CITY OF CHICAGO
DEPARTMENT OF REVENUE
RULES AND REGULATIONS

Pursuant to Sections 2-80-030, 2-80-040, 3-4-030 and 3-4-150 of the Chicago Municipal Code, I, Bea Reyna-Hickey, as Director of the City of Chicago Department of Revenue, do hereby adopt and promulgate the rules and regulations set forth below, effective June 1, 2004. All previously issued rules and regulations are rescinded prospectively for the purpose of periods on and after June 1, 2004. The previously issued rules and regulations, however, shall remain effective for the purpose of periods prior to June 1, 2004.

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Bea Reyna-Hickey
Director
Department of Revenue

Dated: May 13, 2004

CITY OF CHICAGO
DEPARTMENT OF REVENUE
AMUSEMENT TAX RULING

Amusement Tax Ruling #1
Subject: Application of tax to patrons of participatory entertainment and recreational activities.
Effective date: June 1, 2004

Formerly Ruling #86-1, as amended
Original effective date: February 17, 1986
Amended: March 1, 1989

Section 1. In general, Section 4-156-020(A) of the Chicago Municipal Code ("Code") imposes a tax upon the patrons of every amusement within the City (the "amusement tax" or "tax"). Section 4-156-010 defines an "amusement" as including (1) various exhibitions, performances, presentations or shows that a person may witness or view, (2) various entertainment or recreational activities in which a person may participate, and (3) paid television programming. This ruling discusses primarily the second category described above (i.e., entertainment or recreational activities in which a person may participate).

Section 2. In general, all entertainment or recreational activities offered for public participation or on a membership or other basis are amusements subject to the tax. Code Section 4-156-020. This includes entertainment and recreational activities such as amusement park rides and games, circuses, carnivals, fishing, skating, pleasure boat rides, dancing, bowling, golf, pool, billiards, swimming, tennis, racquetball, weightlifting, and bodybuilding. Activities that are primarily educational are not amusements and therefore are not subject to the tax.

Section 3. The tax is on the patrons of any amusement within the city. The tax is based on the admission fees or other charges for the privilege to participate in the amusement. Initiation fees and membership dues paid to a health club, racquetball club, tennis club or a similar club or organization, when such club or organization is organized and operated on a membership basis and for the recreational purposes of its members and its members' guests, are exempt from the tax. This exemption does not apply to any fees paid or based upon, in any way whatsoever, a per-event or a per-admission basis.

Section 4. The term "admission fees or other charges" includes, but is not limited to any fee, charge or other consideration paid for the right to participate in the recreational activity or entertainment. This includes fees paid to a club or other organization, other than initiation and membership fees referred to in section 3 above, for the right to use the recreational or entertainment facilities of such club or other organization. Guest fees or charges paid by non-members of a club or other organization for the right to use the recreational or entertainment facilities of such club or other organization also are taxable.

However, additional fees or other charges paid by a member or guest solely for instructors (such as for tennis or racquetball instruction), or for the purchase of goods, are not taxable charges, because they are not charges for amusements. Such non-taxable charges must be separately stated by the amusement provider, otherwise they shall be deemed to be part of the charge for the taxable amusement.

Section 5. The amusement tax is collected by the amusement provider from the amusement patron. The tax is collected at the time the taxable fees, dues or other charges are paid. All tax returns are to be filed with the department on an annual basis on or before August 15 of each year in accordance with Sections 3-4-186 and 3-4-189 of the Code, and all tax payments are to be made in accordance with either Section 3-4-187 (payment of actual tax liabilities) or Section 3-4-188 (payment of estimated taxes).

Section 6. If a patron pays one fee to enter and use two or more entertainment or recreational facilities, and one or more of such facilities are located outside the city, the patron shall owe a tax only on a prorated portion of such fee and may exclude that portion of the fee which relates to the actual percentage of time he or she enters and uses such facilities located outside the city, as compared with the total time he or she enters and uses all of the facilities. The Department of Revenue shall also deem a proration based upon the square footage of the recreational or entertainment space of the facilities to be a reasonable proration. Other systems of proration may be approved by the Department, upon application to the Department. (This section does not apply to patrons who pay a fee to enter, within the city, a mobile entertainment or recreational vehicle.)

CITY OF CHICAGO
DEPARTMENT OF REVENUE
AMUSEMENT TAX RULING AND
PERSONAL PROPERTY LEASE TRANSACTION TAX RULING

Amusement Tax Ruling #2 and
Personal Property Lease Transaction Tax Ruling #7
Subject: Boat rides and boat leases
Effective date: June 1, 2004

Formerly Amusement Tax Ruling #2 and
Personal Property Lease Transaction Tax Ruling #11
Original effective date: April 30, 1991

Where boats are leased or chartered or where sightseeing or other boat rides are provided, the boat operator must collect and remit either the personal property lease transaction tax (Chicago Municipal Code chapter 3-32) or the amusement tax (Chicago Municipal Code chapter 4-156), depending on the nature of the transaction.

The amusement tax applies under the following circumstances:

- The boat operator provides a pilot, and the boat will travel on a route that is predetermined by the boat operator and not subject to negotiation with the patron.

The transaction tax applies in either of the following circumstances:

- The boat is leased without a pilot.

- The boat is leased with a pilot and the patron/lessee may determine the route. In this situation, piloting and other service charges will not be subject to the transaction tax if these charges are separately stated. The remaining charge is subject to the transaction tax.

All separately stated service charges must be supported by documentary evidence in order to be non-taxable.

CITY OF CHICAGO
DEPARTMENT OF REVENUE
AMUSEMENT TAX RULING

Amusement Tax Ruling #3
Subject: Record Retention Requirements
Effective date: June 1, 2004

Formerly Ruling #3
Original effective date: November 13, 1996

Section 1. Section 4-156-030(B) of the Amusement Tax Ordinance, chapter 4-156 of the Municipal Code of Chicago, requires every amusement tax collector to keep accurate books and records of its business or activity, specifically including original source documents. Pursuant to this requirement, every amusement tax collector must retain one of the following:

a. Admission tickets in the form and containing such information as provided by section 2 below;

b. Cash register receipts; or

c. Such other records in a form previously approved in writing by the director of revenue.

Section 2. If tickets are used, each ticket shall consist of at least two parts; one part shall be issued to the patron, the other part shall be retained by the tax collector. Each part of the ticket shall state on its face the name and address of the place where the amusement is being held, the amount paid for the ticket and the date of the event. Tickets issued for amusements that do not have a specific address where the amusement is held, such as boat tours or horse-and-carriage rides, shall state the location where the tour or ride begins. Tickets shall be issued in numerical order, and each part shall contain the same serial number.

