

Article 10. Parking Excise Tax Act

Section 10-1. Short title. This Article may be cited as the Parking Excise Tax Act. References in this Article to "this Act" mean this Article.

Section 10-5. Definitions.

"Booking intermediary" means any person or entity that facilitates the processing and fulfillment of reservation transactions between an operator and a person or entity desiring parking in a parking lot or garage of that operator.

"Charge or fee paid for parking" means the gross amount of consideration for the use or privilege of parking a motor vehicle in or upon any parking lot or garage in the State, collected by an operator and valued in money, whether received in money or otherwise, including cash, credits, property, and services, determined without any deduction for costs or expenses, but not including charges that are added to the charge or fee on account of the tax imposed by this Act or on account of any other tax imposed on the charge or fee. "Charge or fee paid for parking" excludes separately stated charges not for the use or privilege of parking and excludes amounts retained by or paid to a booking intermediary for services provided by the booking intermediary. If any separately stated charge is not optional, it shall be presumed that it is part of the charge for the use or privilege of parking.

"Department" means the Department of Revenue.

"Operator" means any person who engages in the business of operating a parking area or garage, or who, directly or through an agreement or arrangement with another party, collects the consideration for parking or storage of motor vehicles, recreational vehicles, or other self-propelled vehicles, at that parking place. This includes, but is not limited to, any facilitator or aggregator that collects from the purchaser the charge or fee paid for parking. "Operator" does not include a bank, credit card company, payment processor, booking intermediary, or person whose involvement is limited to performing functions that are similar to those performed by a bank, credit card company, payment processor, or booking intermediary.

"Parking area or garage" means any real estate, building, structure, premises, enclosure or other place, whether enclosed or not, except a public way, within the State, where motor vehicles, recreational vehicles, or other self-propelled vehicles, are stored, housed or parked for hire, charge, fee or other valuable consideration in a condition ready for use, or where rent or compensation is paid to the owner, manager, operator or lessee of the premises for the housing, storing, sheltering, keeping or maintaining motor vehicles, recreational vehicles, or other self-propelled vehicles.

"Parking area or garage" includes any parking area or garage,

whether the vehicle is parked by the owner of the vehicle or by the operator or an attendant.

"Person" means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, or a receiver, trustee, guardian, or other representative appointed by order of any court.

"Purchase price" means the consideration paid for the purchase of a parking space in a parking area or garage, valued in money, whether received in money or otherwise, including cash, gift cards, credits, and property, and shall be determined without any deduction on account of the cost of materials used, labor or service costs, or any other expense whatsoever.

"Purchase price" includes any and all charges that the recipient pays related to or incidental to obtaining the use or privilege of using a parking space in a parking area or garage, including but not limited to any and all related markups, service fees, convenience fees, facilitation fees, cancellation fees, overtime fees, or other such charges, regardless of terminology. However, "purchase price" shall not include consideration paid for:

(1) optional, separately stated charges not for the use or privilege of using a parking space in the parking area or garage;

(2) any charge for a dishonored check;

(3) any finance or credit charge, penalty or charge for delayed payment, or discount for prompt payment;

(4) any purchase by a purchaser if the operator is prohibited by federal or State Constitution, treaty, convention, statute or court decision from collecting the tax from such purchaser;

(5) the isolated or occasional sale of parking spaces subject to tax under this Act by a person who does not hold himself out as being engaged (or who does not habitually engage) in selling of parking spaces; and

(6) any amounts added to a purchaser's bills because of charges made pursuant to the tax imposed by this Act. If credit is extended, then the amount thereof shall be included only as and when payments are made.

"Purchaser" means any person who acquires a parking space in a parking area or garage for use for valuable consideration.

"Use" means the exercise by any person of any right or power over, or the enjoyment of, a parking space in a parking area or garage subject to tax under this Act.

Section 10-10. Imposition of tax; calculation of tax.

(a) Beginning on January 1, 2020, a tax is imposed on the privilege of using in this State a parking space in a parking area or garage for the use of parking one or more motor

