

**Illinois Department of Revenue
Regulations**

**Title 86 Part 130 Section 130.1960 Finance Companies and Other Lending Agencies --
Installment Contracts -- Bad Debts**

TITLE 86: REVENUE

**PART 130
RETAILER'S OCCUPATION TAX**

**Section 130.1960 Finance Companies and Other Lending Agencies -- Installment Contracts --
Bad Debts**

a) Lending Agencies -- When Liable For Tax

Finance companies and other lending agencies are not relieved from liability for tax in cases in which they engage in the business of selling to users or consumers tangible personal property to which they hold or acquire title. Except as provided in subsection (b) of this Section, when a lending agency transfers title to a repossessed car to a user, the lending agency is engaging in the business of selling tangible personal property at retail and incurs Retailers' Occupation Tax liability on its receipts from such sales. It should be registered as a retailer under the Retailers' Occupation Tax Act and should file returns and otherwise comply with that Act.

b) Lending Agencies -- When Not Liable For Tax

- 1) Finance companies and other lending agencies are engaged primarily in the business of financing or acquiring the promissory notes given by purchasers of automobiles, furniture, refrigerators or other items of tangible personal property.
- 2) To guarantee payment of such notes, they sometimes take as security chattel mortgages upon such tangible personal property. In cases where the purchaser of the automobile or other tangible personal property fails to meet his obligation, the lending agency repossesses the property and sells it to satisfy the obligation evidenced by the notes. In connection with such sales, the lending agency acts as agent for the owner of the repossessed property if such owner is known or disclosed to the purchaser, and if the lending agency does not take title to the property; the lending agency, under such circumstances, is not liable for payment of any Retailers' Occupation Tax with respect to the proceeds from such sales.
- 3) Even if the lending agency does title a repossessed motor vehicle in its name, if the original buyer, after the expiration of the redemption period provided for in the Retail Installment Sales Act [815 ILCS 405], is granted permission to redeem and to resume possession of the vehicle and to continue performance under his original installment contract without any change in the terms of such contract, and the lending agency re-endorses the repossession title to such original buyer, the transaction is not regarded as a sale and so is not taxable.

c) Installment Sales

- 1) When a retailer of tangible personal property sells an installment contract or "paper" to a third party, the difference between the selling price of the tangible personal property and the selling price of the installment contract or "paper" is a cost of doing business and is therefore not deductible in computing Retailers' Occupation Tax liability. Retailers' Occupation Tax is measured by the total selling price of the tangible personal property purchased from the retailer for use or consumption. Upon sale of the installment contract or "paper" to a third party, Retailers' Occupation Tax becomes due based on the entire selling price to the purchaser of the tangible personal property, with credit allowed for any tax already remitted to the Department based on the receipts from the sale of the tangible personal property. As an illustration, a computer vendor enters into an installment sales contract with a business for a computer system. The selling price of the computer system is \$120,000 and the contract requires monthly installment payments of \$10,000 for one year. After the business makes the first payment, the computer vendor sells the installment contract to a bank for \$90,000. Upon the sale of the installment contract to the bank, the computer vendor incurs Retailers' Occupation Tax on \$120,000 (the entire selling price to the original purchaser), with credit allowed for tax that was remitted on the first \$10,000 payment made by the business.
- 2) For purposes of this Section, "paper" means any instrument of indebtedness which was acquired by the retailer from the purchaser of the tangible personal property. Sales of "paper" to a third party includes the sale of accounts receivable as well as assignments or sales of the actual instruments of indebtedness themselves.

d) Bad Debts

- 1) In case a retailer repossesses any tangible personal property and subsequently resells such property to a purchaser for use or consumption, his gross receipts from such sale of the repossessed tangible personal property are subject to Retailers' Occupation Tax. He is entitled to a bad debt credit with respect to the original sale in which the default has occurred to the extent to which he has paid Retailers' Occupation Tax on a portion of the price which he does not collect, or which he is not permitted to retain because of being required to make a repayment thereof to a lending agency under a "with recourse" agreement. Retailers of tangible personal property other than motor vehicles, watercraft, trailers and aircraft that must be registered with an agency of this State may obtain this bad debt credit by taking a deduction on the returns they file with the Department for the month in which the federal income tax return or amended return on which the receivable is written off is filed, or by filing a claim for credit as provided in subsection (d)(3) of this Section. Because retailers of motor vehicles, watercraft, trailers and aircraft do not pay Retailers' Occupation Tax to the Department on retail sales of motor vehicles, watercraft, trailers, and aircraft with monthly returns, but remit the tax to the Department on a transaction by transaction basis, they are unable to take a deduction on the returns that they file with the Department, but may file a claim for credit with the Department, as

provided in subsection (d)(3), on any transaction with respect to which they desire to receive the benefit of the repossession credit.

- 2) Retailers who incur bad debt on any tangible personal property that is not repossessed may also obtain bad debt credit as provided in subsections (d)(1) and (3).
- 3) In the case of tax paid on an account receivable that becomes a bad debt, the tax paid becomes a tax paid in error, for which a claim for credit may be filed in accordance with Section 6 of the Retailers' Occupation Tax Act, on the date that the Federal income tax return or amended return on which the receivable is written off is filed.

(Source: Amended at 24 Ill. Reg. 18376, effective December 1, 2000)