Section 3. If an amusement tax collector retains both cash register receipts and admission tickets, the admission tickets do not need to comply with section 2 of this ruling.

Section 4. All source documents required by section 4-156-030(B) shall be retained for at least four years after the end of the calendar year in which they are created; provided, however, that an operator on an annual basis may request approval from the director of revenue to discard source documents that were created more than one year earlier, and the director will grant approval if he or she determines that the operator's source documents contain all information required by section 4-156-030(B) and this ruling.

Section 5. Pursuant to section 3-4-310 of the Uniform Revenue Procedures Ordinance, chapter 3-4 of the Municipal Code of Chicago, tax collectors who violate section 4-156-030(B) and this ruling shall be subject to the fines and penalties set forth in section 3-4-310, including a fine of not less than $50.00 nor more than $200.00 for the first offense. The failure of a tax collector to retain required source documents also may result in the department of revenue estimating additional amusement tax liability and issuing the tax collector a tax determination and assessment.

CITY OF CHICAGO
DEPARTMENT OF REVENUE
CIGARETTE TAX RULING

Cigarette Tax Ruling #1
Subject: Commissions
Effective date: June 1, 2004

Original effective date: April 1, 1995

Section 3-42-040(b) of the Municipal Code of Chicago authorizes a commission to wholesale tobacco dealers and other agents appointed by the City that purchase and affix Chicago tax stamps on cigarette packages for sale in the City of Chicago. The commission is 2.05% of the par value of the Chicago tax stamps purchased.

CITY OF CHICAGO
DEPARTMENT OF REVENUE
EMERGENCY TELEPHONE SYSTEM SURCHARGE RULING

Emergency Telephone System Surcharge Ruling #1
Subject: Application of surcharge to customers with multiple voice grade communications channels utilizing private branch exchange service (P.B.X.) or Centrex – type service.
Effective Date: June 1, 2004

Original effective date: April 1, 1999

Section 1. Chapter 3-64 of the Municipal Code of Chicago (the "Code"), as amended effective April 1, 1999, imposes a surcharge upon all billed subscribers of telecommunications services within the corporate limits of the City other than "wireless communications service."

Section 2. Section 3-64-030(A) of the Code, as amended, provides as follows:

"The surcharge shall be imposed at the monthly rate of $1.25 per voice grade communications channel between a subscriber's premises and the public switched network capable of providing access to the 9-1-1 emergency telephone system; except that where multiple voice grade communications channels are connected between the subscriber's premises and the public switched network through a private branch exchange service (P.B.X.), five surcharges shall be imposed on every such voice grade communications channel leaving the subscriber's premises; and where multiple voice grade communications channels are connected to the public switched network through a telecommunications carrier's central office Centrex-type service, five surcharges shall be imposed on the number of P.B.X. trunk equivalents for such system as determined by a P.B.X. trunk equivalency table based on generally acceptable telecommunications engineering principles and approved by the director of revenue."

Section 3. The following P.B.X. trunk equivalency table is hereby approved:

Number of Centrex Channels	P.B.X.Trunk Equivalents
2-19	2
20-28	3
29-38	4
39-47	5
48-57	6
58-66	7
66-76	8
77-85	9
86-95	10

96-104	11
105-114	12
115-123	13
124-132	14
133-142	15
143-151	16
152-161	17
162-170	18
171-180	19
181-189	20
190-199	21
200-207	22
208-225	23
226-243	24
244-262	25
263-281	26
282-300	27

Each additional group of 18 Centrex-type channels or fraction thereof is equivalent to 1 additional P.B.X. trunk.

CITY OF CHICAGO
DEPARTMENT OF REVENUE
EMPLOYER'S EXPENSE TAX RULING

Employer's Expense Tax Ruling #1
Subject: Tips to be Computed as Part of Wages
Effective date: June 1, 2004

Original effective date: May 4, 1977

Tips received by an employee are to be included in the calculation of wages received by an employee. Tips are considered to be within the purview of the term "wages" as used in section 3-20-020(H), defining the term "full-time employee."

CITY OF CHICAGO
DEPARTMENT OF REVENUE
HOTEL ACCOMMODATIONS TAX RULING

Hotel Accommodations Tax Ruling #1
Subject: Domicile and Permanent Residence Exemption
Effective date: June 1, 2004

Original effective date: May 31, 1996

Advice has been requested concerning records which must be maintained for purposes of substantiating the exemption from the Chicago Hotel Accommodations Tax for accommodations which a person occupies as his or her domicile and permanent residence. Chicago Municipal Code ("Code") § 3-24-020(A)(4).

For a lessee or tenant to be exempt from paying the Chicago Hotel Accommodations Tax, the lessee or tenant must provide documentary evidence that the hotel accommodations are his or her domicile and permanent residence and must also certify that the hotel accommodations are intended to be his or her domicile and permanent residence. Documentary evidence which qualify are the following types of documents and forms of identification which list the hotel accommodations as the individual's residence:

1. an Illinois driver's license;
2. an identification card issued by the Secretary of State of Illinois;
3. employment records;
4. insurance documents;
5. a voter registration card;
6. public assistance records, and
7. such other documents prepared or issued by a third party which indicate the individual's domicile and permanent residence.

All certifications and documents relating to exemptions for domicile and permanent residence must be retained by the hotel/motel owner, operator or manager for the statutory period of four years after the end of the calendar year in which the return for the period was filed or was due, whichever occurs later. Code § 3-4-120.

CITY OF CHICAGO
DEPARTMENT OF REVENUE
HOTEL ACCOMMODATIONS TAX RULING

Hotel Accommodations Tax Ruling #2
Subject: Domicile and Permanent Residence Exemption
Effective date: June 1, 2004

Original effective date: June 30, 1997

This ruling supplements Chicago Hotel Accommodations Tax Ruling #1 ("Hotel Tax Ruling #1"), concerning records which must be maintained for purposes of substantiating the exemption from the Chicago Hotel Accommodations Tax for accommodations which a person occupies as his or her domicile and permanent residence. Chicago Municipal Code ("Code") § 3-24-020(A)(4).

The city of Chicago licenses single-room occupancy buildings ("SRO's") separately from hotels, motels, inns, and lodging houses. To qualify as an SRO, the building or part of the building must be designed or used primarily for single-room occupancy, and the building must contain five or more single-room living units, which must be occupied by the same tenants for an uninterrupted period of not less than 32 days. Code Section 13-4-010. SRO's are of two types. One type may maintain 100 percent of its units for permanent residents. Code Section 4-209-010. The other type may dedicate one or more of its units for transient occupancy, provided such units are only on the first floor of a two-story building; only on the first or second floor of a three or four-story building; or only on the first two floors of a building with five or more stories. Id.

