Tax Act, the Department shall, if requested by the taxpayer, issue to the taxpayer a credit memorandum, which may be submitted by the taxpayer to the Department in payment of tax liability subsequently to be remitted by the taxpayer to the Department or be assigned by the taxpayer to a similar taxpayer under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act or the Service Use Tax Act. If no such request is made, the taxpayer may credit such excess payment against tax liability subsequently to be remitted to the Department under the Act, the Use Tax Act, the Service Occupation Tax Act or the Service Use Tax 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 vendor'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 such difference.
- e) For the purposes of this Section, the phrase "preceding 4 complete calendar quarters" means the preceding 4 complete calendar quarters for which

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returns would have been filed or should have been filed for the last month of the 4 quarter period since, until then, the making of the required computations for the 4 quarter period would be impossible. For example, the preceding 4 complete calendar quarters with reference to a November 1, 1976, date would actually have ended June 30, 1976, since most returns for the last month of that 4 quarter period would not have to have been filed until July 31, 1976, and the preceding 4 complete calendar quarters with reference to a July 1, 1977, date would actually end March 31, 1977, since most returns for the last month of that 4 quarter period would not have to be filed until April 30, 1977. The calendar quarters are January through March, April through June, July through September and October through December.

- f) Beginning October 1, 1993, a taxpayer who has an average monthly tax liability of \$150,000 or more shall make all payments required by rules of the Department (see 86 Ill. Adm. Code 750 "Payment of Taxes by Electronic Funds Transfer") by electronic funds transfer. Beginning October 1, 1994, a taxpayer who has an average monthly tax liability of \$100,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1995, a taxpayer who has an average monthly tax liability of \$50,000 or more shall make all payments required by rules of the Department by electronic funds transfer.
  
- g) *Beginning October 1, 2000, a taxpayer who has an annual tax liability of \$200,000 or more shall make all payments required by rules of the Department by electronic funds transfer (see 86 Ill. Adm. Code 750). The term "annual tax liability" shall be the sum of the taxpayer's liabilities under the Retailers' Occupation Tax Act, and all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year. (Section 3 of the Act)*

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

**Section 130.565 Vendor's Discount Cap**

- a) Periodic returns. *Except as provided in Section 3 of the Retailers' Occupation Tax Act, the retailer filing the return under that Section shall, at the time of filing such return, pay to the Department the amount of tax imposed by the Act less a discount of 1.75% or \$5 per calendar year, whichever is greater,*

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*which is allowed to reimburse the retailer for the expenses incurred in keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on request. Beginning with returns due on or after January 1, 2025, the vendor's discount allowed under the Retailers' Occupation Tax Act, the Service Occupation Tax Act, the Use Tax Act, and the Service Use Tax Act, including any local tax administered by the Department and reported on the same return, shall not exceed \$1,000 per month in the aggregate for returns other than transaction returns filed during the month.*  
[35 ILCS 120/3]

- 1) The following non-transaction return types are each subject to a separate \$1,000 per month cap:
  - A) Form ST-1, Sales and Use Tax and E911 Surcharge Return (sales and use tax portion of the return). Public Act 103-592 imposed a separate \$1,000 per month vendor's discount cap on the Prepaid Wireless E911 surcharge [50 ILCS 753/15] reported and remitted on Schedule B of Form ST-1. The 3% vendor's discount for the Illinois Telecommunications Access Corporation ("ITAC") Assessment [220 ILCS 5/13-703] also reported and remitted on Schedule B of Form ST-1 does not have a cap.
  - B) Form ST-70, Aviation Fuel Sales and Use Tax Return.
  - C) Form CD-1, Cannabis Dispensary Tax Return ("Step 1: Sales and Use Tax" portion of the return). The "Step 2: Cannabis Purchaser Excise Tax" portion of Form CD-1 is subject to a separate statutory \$1,000 per month vendor's discount cap.
  - D) Form LSE-1, Lease Tax Return for Vehicle Leasing Companies. For purposes of the vendor's discount cap, Form LSE-1 is considered a periodic return subject to a separate \$1,000 per month vendor's discount cap. Tax reported on Form LSE-1 is not reported on a transaction-by-transaction basis. Instead Form LSE-1 is filed once per month to report aggregate monthly amounts related to numerous, previously filed,

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transaction returns. In this capacity, it functions in the same manner as a periodic return, such as Form ST-1.