vehicles, recreational vehicles, or other self-propelled vehicles, at the rate of:
(1) 6% of the purchase price for a parking space paid for on an hourly, daily, or weekly basis; and
(2) 9% of the purchase price for a parking space paid for on a monthly or annual basis.
(b) The tax shall be collected from the purchaser by the operator.
(c) An operator that has paid or remitted the tax imposed by this Act to another operator in connection with the same parking transaction, or the use of the same parking space, that is subject to tax under this Act, shall be entitled to a credit for such tax paid or remitted against the amount of tax owed under this Act, provided that the other operator is registered under this Act. The operator claiming the credit shall have the burden of proving it is entitled to claim a credit.
(d) If any operator erroneously collects tax or collects more from the purchaser than the purchaser's liability for the transaction, the purchaser shall have a legal right to claim a refund of such amount from the operator. However, if such amount is not refunded to the purchaser for any reason, the operator is liable to pay such amount to the Department.
(e) The tax imposed by this Section is not imposed with respect to any transaction in interstate commerce, to the extent that the transaction may not, under the Constitution and statutes of the United States, be made the subject of taxation by this State.
Section 10-15. Filing of returns and deposit of proceeds. On or before the last day of each calendar month, every operator engaged in the business of providing to purchasers parking areas and garages in this State during the preceding calendar month shall file a return with the Department, stating:
(1) the name of the operator;
(2) the address of its principal place of business and the address of the principal place of business from which it provides parking areas and garages in this State;
(3) the total amount of receipts received by the operator during the preceding calendar month or quarter, as the case may be, from sales of parking spaces to purchasers in parking areas or garages during the preceding calendar month or quarter;
(4) deductions allowed by law;
(5) the total amount of receipts received by the operator during the preceding calendar month or quarter upon which the tax was computed;
(6) the amount of tax due; and
(7) such other reasonable information as the Department may require.

If an operator ceases to engage in the kind of business that makes it responsible for filing returns under this Act, then that operator shall file a final return under this Act with the Department on or before the last day of the month after discontinuing such business.

All returns required to be filed and payments required to be made under this Act shall be by electronic means. Taxpayers who demonstrate hardship in filing or paying electronically may petition the Department to waive the electronic filing or payment requirement, or both. The Department may require a separate return for the tax under this Act or combine the return for the tax under this Act with the return for other taxes.

If the same person has more than one business registered with the Department under separate registrations under this Act, that person shall not file each return that is due as a single return covering all such registered businesses but shall file separate returns for each such registered business.

If the operator is a corporation, the return filed on behalf of that corporation shall be signed by the president, vice-president, secretary, or treasurer, or by a properly accredited agent of such corporation.

The operator filing the return under this Act shall, at the time of filing the return, pay to the Department the amount of tax imposed by this Act less a discount of 1.75%, not to exceed \$1,000 per month, which is allowed to reimburse the operator for the expenses incurred in keeping records, preparing and filing returns, remitting the tax, and supplying data to the Department on request.

If any payment provided for in this Section exceeds the taxpayer's liabilities under this Act, as shown on an original return, the Department may authorize the taxpayer to credit such excess payment against liability subsequently to be remitted to the Department under this Act, in accordance with reasonable rules adopted by the Department. 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 by an amount equal to the difference between the discount as applied to the credit taken and that actually due, and that taxpayer shall be liable for penalties and interest on such difference.

Section 10-20. Exemptions. The tax imposed by this Act shall not apply to:

- (1) parking in a parking area or garage operated by the federal government or its instrumentalities that has been issued an active tax exemption number by the Department under Section 1g of the Retailers' Occupation Tax Act; for this exemption to apply, the parking area or garage must be operated by the federal government or its

instrumentalities; the exemption under this paragraph (1)
does not apply if the parking area or garage is operated by
a third party, whether under a lease or other contractual
arrangement, or any other manner whatsoever;
(2) residential off-street parking for home or
apartment tenants or condominium occupants, if the
arrangement for such parking is provided in the home or
apartment lease or in a separate writing between the
landlord and tenant, or in a condominium agreement between
the condominium association and the owner, occupant, or
guest of a unit, whether the parking charge is payable to
the landlord, condominium association, or to the operator
of the parking spaces;
(3) parking by hospital employees in a parking space
that is owned and operated by the hospital for which they
work; and
(4) parking in a parking area or garage where 3 or
fewer motor vehicles are stored, housed, or parked for
hire, charge, fee or other valuable consideration, if the
operator of the parking area or garage does not act as the
operator of more than a total of 3 parking spaces located
in the State; if any operator of parking areas or garages,
including any facilitator or aggregator, acts as an
operator of more than 3 parking spaces in total that are
located in the State, then this exemption shall not apply
to any of those spaces.

Section 10-25. Collection of tax.

(a) Beginning with bills issued or charges collected for a
purchase of a parking space in a parking area or garage on and
after January 1, 2020, the tax imposed by this Act shall be
collected from the purchaser by the operator at the rate stated
in Section 10-10 and shall be remitted to the Department as
provided in this Act. All charges for parking spaces in a
parking area or garage are presumed subject to tax collection.
Operators shall collect the tax from purchasers by adding the
tax to the amount of the purchase price received from the
purchaser. The tax imposed by the Act shall when collected be
stated as a distinct item separate and apart from the purchase
price of the service subject to tax under this Act. However,
where it is not possible to state the tax separately the
Department may by rule exempt such purchases from this
requirement so long as purchasers are notified by language on
the invoice or notified by a sign that the tax is included in
the purchase price.