Persons who operate SRO's are required to maintain written records, which identify the names of the tenants of each unit in the SRO and the dates of tenancy for each tenant. Id.

Because of the unique operation and record keeping requirements that apply to SRO's, SRO's shall not be required to keep certifications of domicile and evidence of permanent residence, as provided by Hotel Tax Ruling #1, for tenants who occupy rooms which are designated as single-room occupancy living units to be occupied by permanent residents; provided that these tenants stay the required 32 days. These tenants qualify for the domicile and permanent resident exemption from the Chicago Hotel Accommodations Tax.

However, SRO's are required to keep certifications and evidence of permanent residence to substantiate the exemption for (1) tenants who occupy rooms, which are not maintained for permanent residents (regardless of their length of stay), and (2) tenants of rooms, which are maintained for permanent residents, but stay fewer than 32 days. For the exemption to apply to these tenants, each tenant must provide a permanent residence certification and additional evidence of the tenant's domicile at the SRO as provided by Hotel Tax Ruling #1.

CITY OF CHICAGO
DEPARTMENT OF REVENUE
PERSONAL PROPERTY LEASE TRANSACTION TAX RULING

Personal Property Lease Transaction Tax Ruling #1
Subject: Consummation of Transaction
Effective date: June 1, 2004

Formerly Ruling #3
Original effective date: March 8, 1974
Revised: July 1, 1984

Section 1. Pursuant to section 3-32-030(A) of the Chicago Municipal Code ("Code"), a tax is imposed upon (1) the lease or rental in the City of personal property, or (2) the privilege of using in the City personal property that is leased or rented outside the City. A taxable lease or rental of personal property takes place (a) when an agreement or contract is signed or otherwise entered into by the parties in Chicago and the delivery or use of the object of the agreement also takes place in Chicago, or (b) when 50% or more of the use of the object of the agreement between the parties occurs or will occur within the City of Chicago. If delivery occurs within the City it shall be presumed that 50% or more of the use will occur in the City, unless proved otherwise.

Section 2. Application of this section is illustrated by the following:

a. When a lease is signed and the delivery of the property takes place in Chicago, the transaction is subject to tax.

b. When a lease is signed and the delivery occurs in Chicago, but the property is returned to the lessor at termination of the lease outside of Chicago, the transaction is subject to tax.

c. When a lease is signed in Chicago and the delivery and entire use takes place outside of Chicago, the transaction is not subject to tax.

d. When delivery or use of leased property takes place in Chicago, the transaction is taxable unless it is proved that the agreement was not entered into within the City and that 50% or more of the use did not occur within the City.

e. When a lease is signed outside of Chicago, and the property is delivered and used outside of Chicago with in termittent use (less than 50%) in Chicago the transaction is not subject to tax.

Section 3. The 50%-or-more-of-use requirement applies only if the agreement was entered into outside the City. Furthermore, if a separate payment is required for each period of rental or lease time, the 50%-or-more-of-use requirement shall apply to the use within the payment period. If rental or lease payments are determined by usage of the

object, then 50%-or-more-of-use refers to the usage within the City as compared to the usage outside of the City for the payment period. A“payment period” is any period of time for which a payment is required for the use of the rented or leased property.

CITY OF CHICAGO
DEPARTMENT OF REVENUE
PERSONAL PROPERTY LEASE TRANSACTION TAX RULING

Personal Property Lease Transaction Tax Ruling #2
Subject: Exemptions
Effective date: June 1, 2004

Formerly Ruling #6
Original effective date: July 29, 1974
Revised: July 1, 1984

Pursuant to Section 3-32-030(A) of the Chicago Municipal Code ("Code"), the Chicago Personal Property Lease Transaction Tax (the "lease tax" or "tax") is imposed upon (1) the lease or rental in the City of personal property, or (2) the privilege of using in the City personal property that is leased or rented outside the City.

Advice has been requested concerning the application of the tax to leases of personal property by charitable, educational or religious organizations.

The tax does not apply to leases of personal property by any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, educational or religious purposes. See Code Section 3-32-040(B). However, the exemption for such lessees does not apply to all not-for-profit organizations.

For Example:

1. A church leases a copier for use in its exempt activity. The tax is not applicable.

2. A university leases a computer for curriculum and general university purposes but also sublets computer time to a service bureau. The tax is applicable to the sublease.

3. A not-for-profit athletic club operated for the exclusive use of its members leases certain typewriters. The tax is applicable, as the club's activity is not charitable, educational or religious.

4. A fraternal organization operating for the purpose of social activities limited to members is not exempt from the tax as it is not a charitable organization. However, a home for aged and destitute members may qualify as an exempt charitable organization.

The lessor has the responsibility to determine whether an organization is exempt from the lease tax. The lessor may rely upon a lessee's proof of exemption from the State of Illinois Retailers' Occupation Tax, along with the lessee's representation that the

leased property will be used in connection with an exempt activity. The lessee will be required to provide the lessor with necessary documentary support for the exemption or be subject to the tax.

The principles set forth in the State of Illinois Retailers' Occupation Tax Rules and Regulations as to charitable, educational and religious organizations will be applicable to such exemptions from the Chicago lease tax; however, the Chicago Director of Revenue reserves the right to issue specific rulings or make specific determinations in each individual case, if required, for administration of the tax.

CITY OF CHICAGO
DEPARTMENT OF REVENUE
PERSONAL PROPERTY LEASE TRANSACTION TAX RULING

Personal Property Lease Transaction Tax Ruling #3
Subject: Personal Property subject to tax and computation of tax
Effective date: June 1, 2004

Formerly Ruling #7
Original effective date: November 15, 1974
Revised: July 1, 1984
Revised: April 7, 1985

Section 1. Pursuant to section 3-32-030(A) of the Chicago Municipal Code ("Code"), the Chicago Personal Property Lease Transaction Tax (the "lease tax" or "tax") is imposed upon (1) the lease or rental in the City of personal property, or (2) the privilege of using in the City personal property that is leased or rented outside the City. Section 3-32-030(A) does not limit the application of the tax to any specific types of personal property. Therefore, unless expressly exempted, the tax applies to the lease or rental of any type of personal property.

Section 2. Under Section 3-32-030(A), the lease or rental of personal property includes lease time on personal property not itself rented, such as usage time on a computer, data processing equipment, copying machines, etc. Therefore, the use of a computer for a fee by a computer operator/lessee is subject to tax even though physical possession of the computer does not transfer to the lessee. Likewise, the rental of or usage time on the computer software is also subject to tax.