- 2) Amended periodic returns. If an amended periodic return is filed for a prior period and results in a reduction in the vendor's discount awarded for that prior period, then the amount of any tax refund or credit issued to the taxpayer shall be reduced by the amount of the reduction in the vendor's discount. If an amended periodic return is filed for a prior period and results in an increase in tax due, then the vendor's discount awarded for that period shall be increased only if the additional tax due had been timely paid, and in no event shall the vendor's discount awarded for a given month exceed \$1,000.
  - 3) The \$1,000 per month vendor's discount cap is incorporated into the following taxes by reference to Section 3 of the Retailers' Occupation Tax Act and therefore creates a separate \$1,000 per month vendor's discount cap on returns filed under each of the following taxes.
    - A) Form ST-201, Rental Purchase Agreement Occupation and Use Tax Return.
    - B) Form ART-1, Automobile Renting Occupation and Use Tax Return.
    - C) Form CMFT-1 County Motor Fuel Tax Return.
    - D) Form MMFT-1 Municipal Motor Fuel Tax Return.
- b) Transaction returns. *In the case of retailers who report and pay the tax on a transaction by transaction basis, as provided in Section 3 of the Retailers' Occupation Tax, such discount shall be taken with each such tax remittance instead of when such retailer files his periodic return, but, beginning with returns due on or after January 1, 2025, the discount allowed under the Retailers' Occupation Tax and the Use Tax Act, including any local tax administered by the Department and reported on the same transaction return, shall not exceed \$1,000 per month for all transaction returns filed during the month.* [35 ILCS 120/3]

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- 1) All transaction returns filed under the same Illinois Account ID are subject to the \$1,000 per month discount cap, which shall apply to all original returns filed during a given calendar month. This means that the discount taken on all Form ST-556s filed under an Account ID during the month plus the discount taken on all Form ST-556-LSEs filed under the same Account ID during the same month shall not exceed \$1,000 in total.
- 2) For the purposes of uniform administration and to avoid assessing penalties and interest on taxpayers who claim excess vendor discount in error, for transaction returns due on or after January 1, 2025, taxpayers may claim the discount with each tax remittance but shall not reduce tax payments by the amount of any discount claimed. Instead, after the end of each calendar month, the Department shall determine the discount allowed to each taxpayer for that month and shall issue a discount payment to each taxpayer in the amount calculated, not to exceed \$1,000 per Account ID per month for all original transaction returns filed during the month. This process avoids the errors that would result if taxpayers and the Department attempt to track in real time the ongoing monthly discount total and whether the cap has been reached. This is in light of the fact that transaction returns under a given Account ID may be filed using the Department's online filing tool, a third party vendor, or paper returns, or all three during a given month as well as the fact that multiple returns may be filed simultaneously or nearly simultaneously – all of which could result in over-claiming a discount, which, in turn, would result in tax assessment, late payment penalties, and interest.
- 3) Amended transaction returns. If an amended transaction return is filed for a prior period which results in a reduction in tax due and therefore a reduction in the vendor's discount awarded for that prior period, then a subsequent discount payment made to the taxpayer following the filing of the amended return shall be reduced to reflect the reduction in the prior discount amount resulting from the amended return. If an amended transaction return is filed for a prior period which results in an increase in tax due, then the vendor's discount awarded for that period shall be increased only if the

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additional tax due had been timely paid, and in no event shall the vendor's discount awarded for a given month exceed \$1,000.

- 4) No interest paid. No interest is paid on vendor discount payments.

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

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

**Section 130.1520 Verified Credit**

- a) Verified credit. A verified credit is a specific type of credit arising under Section 3 of the Retailers' Occupation Tax Act, which states:

*If any payment provided for in this Section exceeds the taxpayer's liabilities under this Act, the Use Tax Act, the Service Occupation Tax Act and the Service Use Tax 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 such credit memorandum may be assigned by the taxpayer to a similar taxpayer under this Act, the Use Tax Act, the Service Occupation Tax Act or the Service Use Tax Act, in accordance with reasonable rules and regulations to be prescribed by the Department. If no such request is made, the taxpayer may credit such excess payment against tax liability subsequently to be remitted to the Department under this Act, the Use Tax Act, the Service Occupation Tax Act or the Service Use Tax Act, in accordance with reasonable rules and regulations prescribed by the Department. If the Department subsequently determined that all or any part of the credit taken was not actually due to the taxpayer, the taxpayer's vendor'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 such difference. [35 ILCS 120/3]*

