

**Illinois Department of Revenue
Regulations**

Title 86 Part 160 Section 160.105 Definitions

TITLE 86: REVENUE

**PART 160
SERVICE USE TAX**

Section 160.105 Definitions

- a) For definitions of terms other than "Use", "Purchased from a Serviceman", "Purchaser", "Selling Price", and "Serviceman maintaining a place of business in this State", see Section 140.201 of the Service Occupation Tax Regulations (86 Ill. Adm. Code 140.201).
- b) "Use" means the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, but does not include the sale or use for demonstration by him of that property in any form as tangible personal property in the regular course of business. "Use" does not mean the interim use of tangible personal property nor the physical incorporation of tangible personal property, as an ingredient or constituent, into other tangible personal property,
 - 1) which is sold in the regular course of business or
 - 2) which the person incorporating such ingredient or constituent therein has undertaken at the time of such purchase to cause to be transported in interstate commerce to destinations outside the State of Illinois.
- c) "Purchased from a serviceman" means the acquisition of the ownership of, or title to, tangible personal property through a sale of service.
- d) "Purchaser" means any person who, through a sale of service, acquires the ownership of, or title to, any tangible personal property.
- e) "Selling price" means the consideration for a sale valued in money whether received in money or otherwise, including cash, credits and service, and shall be determined without any deduction on account of the serviceman's cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever, but does not include interest or finance charges which appear as separate items on the bill of sale or sales contract nor charges that are added to prices by sellers on account of the seller's duty to collect, from the purchaser, the tax that is imposed by this Act. For purposes of calculating the serviceman's tax base, the selling price shall not be less than the cost price to the serviceman of the tangible personal property transferred to the service customer.
- f) *"Serviceman maintaining a place of business in this State", or any like term, means and includes any serviceman having or maintaining within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of*

business, or any agent or other representative operating within this State under the authority of the serviceman or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such serviceman or subsidiary is licensed to do business in this State; soliciting orders for tangible personal property by means of a telecommunication or television shopping system (which utilizes toll free numbers) which is intended by the retailer to be broadcast by cable television or other means of broadcasting, to consumers located in this State; pursuant to a contract with a broadcaster or publisher located in this state, soliciting orders for tangible personal property by means of advertising which is disseminated primarily to consumers located in this State and only secondarily to bordering jurisdictions; soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this state or benefits from the location in this State of authorized installation, servicing, or repair facilities; being owned or controlled by the same interests which own or control any retailer engaging in business in the same or similar line of business in this State; having a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under this Section; pursuant to a contract with a cable television operator located in this State, soliciting orders for tangible personal property by means of advertising which is transmitted or distributed over a cable television system in this State, or engaging in activities in Illinois which would, in the state in which the service business engaging in such activities is located, constitute maintaining a place of business in that state [35 ILCS 110]. For the purpose of determining such state of location, the Department will look to the place at which the selling activity takes place. The seller's acceptance of the purchase order or other contracting action in making the sale is the single most important factor in determining selling location.

(Source: Amended at 25 Ill. Reg. 5015, effective March 23, 2001)