Section 3. A lease or rental of personal property occurs under the ordinance when there is a transfer of the possession or use of personal property or the right to the possession or use of personal property, but not the title or ownership thereof, for a valuable consideration.

Section 4. The lease tax is calculated on the lease or rental price. Lease or rental price means consideration paid for the lease or rental of personal property, but excluding any separately-stated charges not for the use of personal property. See also Section 5 below. A primary factor in determining whether a separately-stated charge is for the use of personal property is whether or not the charge is optional.

Section 5. For contracts which involve both a sale of a service and a lease of personal property, the lessor shall be required to separate the lease or rental portion from the sale portion, as provided in Section 4 above. If the lessor fails to separate the lease or rental portion of the price from the non-lease or non-rental portion, the entire price charged shall be deemed taxable, unless it is clearly proven that at least 50% of the price is not for the use of any personal property. If this occurs, then the portion not representing the use of personal property would be non-taxable. Neither Section 4 nor

this section is intended to allow a lessor to treat normal overhead costs, such as maintenance, as non-taxable sales of services unless the lease agreement clearly indicates that these costs are being charged separately to the lessee and are optional.

Section 6. A transaction involving the transfer of the possession or use of personal property shall be taxable even though only a small portion of the transaction involves the transfer of the possession or use of such property. However, the amount subject to tax shall be determined as provided in this ruling. If the transfer of personal property is incidental to the service provided, in that the use of the personal property has little or no value without the accompanying service and the cost of the personal property is *de minimis* (i.e., nominal) compared to the price charged for the total transaction, then no lease or rental shall be deemed to have occurred, and no portion of the price shall be taxable. Furthermore, if the lessor or lessor's agent furnishes the services of operating equipment for a lessee, so that only the lessor or lessor's agent uses the equipment, and so that the lessor or lessor's agent remains both in total possession and in total control of the equipment, then no lease or rental shall be deemed to have occurred, and no portion of the price shall be taxable. However, a person who operates a terminal to use a computer is considered the user of that computer, and such use is subject to the tax, even though the physical possession of the computer remains in the hands of the computer owner; and in such a case the location of the terminal used by the operator shall be deemed the location of the use of the computer by such operator for purposes of the tax.

CITY OF CHICAGO
DEPARTMENT OF REVENUE
PERSONAL PROPERTY LEASE TRANSACTION TAX RULING

Personal Property Lease Transaction Tax Ruling #4
Subject: Leased time on equipment subject to tax
Effective date: June 1, 2004

Formerly Ruling #8
Original effective date: February 1, 1987

Pursuant to Section 3-32-030(A) of the Chicago Municipal Code ("Code"), the Chicago Personal Property Lease Transaction Tax (the "lease tax" or "tax") is imposed upon (1) the lease or rental in the City of personal property, or (2) the privilege of using in the City personal property that is leased or rented outside the City.

Code Section 3-32-020(H) defines a lease or rental as including leased time on or for the use of equipment such as calculators, computers and copiers. Therefore, even if the possession of the equipment does not transfer, if a usage charge is made for the use of the equipment, this charge is generally subject to tax. (But see exceptions discussed in Chicago Personal Property Lease Transaction Tax Ruling #3.). For time-sharing of computers and computer software see Chicago Personal Property Lease Transaction Tax Ruling #5.

Examples of the above include:

- The use of a computer, where possession of the computer does not transfer to the user but where a charge is made for the period or amount of usage by the user. (But see exceptions discussed in Chicago Personal Property Lease Transaction Tax Ruling #3.).

- The use of an addressing machine, where the possession of the machine does not transfer but where a charge is made for the number of addresses done or the period of use by the user. (Note: Where the operator retains exclusive control and possession of the addressing machine and for a given transaction the machine is used solely by the operator to provide a service to the purchaser, this is not taxable under the lease tax (see Chicago Personal Property Lease Transaction Tax Ruling #3) but may be taxable to an extent under the Home Rule Municipal Retailer's Occupation Tax (MROT) (Code Section 3-40-010), which is administered by the Illinois Department of Revenue (IDOR).

- The use of a copying machine, where the possession of the machine does not transfer but where a charge is made per copy or for time used by the user. This does not apply, however, for coin operated machines, which are exempt. (Note: The transfer of paper, ink and other property through the use of the copying

machine is already taxable under the MROT; therefore, their cost price is excluded from the taxable charge subject to the lease tax.) See also, exceptions discussed in Chicago Personal Property Lease Transaction Tax Ruling #3.

- The use of a clothes washing or car washing machine, where the possession of the machine does not transfer but where a charge is made for the period of use of the machine by the user. This does not apply, however, for coin operated machines, which are exempt. Automatic car washing machines operated and controlled by the owner or manager of such machines, where the customers only drive their automobiles into and out of such machines, are not subject to this tax. See Chicago Personal Property Lease Transaction Tax Ruling #3.

CITY OF CHICAGO
DEPARTMENT OF REVENUE
PERSONAL PROPERTY LEASE TRANSACTION TAX RULING

Personal Property Lease Transaction Tax Ruling #5
Subject: Usage of Computers and Computer Software
Effective date: June 1, 2004

Formerly Ruling #9
Original effective date: February 1, 1987
Amended: February 15, 1988

TIME-SHARING

Section 1. Pursuant to section 3-32-030(A) of the Chicago Municipal Code ("Code"), the Chicago Personal Property Lease Transaction Tax (the "lease tax" or "tax") is imposed upon (1) the lease or rental in the City of personal property, or (2) the privilege of using in the City personal property that is leased or rented outside the City. Leased time on a computer is subject to the tax. Section 3-32-020(H). This includes the time-sharing of a computer with other users. For time-sharing purposes (where the possession of the computer is not transferred), the user of the computer shall be deemed using the computer at the location of the user's access terminal to the computer. Therefore, if the user's terminal is within the City of Chicago, the lease tax will apply to all charges for the use of the computer and its software, which is accessed by the user at such terminal. However, charges for the storage of information on the computer by the user, which will be used at a later date by the user, and not in the immediate processing of information, shall be deemed a usage of the computer at the computer location and not at the access terminal; because this is not an actual use of the computer by means of an access terminal but instead is a charge for storage at the computer location. If at a later date, a charge is made for accessing the stored information from a terminal located in Chicago, such access charge would be taxable.

PRINTING

Section 2. Charges for printing services or other services, provided that such charges are not for the use of any personal property and are separately stated and optional, are not subject to the lease tax. See Chicago Personal Property Lease Transaction Tax Ruling #2004-3, which explains in general that a separately stated and optional charge for services is excluded from tax.

