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Bulletin

David Harris, Director

Changes to the Taxation of Wine Sales to Illinois Purchasers by Certain Winery Shipper's License Holders

This bulletin is written to inform you of recent changes; it does not replace statutes, rules and regulations, or court decisions.

To: *Certain Winery Shipper's License holders making sales to Illinois purchasers*

Illinois Department of Revenue

For information or forms

Visit our website at:

tax.illinois.gov

Register and file your return online at:

mytax.illinois.gov

For registration questions, call us at:

217 785-3707

Call us at:

1 800 732-8866 or

217 782-3336

Call our TDD

(telecommunications device

for the deaf) at:

1 800 544-5304

Illinois Liquor Control Commission

For information or forms

Visit our website at:

ILCC.illinois.gov

Call us at:

312 814-2206 or

217 782-2136

Public Acts [101-0031](#) and [101-0604](#) amended the Retailers' Occupation Tax (ROT) Act and enacted the Leveling the Playing Field for Illinois Retail Act to implement a series of structural changes to the Illinois sales tax laws.

Beginning January 1, 2021, Illinois Liquor Control Commission (ILCC) Winery Shipper's License holders who

- do not have physical presence in Illinois and
- meet either of the tax remittance thresholds

are required to remit state and any locally imposed ROT on sales to Illinois purchasers at the rate in effect at the location where the tangible personal property is shipped or delivered or at which possession is taken by the purchaser (destination rate), in addition to any liquor taxes.

This bulletin provides specific guidance about the change in taxation for Winery Shipper's License holders selling and shipping wine to Illinois purchasers for personal use and consumption and not for resale.

What is physical presence?

A business who maintains in Illinois, directly or by a subsidiary, an office, distribution house, sales house, warehouse, or other place of business, or any agent or other representative operating in Illinois or its subsidiary, irrespective of whether such place of business or agent is located here permanently or temporarily or whether such retailer or subsidiary is licensed to do business in this state is considered to have physical presence in Illinois. This bulletin **does not** apply to any Winery Shipper License holder who has physical presence in Illinois.

What are the tax remittance thresholds?

The tax remittance thresholds are:

1. the cumulative gross receipts from sales of tangible personal property to purchasers in Illinois are \$100,000 or more; or
2. the retailer enters into 200 or more separate transactions for the sale of tangible personal property to purchasers in Illinois.

Winery Shipper's License holders who meet or exceed the threshold in either paragraph 1 or 2 shall be liable for all applicable state and locally imposed ROT on all retail sales to Illinois purchasers.

Do I need to change my registration with the Illinois Department of Revenue (IDOR)?

If you are a Winery Shipper's License holder, do not have physical presence in Illinois, and meet one of the tax remittance thresholds, you must update your registration with Illinois. In your MyTax Illinois account, click on "Register for New Tax Accounts" and then select "Retailer" to complete the registration.

Contact the Central Registration Division at

- by phone at 217-785-3707 or
- by email at REV.CentReg@illinois.gov,

for information about or assistance with updating the registration of your business.

How do I determine the retailers' occupation tax rate to collect and remit?

On and after January 1, 2021, Winery Shipper's License holders with no physical presence in Illinois and who meet or exceed either of the tax remittance thresholds are deemed to be engaged in the occupation of selling tangible personal property at the Illinois location to which the tangible personal property is shipped or delivered or at which possession is taken by the purchaser (destination sourcing). In other words, sales of wine made to Illinois purchasers by a Winery Shipper's License holder who meets either tax remittance threshold and has no physical presence in Illinois is taxed at the destination ROT rate (including local ROT).

Use the [Tax Rate Finder](#) (currently under development) to look up location specific tax rates. Depending on the location to which the wine is

shipped, the actual sales tax rate may be higher than the state rate (6.25%) because of home rule, non-home rule, mass transit, park district, county public safety, public facilities or transportation, and county school facility tax.

What if I am a Winery Shipper's License holder and have physical presence in Illinois?

Nothing changes. You are still required to collect and remit Illinois Use Tax on all sales to Illinois purchasers.

What if I am a Winery Shipper's License holder with no physical presence but I do not meet either of the tax remittance thresholds?

Nothing changes. You are still required to collect and remit Illinois Use Tax on all sales to Illinois purchasers. However, **now**, you must determine, on a quarterly basis, whether you meet one of the tax remittance thresholds. For each quarter ending on the last day of March, June, September, and December, you must examine your sales to Illinois purchasers for the immediately preceding 12-month period. If, as a result of this review, you meet either threshold for a 12-month period, you are required to collect and remit all applicable state and locally imposed ROT administered by IDOR on all retail sales to Illinois purchasers and to file all applicable returns for one year. You must start collecting taxes for sales beginning on the first day of the quarter immediately following the end of the 12-month lookback period. Taxes collected should be remitted to IDOR no later than the 20th day of the calendar month following the month in which they were collected or as otherwise provided in accordance with Section 3 of the ROT Act.

Examples:

1. On December 31, 2020, *ABC Wines*, an ILCC Winery Shipper's License holder located in New York who has no Illinois presence, determines it meets one of the tax remittance thresholds. Beginning January 1, 2021, *ABC Wines* must collect and remit all applicable state and locally imposed ROT for sales to Illinois purchasers.
2. On December 31, 2020, *Winoseurs*, an ILCC Winery Shipper's License holder located in Washington with no Illinois presence, determines it does not meet a tax remittance threshold.

Winoseurs will continue to collect and remit Illinois Use Tax on all its sales to Illinois purchasers. In addition, *Winoseurs* must examine its sales to Illinois purchasers for the immediately preceding 12-month period on the last day of March, June, September, and December 2021, and take appropriate action based on its sales during the lookback period.

Does this change affect the Illinois Liquor Gallonage Tax?

No. Illinois Liquor Gallonage Tax (Form RL-26-W, Liquor Direct Wine Shipper Return) is still due on all your sales of wine to individual Illinois purchasers. There are no thresholds that must be met before you are required to remit Illinois Liquor Gallonage Tax.

What if I use a third party provider to ship my wine to an Illinois purchaser?

The holder of an Illinois Winery Shipper's License ("Direct Shipping Permit") with the Illinois Liquor Control Commission is responsible to ensure Illinois tax requirements are met for the sale and shipment of wine to Illinois purchasers.

For more information, see the [Resource Page for the "Leveling the Playing Field for Illinois Retail Act"](#)