- b) Verified credit – explanation – no interest paid. A verified credit is an amount of tax overpaid in a prior period that may be rolled over and applied to subsequent tax liabilities without the need to comply with the formalities involved in submitting a claim for credit. Since the taxpayer has the immediate use of the verified credit to apply against its liability without the



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need to file a claim for credit and prove the overpayment, interest is not paid on verified credits. (See also, 86 Ill. Adm. Code 700.230(a)(2)). Verified credits appear on a taxpayer's Statement of Account.

- c) Verified credit – How used. A verified credit may be used by a taxpayer in only 3 ways:
- 1) It can be used to offset liability of the taxpayer that arises under this Act, the Use Tax Act, the Service Occupation Tax Act, or the Service Use Tax Act subsequent to the origination of the verified credit;
  - 2) It can be converted to a credit memorandum no later than 30 days after the date of overpayment, by making a request to the Department using forms prescribed by the Department and available at <https://tax.illinois.gov>. See [35 ILCS 120/6a], for information required to be included. Interest is not paid on verified credits that are converted to credit memoranda in accordance with this subsection (c)(2); and
  - 3) It can be converted to a credit memorandum at any time, starting 30 days after the date of overpayment, by making a request to the Department using forms prescribed by the Department and available at <https://tax.illinois.gov>, and without regard to the limitations on claims for refund. See also 86 Ill. Adm. Code 150.1401 for information on limitations and procedures. Interest is not paid on verified credits that are converted to credit memoranda in accordance with this subsection (c)(3).
- d) A verified credit that is converted to a credit memorandum under this subsection (d) may be assigned to another taxpayer in the same manner as other credit memoranda issued to taxpayers by the Department.

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

SUBPART T: DIRECT PAYMENT PROGRAM

**Section 130.2500 Direct Payment Program**

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- a) Effective July 1, 2001, a Direct Payment Program is established. Applicants who have been approved to participate in the Direct Payment Program will be issued a Direct Pay Permit (permit) by the Department, which participants may provide to retailers. Use of the permit relieves the permit holder from paying Use Tax (including any local occupation tax reimbursements of taxes administered by the Department) to the retailer at the time of purchase of qualifying tangible personal property. By using the permit, the permit holder voluntarily agrees to assume the liabilities of the retailer to report and remit Retailers' Occupation Tax (including any local occupation taxes administered by the Department) directly to the Department as set forth in 130.2510(d) of this Part on those sales.
- b) Beginning July 1, 2001, retailers who are provided with a permit from a permit holder purchasing qualifying tangible personal property are relieved of their obligation to remit the Retailers' Occupation Tax (including any local occupation taxes administered by the Department) incurred on the sale of that qualifying tangible personal property. Retailers who are presented with permits are also relieved of the obligation to collect Use Tax (including any local occupation tax reimbursements of taxes administered by the Department) from the permit holder. Retailers who make sales to permit holders who present their permits must report those sales on their sales and use tax return (Form ST-1). The retailer must show these transactions as exempt sales on Line 16 (Other) of his Form ST-1 Worksheet for Line 2. The exemption must be identified as "direct pay".
- c) Proper use of Direct Pay Permit
  - 1) In order to be relieved of his obligation to pay tax at the time of purchase of qualifying tangible personal property, the permit holder must provide the retailer with a copy of the permit, unless the retailer already has a copy of that permit on file.
  - 2) Once the permit holder uses his permit to be relieved of paying tax to a particular retailer, he must use that permit for all of his purchases of qualifying tangible personal property from that retailer as long as the permit is valid.

ILLINOIS REGISTER

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DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- d) Retailers' Discount. Permit holders who make purchases of qualifying tangible personal property and use their permits with retailers who either incur Retailers' Occupation Tax on those sales, or are required to collect Illinois Use Tax on those sales, may take the 1.75%, not to exceed \$1,000 per month beginning on January 1, 2025, retailers' discount attributable to those sales. Retailers who are presented a Direct Pay Permit on purchases of qualifying tangible personal property are not allowed the 1.75% retailers' discount on those sales.

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