COMPUTERS

Section 3. Where the actual possession, but not title or ownership, of a computer is transferred to a user for use in the City of Chicago, for consideration, such a transaction is a lease subject to the lease tax. The tax will be due for all lease or rental charges associated with the usage of the computer and its software in the City of Chicago.

Separately stated optional charges not for the use of the computer, its software or other personal property used in the City shall not be subject to the lease tax. An example would be separately stated maintenance charges, if the charges are optional.

COMPUTER SOFTWARE

Section 4. The lease or rental of computer software in the City of Chicago is subject to the lease tax. The sale of computer software is not subject to the lease tax. To determine whether a lease or rental of software occurs, the test is whether the use or possession of such software is transferred for a consideration. This would include all agreements for the use or possession of such software including license agreements. If copyright licenses, waivers or releases are given along with the use of such software, this will not affect the taxability of the transfer because such copyright licenses, waivers or releases are a necessary part of the software being leased or rented. Software under copyright cannot be used without such licenses, waivers or releases. Therefore, the fact that a copyright license, waiver or release is given in a transaction will not affect its taxability. However, if title or ownership of the software passes in an agreement then a sale occurs and no lease tax would be due. (Note: (1) If optional charges for update services or other services are involved in the rental, and if these charges are not charges for the use of any personal property, these charges may be separately stated and excluded from the tax; (2) For time-sharing of software when no possession is transferred see Sections 1 and 2 above.)

Examples of the application of Section 4:

(a) A computer software owner (or licensor) and a Chicago user sign an agreement called a copyright license agreement which transfers the possession and use of certain software to the user, and allows such user to use such software on a month to month basis for a payment of a specific monthly fee. No other fees are charged the user. At the end of the contract term or upon cancellation by the parties, the software is either returned to the owner (or licensor) or erased. Only incidental training and a question answering service is provided and is a part of the monthly fee. In this case, the total monthly fee is taxable as a lease charge for the use of the software.

(b) Same facts as (a.) above, except that the agreement provides for an indefinite use of the software for a flat fee of $2,000.00. The user does not have to return the software but can use the software for as long as he or she desires. In this case, an ownership interest in the software is transferred, so no tax is due.

(c) Same facts as (a.) above, except that update services such as monthly reports and the use of the owner's (or licensor's) personnel for training and possible modification of the software are provided. In such cases, if charges for such services are separately stated and optional and are not charges for the use of any additional personal property, such service charges are not taxable.

(d) Same facts as (a) above, except that in addition to the software being leased, the owner (or licensor) agrees to customize the software for a specific fee. The fee is a separately stated flat fee for the service of customizing the software, and the fee is paid either in lump sum payment or in installments. Accordingly, the monthly fee for the use of the software is not increased for the customizing charge. In such a case, the monthly fee for the use of the software is taxable, but the charge for the customizing is not. If the customizing charge were incorporated into the monthly fee or otherwise treated as part of the property being leased, in that the charge varies with the period of use of the property, then the entire customizing charge would be taxable.

CITY OF CHICAGO
DEPARTMENT OF REVENUE
PERSONAL PROPERTY LEASE TRANSACTION TAX RULING

Personal Property Least Transaction Ruling #6
Subject: Leases of Personal Property in the Video Rental Business
Effective date: June 1, 2004

Formerly Ruling #10
Original effective date: November 1, 1988

Section 1. Pursuant to section 3-32-030(A) of the Chicago Municipal Code ("Code"), the Chicago Personal Property Lease Transaction Tax (the "lease tax" or "tax") is imposed upon (1) the lease or rental in the City of personal property, or (2) the privilege of using in the City personal property that is leased or rented outside the City. Section 3-32-020(O) defines personal property as including all property other than real property. The tax, therefore, applies to the lease or rental of audio and/or visual tapes, as well as, the lease or rental of hardware-type equipment (i.e., VCR's, TV's, etc.). Hence, the lease or rental price of such personal property is subject to the lease tax.

Section 2. Late, membership and club fees are also taxable under Section 3-32-030(A) except when it is demonstrated that such fees are not part of the consideration for the lease or rental of personal property. For example:

A. In addition to the agreed lease or rental price, a late fee of $2.00 per day is charged, when the video tape leased or rented is not return when due. Such late fee is subject to the lease tax because it represents compensation for the extended lease or rental of the personal property.

B. A fee is charged to become a member of a particular group/club wherein the benefits to be derived from membership include the ability to lease or rent video tapes for free, at a discount, or in advance of others. Such membership/club fees are taxable because they represent payments which are part of the consideration for the lease or rental of personal property. Part of this fee might be excluded from tax, however, if it is clearly shown that benefits unrelated to the lease or rental of the tapes are provided for part of the fee.

Section 3. When audio or video tapes are offered by a video rental store for lease or rental, even though at a later date they are subsequently sold, the lease or rental of such personal property, prior to such sale, is subject to the lease tax. It should be noted that withdrawal of tapes from the lease or rental market for purpose of retail sale converts such property to sales property, and as such, any subsequent sale is taxable under the Home Rule Municipal Retailer's Occupation Tax (MROT) (Code Section 3-40-010), which is administered by the Illinois Department of Revenue (IDOR), at the sales price.

CITY OF CHICAGO
DEPARTMENT OF REVENUE
AMUSEMENT TAX RULING AND
PERSONAL PROPERTY LEASE TRANSACTION TAX RULING

Amusement Tax Ruling #2 and
Personal Property Lease Transaction Tax Ruling #7
Subject: Boat rides and boat leases
Effective date: June 1, 2004

Formerly Amusement Tax Ruling #2 and
Personal Property Lease Transaction Tax Ruling #11
Original effective date: April 30, 1991

Where boats are leased or chartered or where sightseeing or other boat rides are provided, the boat operator must collect and remit either the personal property lease transaction tax (Chicago Municipal Code chapter 3-32) or the amusement tax (Chicago Municipal Code chapter 4-156), depending on the nature of the transaction.

The amusement tax applies under the following circumstances:

The boat operator provides a pilot, and the boat will travel on a route that is predetermined by the boat operator and not subject to negotiation with the patron.

The transaction tax applies in either of the following circumstances:

- The boat is leased without a pilot.

- The boat is leased with a pilot and the patron/lessee may determine the route. In this situation, piloting and other service charges will not be subject to the transaction tax if these charges are separately stated. The remaining charge is subject to the transaction tax.

All separately stated service charges must be supported by documentary evidence in order to be non-taxable.

