

**Illinois Department of Revenue
Regulations**

Title 86 Part 130 Section 130.1965 Florists and Nurserymen

**TITLE 86: REVENUE
PART 130
RETAILERS' OCCUPATION TAX**

Section 130.1965 Florists and Nurserymen

a) Florists--When Liable For Tax

Florists are engaged in the business of selling tangible personal property at retail and are liable for payment of the Retailers' Occupation Tax measured by receipts from sales of flowers, wreaths, bouquets, potted plants and other such items of tangible personal property to purchasers for use or consumption. This is true even though such items are made by the florists on special order.

b) Transactions Involving Florist Delivery Associations

Where florists conduct transactions through a florists' delivery association, the following rules will apply in the computation of tax liability:

- 1) On all retail orders taken by an Illinois florist and transmitted to a second florist in Illinois for delivery in this State, the sending florist will be held liable for Retailers' Occupation Tax with respect to the total amount which he collects from his customers, except for the cost of the message conveying delivery instructions where this item is charged for separately from the selling price of the flowers.
- 2) Where an Illinois florist receives an order pursuant to which he gives instructions to a second florist located outside Illinois for delivery of flowers to a point outside Illinois, tax will likewise be owing with respect to the receipts of the Illinois florist from the customer who placed the order. (Effective July 1, 1971)
- 3) Where Illinois florists receive instructions from other florists located either within or outside of Illinois for the delivery of flowers, the receiving florist will not be held liable for tax with respect to any receipts which he may realize from the transaction. In this instance, if the order originated in Illinois, the tax will be due from and payable by the Illinois florist who first received the order and transmitted instructions to the second florist.

c) Nurserymen

- 1) Where a nurseryman, landscape contractor or florist sells shrubbery, young trees and similar items to purchasers for use or consumption, and does not, as part of the transaction, plant the items in the ground, the entire receipts from the transaction are subject to Retailers' Occupation Tax.

- 2) However, where the items are transplanted by the seller in the land of the purchaser, the transaction is not subject to Retailers' Occupation Tax liability. In this situation, the seller functions as a construction contractor and incurs a Use Tax liability on his cost price of the items affixed to the purchaser's real estate.

(Source: Amended at 24 Ill. Reg. 15104, effective October 2, 2000)