(b) Any person purchasing a parking space in a parking area
or garage subject to tax under this Act as to which there has
been no charge made to him of the tax imposed by Section 10-10,
shall make payment of the tax imposed by Section 10-10 of this
Act in the form and manner provided by the Department, such

payment to be made to the Department in the manner and form required by the Department not later than the 20th day of the month following the month of purchase of the parking space.

Section 10-30. Registration of operators.

(a) A person who engages in business as an operator of a parking area or garage in this State shall register with the Department. Application for a certificate of registration shall be made to the Department, by electronic means, in the form and manner prescribed by the Department and shall contain any reasonable information the Department may require. Upon receipt of the application for a certificate of registration in proper form and manner, the Department shall issue to the applicant a certificate of registration. Operators who demonstrate that they do not have access to the Internet or demonstrate hardship in applying electronically may petition the Department to waive the electronic application requirements.

(b) The Department may refuse to issue or reissue a certificate of registration to any applicant for the reasons set forth in Section 2505-380 of the Department of Revenue Law of the Civil Administrative Code of Illinois.

(c) Any person aggrieved by any decision of the Department under this Section may, within 20 days after notice of such decision, protest and request a hearing, whereupon the Department shall give notice to such person of the time and place fixed for such hearing and shall hold a hearing in conformity with the provisions of this Act and then issue its final administrative decision in the matter to such person. In the absence of such a protest within 20 days, the Department's decision shall become final without any further determination being made or notice given.

Section 10-35. Revocation of certificate of registration.

(a) The Department may, after notice and a hearing as provided in this Act, revoke the certificate of registration of any operator who violates any of the provisions of this Act or any rule adopted pursuant to this Act. Before revocation of a certificate of registration, the Department shall, within 90 days after non-compliance and at least 7 days prior to the date of the hearing, give the operator so accused notice in writing of the charge against him or her, and on the date designated shall conduct a hearing upon this matter. The lapse of such 90-day period shall not preclude the Department from conducting revocation proceedings at a later date if necessary. Any hearing held under this Section shall be conducted by the Director or by any officer or employee of the Department designated in writing by the Director.

(b) The Department may revoke a certificate of registration for the reasons set forth in Section 2505-380 of the Department

of Revenue Law of the Civil Administrative Code of Illinois.

(c) Upon the hearing of any such proceeding, the Director or any officer or employee of the Department designated in writing by the Director may administer oaths, and the Department may procure by its subpoena the attendance of witnesses and, by its subpoena duces tecum, the production of relevant books and papers. Any circuit court, upon application either of the operator or of the Department, may, by order duly entered, require the attendance of witnesses and the production of relevant books and papers before the Department in any hearing relating to the revocation of certificates of registration. Upon refusal or neglect to obey the order of the court, the court may compel obedience thereof by proceedings for contempt.

(d) The Department may, by application to any circuit court, obtain an injunction requiring any person who engages in business as an operator under this Act to obtain a certificate of registration. Upon refusal or neglect to obey the order of the court, the court may compel obedience by proceedings for contempt.

Section 10-40. Valet services.

(a) Persons engaged in the business of providing valet services are subject to the tax imposed by this Act on the purchase price received in connection with their valet parking operations.

(b) Persons engaged in the business of providing valet services are entitled to take the credit in subsection (c) of Section 10-10.

(c) Tips received by persons parking cars for persons engaged in the business of providing valet services are not subject to the tax imposed by this Act if the tips are retained by the person receiving the tip. If the tips are turned over to the valet business, the tips shall be included in the purchase price.

Section 10-45. Tax collected as debt owed to State. The tax herein required to be collected by any operator or valet business and any such tax collected by that person, shall constitute a debt owed by that person to this State.

Section 10-50. Incorporation by reference. All of the provisions of Sections 1, 2a, 2b, 3 (except provisions relating to transaction returns and except for provisions that are inconsistent with this Act), in respect to all provisions therein other than the State rate of tax) 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5j, 6, 6a, 6b, 6c, 6d, 7, 8, 9, 10, 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act that are not inconsistent with this Act, and all provisions of the Uniform Penalty and Interest Act shall apply, as far as practicable, to

the subject matter of this Act to the same extent as if such provisions were included in this Act.
Section 10-55. Deposit of proceeds from parking excise tax.
The moneys received by the Department from the tax imposed by this Act shall be deposited into the Capital Projects Fund.