CITY OF CHICAGO
DEPARTMENT OF REVENUE
PERSONAL PROPERTY LEASE TRANSACTION TAX RULING

Personal Property Lease Transaction Tax Ruling #8
Subject: Use: Titled or Registered Personal Property
Effective date: June 1, 2004

Formerly Ruling #12
Original effective date: March 23,1992

Section 1. Pursuant to section 3-32-030(A) of the Chicago Municipal Code ("Code"), the Chicago Personal Property Lease Transaction Tax (the "lease tax" or "tax") is imposed upon (1) the lease or rental in the City of personal property, or (2) the privilege of using in the City personal property that is leased or rented outside the City. Sections 3-32-030(A) and 3-32-050(A)(1) provide that the lease tax applies where: (a) the parties sign or otherwise enter into a lease or rental agreement outside the City and (b) the leased or rented personal property is delivered outside the City, if 50% or more of the use of the personal property occurs or will occur in the City. If delivery occurs in the City, it is presumed, unless otherwise proven, that 50% or more of the use will occur in the City. See also §3 of Chicago Personal Property Lease Transaction Ruling #1, relating to payment periods.

Section 2. In the lease tax ordinance, the word "use" (when utilized in the context of a lessee's use of leased property in the City) means the exercise of any right to or power over personal property by a lessee incident to the lease or rental of that property. Section 3-32-020(P).

Section 3. In the case of personal property such as a motor vehicle, the garaging, storing or keeping of the property constitutes a "use" of the property within the meaning of the Ordinance. Personal property that is titled or registered at a location in the City with an agency of government of the State of Illinois shall be presumed to be garaged, stored or kept at the location to which it is titled or registered unless clearly proven otherwise by documentary evidence, such as legally binding insurance documents specifying the location where the property is required to be garaged, stored or kept when not in actual operation.

CITY OF CHICAGO
DEPARTMENT OF REVENUE
PERSONAL PROPERTY LEASE TRANSACTION TAX RULING

Personal Property Lease Transaction Tax Ruling #9
Subject: Charges for Use of Computers
Effective date: June 1, 2004

Formerly Ruling #13
Original effective date: September 28, 1992

Section 1. Application of the Tax.

Pursuant to section 3-32-030(A) of the Chicago Municipal Code ("Code"), the Chicago Personal Property Lease Transaction Tax (the "lease tax" or "tax") is imposed upon (1) the lease or rental in the City of personal property, or (2) the privilege of using in the City personal property that is leased or rented outside the City.

In particular, the tax applies to leased time for use of equipment or other personal property not otherwise itself rented, including but not limited to computers, computer software and data processing equipment. Code § 3-32-020. The tax on leased time for use of equipment or other personal property is not limited to time-based charges but also applies to usage-based charges for the use of equipment or other personal property not otherwise itself rented. See Meites v. City of Chicago, 184 Ill. App. 3d 887, 540 N.E. 2d 973 (1st Dist. 1989); also see Chicago Personal Property Lease Transaction Tax Ruling #4.

Section 2. Computer Users

The lease or rental of any personal property specifically includes time-sharing and time or other use of a computer with other users, whether or not denominated as such. In these so-called multi-user computer systems, possession of the computer is neither transferred nor intended to be transferred. The owner or operator of the computer permits use of the computer through a terminal or other device ("access device") at the user's location for a fee.

Section 3. Computer Use

A. Where possession of the computer is not transferred, use of a computer is deemed to occur at the location of the access device used to access the computer. Therefore, if the user's access device is located in the City of Chicago, the lease tax applies to all charges for the use of the computer and its software including, but not limited to, the running or execution of computer programs, or the access, input, retrieval or modification of data or information which are accessed by the user from such device.

B. Unless charges for the use of the computer include charges for services performed by the computer-provider's personnel at the time of the transaction, the transaction is considered to involve charges solely for the use of personal property and not for the sale of a service. See Chicago Personal Property Lease Transaction Tax Ruling #3. Thus, charges imposed on the user for the user's access to, or retrieval of information from, a computer or its database is charges for use of personal property and not charges for sale of a service. See Meites, supra,184 Ill. App. 3d at 895, 540 N. E. 2d at 979 (provision of a database which users may use is not provision of a service).

C. As used in this ruling and for purposes of applying the tax, the word "computer" includes but is not limited to auxiliary storage and telecommunications devices connected to computers.

EXAMPLE

Application of this ruling is illustrated by the following example.

ABC is a consumer credit reporting company which maintains a computerized data base of consumer credit information which it regularly updates. Customers of ABC may elect to access ABC's data base via computer terminal or other device to request and retrieve credit reports. When a user makes such a request, ABC's response to the request occurs without the performance of any service on the part of ABC's personnel relating specifically to the user's request.

If the customer's terminal or other device used to access ABC's computer is located in the City, then the transaction is subject to tax because the request for and retrieval of the credit report is the use by the customer of ABC's computer and data base and is taxable lease or rental of personal property for purposes of the Chicago Personal Property Lease Transaction Tax Ordinance.

The price charged by ABC for credit reports obtained in this manner is the lease or rental price for the use of ABC' s personal property. The customer's use from a location within the City is taxable regardless of the fact that the computer also is used by ABC to maintain its database, or for other purposes, and regardless of the location of ABC 's computer.

CITY OF CHICAGO
DEPARTMENT OF REVENUE
PERSONAL PROPERTY LEASE TRANSACTION TAX RULING

Personal Property Lease Transaction Tax Ruling #10
Subject: Affiliated Corporate Groups – Lease or Rental of Personal Property
Effective date: June 1, 2004

Formerly Ruling #14
Original effective date: April 12, 1993

Section 1. Application of the Tax.

Pursuant to section 3-32-030(A) of the Chicago Municipal Code ("Code"), the Chicago Personal Property Lease Transaction Tax (the "lease tax" or "tax") is imposed upon (1) the lease or rental in the City of personal property, or (2) the privilege of using in the City personal property that is leased or rented outside the City.

Section 2. Definitions.

A. The words "lease" or "rental" mean any transfer of the possession or use of personal property, but not title or ownership, to a user for consideration, whether or not designated as a lease, rental, license or by some other term. Code § 3-32-020(H).

B. In pertinent part, the words "lease price" or "rental price" mean the consideration for the lease or rental of personal property, valued in money, whether received in money or otherwise, including cash, credits, property and services, determined without and deduction for costs or expenses whatsoever. See Code, § 3-32-020(J).

Section 3. Affiliated Corporate Groups.

A. For purposes of this ruling and its application to the Chicago Personal Property Lease Transaction Tax Ordinance (Code, Ch. 3-32), the term "affiliated corporate group" means a parent corporation and its wholly owned subsidiary corporations, or corporations related through common ownership or control, with a person deemed owning or controlling a corporation only if the person owns or controls 100% of the corporation's common stock with voting rights.

B. The words "lease" or "rental" shall not be construed to include any transfer of the possession or use of personal property meeting all of the following conditions:

(1) both the lessor and the lessee are members of the same affiliated corporate group;

(2) the lease or rental price charged to the lessee by the lessor represents only an expense or cost allocation between the parties and not the generation of any profit for the lessor; and

(3) The lessor is leasing the property and previously has paid the tax either to its lessor of the property or directly to the department.

C. In the case of a lease or rental of personal property meeting all of the conditions of paragraph B of this section, no lease or rental between or among members of the affiliated corporate group shall be deemed to have occurred; rather, the property shall be deemed to have been acquired on behalf of the entire affiliated corporate group as a single entity and the lease or rental price charged between or among the members shall be deemed merely cost or expense allocations and not charges for the lease or rental of personal property.

CITY OF CHICAGO
DEPARTMENT OF REVENUE
PARKING LOT AND GARAGE OPERATIONS TAX RULING

Parking Lot and Garage Operations Tax Ruling #1
Subject: Residential Off-Street Parking Exemption
Effective date: June 1, 2004

Original effective date: June 22, 1992

Section 1. Pursuant to chapter 4-236 of the Chicago Municipal Code, the Chicago Parking Lot and Garage Operations Tax (the "parking tax" or "tax") is imposed upon the use and privilege of parking a motor vehicle in or upon any parking lot or garage in the City of Chicago. Under Section 4-236-020(c), the tax does not apply to residential off-street parking of house or apartment tenants or condominiums required by the City of Chicago Zoning Ordinance, wherein an arrangement for such parking is provided in the house or apartment lease or in a separate writing between the landlord or tenant, or if in a condominium 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 lot or garage.

Section 2. To claim the exemption set forth in subsection 020(c), the landlord/operator must maintain supporting documentation. If called upon by the Department of Revenue, the landlord/operator will be required to substantiate the claim by producing the lease, separate writing or other supporting documents. Failure to provide proof acceptable to the Department will bar the landlord/operator from claiming this exemption, in which case the landlord/operator will be liable for the unpaid tax, plus interest and applicable penalties.

CITY OF CHICAGO
DEPARTMENT OF REVENUE
PARKING LOT AND GARAGE OPERATIONS TAX RULING

Parking Lot and Garage Operations Tax Ruling #2
Subject: Valet Parking Operators
Effective date: June 1, 2004

Original effective date: February 14, 1995

Section 1. Pursuant to chapter 4-236 of the Chicago Municipal Code, the Chicago Parking Lot and Garage Operations Tax (the "parking tax" or "tax") is imposed upon the use and privilege of parking a motor vehicle in or upon any parking lot or garage in the City of Chicago. Under Section 4-236-020(a) the tax is due when consideration is paid for the privilege of occupying a space in or upon any parking lot or garage in the City of Chicago. See also section 4-236-020(h).

Section 2. It shall be presumed that the consideration paid by a person for valet parking includes payment for the privilege of occupying a parking space since the parking tax becomes due whenever payment is made for use of a space in a parking lot or garage. Valet parking operators, as defined by Section 4-232-050(a), are therefore required to collect the parking tax and remit it to the Department of Revenue, except as provided in section 3 and 4 below.

Section 3. Under Section 4-236-010, the parking tax does not apply to motor vehicles parked on the public way. Therefore, a valet parking operator that parks a motor vehicle on the public way is not obligated to collect the tax in that instance. A valet parking operator claiming no tax liability, or claiming a reduced liability, pursuant to this section 3 shall have the burden of proving to the Department that the parking occurred on the public way and not in a parking lot or parking garage.

Section 4. A valet parking operator is not required to collect or remit the parking tax if the valet parking operator or the recipient of the parking space pays the tax to a parking lot or garage operator other than the valet parking operator.

Additional rules relating to the tax collection responsibilities of valet parking operators may be promulgated.

CITY OF CHICAGO
DEPARTMENT OF REVENUE
PARKING LOT AND GARAGE OPERATIONS TAX RULING

Parking Lot and Garage Operations Tax Ruling #3
Subject: Advertised Rates
Effective date: June 1, 2004

Original effective date: March 1, 2001

Every operator of any parking lot or garage that advertises any rate to the public shall include the total sum of all charges and all applicable taxes as its advertised rate. Nothing in this section shall prohibit the operator from also disclosing the amount of applicable taxes included in the advertised rate; provided that the advertised rate shall appear in larger print. Any display of the advertised rate shall include in a clear and conspicuous manner, the following language: "All taxes included."

CITY OF CHICAGO
DEPARTMENT OF REVENUE
REAL PROPERTY TRANSFER TAX RULING

Real Property Transfer Tax Ruling #1
Subject: Real Estate Cooperatives
Effective date: June 1, 2004

Original effective date: April 28, 1994

Section 1. The Chicago Real Property Transfer Tax Ordinance (the "Ordinance"), Chapter 3-33 of the Chicago Municipal Code (the "Code"), imposes a tax on the privilege of transferring title to or beneficial interest in real property located in the City of Chicago. Code § 3-33-030(A). Section 3-33-020(A) of the Code provides that a beneficial interest in real property includes but is not limited to the beneficial interest in an Illinois land trust, the lessee interest in certain ground leases, and the indirect interest in real property as reflected by the controlling interest in a real estate entity.

Section 2. Pursuant to Section 3-33-020(A), an ownership interest in a real estate cooperative constitutes a beneficial interest in real property. See 775 ILCS 5/3-101(A) (defining "real property" to include "interests in real estate cooperatives" for purposes of article 3 of the Illinois Human Rights Act). Therefore, the transfer of a unit in a cooperative (or "co-op") building is subject to the tax, regardless of the form that the transfer takes – be it sale of stock, transfer of beneficial interest in a land trust or otherwise. Taxability does not require that a controlling interest in a real estate cooperative be transferred. For example, the transfer of a single share of stock in a real estate cooperative is taxable.

CITY OF CHICAGO
DEPARTMENT OF REVENUE
REAL PROPERTY TRANSFER TAX RULING

Real Property Transfer Tax Ruling #2
Subject: Enterprise Zone Exemption
Effective date: June 1, 2004

Original effective date: January 4, 1999

Section 1. Chapter 3-33 of the Chicago Municipal Code ("Code") imposes a tax upon the privilege of transferring title to, or beneficial interest in, real property located in the corporate limits of the City of Chicago (the "City"). The tax is imposed at a rate of $3.75 per $500 of the transfer price. See section 3-33-030 of the Code.

Section 2. Section 3-33-060 exempts various types of transfers from the tax imposed by chapter 3-33 of the Code. Section 3-3-060(L) exempts:

> [t]ransfers of title to, or beneficial interest in, real property used primarily for commercial or industrial purposes located in an enterprise zone, as defined in Chapter 16-12 of this code....

Section 3. Section 16-12-020 defines the term enterprise zone. An enterprise zone is a depressed area of the City that has been designated a "proposed enterprise zone" by ordinance by the Chicago City Council and that has been approved and certified by either the proper state or federal authorities as an enterprise zone. Id. Chapter 16-12 reiterates the exemption from the Chicago Transfer Tax and specifically lists this provision of the Code as a tax incentive or benefit available to businesses within an enterprise zone. Section 16-12-070(a)(3)(B) provides as follows:

> The transfer of title to, or beneficial interest in, real property used primarily for commercial or industrial purposes located within an enterprise zone shall be exempt from the Chicago Real Property Transfer Tax, Chapter 3-33 of this Code.

Section 4. The limiting language "used primarily for commercial or industrial purposes" was added to chapters 3-33 and 16-12 on June 28, 1991, and became effective on July 30, 1991. The purpose of this limiting language was to insure that exemptions of the transfer tax were allowed to only the following types of properties:

a. Property, which was being used primarily for commercial or industrial purposes before the transfer and was continuing to be used primarily for commercial or industrial purposes after the transfer.

b. Property, which was not being used primarily for commercial or industrial purposes before the transfer and was converted to use primarily for commercial or industrial purposes after the transfer.

Section 5. Property, which is used primarily for commercial purposes, is property used primarily for buying or selling of goods and services, or for otherwise providing goods and services, including any real estate used for hotel or motel purposes. See Cook County Real Estate Classification Ordinance, with amendments approved March 16, 1992, Section 1(B)(9).

Section 6. Property, which is used primarily for industrial purposes, is property used primarily in manufacturing, or in the extraction or processing of raw material unserviceable in their natural state to create new physical products or materials, or in the transportation or storage of raw materials or finished physical goods in the wholesale distribution of such materials or goods. Id., section 1(B)(6). Manufacturing means the material staging and production of goods used in procedures commonly regarded as manufacturing, processing, fabrication, or assembling which changes existing material into new shapes, new qualities, or new combinations. Id., section l(B)(7).

Section 7. For property to be "primarily used for commercial or industrial purposes," more than 50 percent of the property must be used for either commercial or industrial purposes.

Section 8. This Ruling is a restatement of current law, and the original effective date of this Ruling has no effect on the enforcement of the Chicago Real Estate Transfer Tax for periods prior to or subsequent to the original effective date.

CITY OF CHICAGO
DEPARTMENT OF REVENUE
TELECOMMUNICATIONS TAX REGULATIONS

Effective date: June 1, 2004

Original effective date: January 31, 1992

1. Description of Tax

Effective January 1, 1992, the Chicago Telecommunications Tax (Chicago Municipal Code ("M.C.C.") chapter 3-70) (hereafter sometimes referred to as the "Telecommunications Tax") was imposed on the act or privilege of originating or receiving telecommunications in the city of Chicago at a rate of 5% of gross charges. Effective January 1, 1998, the Chicago Telecommunications Infrastructure Maintenance Fee (M.C.C. chapter 3-75) (hereafter sometimes referred to as the "IMF") was imposed on the act or privilege of originating or receiving telecommunications in the city of Chicago at a rate of 2% of gross charges. Effective January 1, 2003, the Chicago Simplified Telecommunications Tax (M.C.C. chapter 3-73) (hereafter sometimes referred to as "the Simplified Tax" or "tax") replaced the Telecommunications Tax and the IMF. The rate of the Simplified Tax is 7% of gross charges. In general, the terms of the Simplified Tax are essentially the same as those of the Telecommunications Tax.

The tax is imposed on the act or privilege of originating or receiving telecommunications in the city of Chicago. The tax applies to both intrastate telecommunications (telecommunications that originate and terminate within the state of Illinois) and interstate telecommunications (telecommunications that either originate or terminate outside Illinois). The tax rate is 7% of the gross charge for telecommunications purchased at retail from a retailer. (Municipal Code of Chicago, hereinafter "M.C.C.," 3-73-030.) Every telecommunications retailer maintaining a place of business in Illinois, which is subject to the jurisdiction of the city, must collect the tax from its customers who originate or receive telecommunications in Chicago. (M.C.C., 3-73-040.) Retailers must register with the department of revenue (M.C.C., 3-73-060) and (in general, subject to the provisions of M.C.C., 3-4-186, 3-4-187, 3-4-188 and 3-4-189) remit the tax to the department on a monthly basis. (M.C.C., 3-73-050.) Retailers who remit the tax in a timely manner may retain 1.0% of the tax collected to reimburse them for collection and remittance expenses. (M.C.C., 3-73-40(D).)

2. Prepaid Telephone Calling Arrangements

Prepaid telephone calling arrangements are not considered telecommunications subject to the Simplified Telecommunications Tax. They are instead subject to state and local sales taxes. "Prepaid telephone calling arrangements" means the right to exclusively purchase telephone or telecommunications services that must be paid for in advance and enable the origination of one or more intrastate, interstate, or international telephone calls or other telecommunications using an access number, an authorization

code, or both, whether manually or electronically dialed, for which payment to a retailer must be made in advance, provided that, unless recharged, no further service is provided once that prepaid amount of service has been consumed. Prepaid telephone calling arrangements include the recharge of a prepaid calling arrangement. For purposes of this Section, "recharge" means the purchase of additional prepaid telephone or telecommunications services whether or not the purchaser acquires a different access number or authorization code. "Prepaid telephone calling arrangement" does not include an arrangement whereby a customer purchases a payment card and pursuant to which the service provider reflects the amount of the purchase as a credit on an account for a customer under an existing subscription plan.

3. Meaning of "Gross Charge"

The Chicago Simplified Telecommunications Tax is imposed upon the gross charge for telecommunications. (M.C.C., 3-73-030(A).) The term "gross charge" means the amount paid for the act or privilege of originating or receiving telecommunications in the city of Chicago and for all services provided in connection therewith by a retailer, valued in money, whether paid in money or otherwise, including cash, credits, services and property of every kind or nature. No deduction may be taken on account of the cost of the telecommunications, the cost of materials used, labor or service cost or any other expense whatsoever. (M.C. C., 3-73-020(F).) If a retailer provides services that are not necessary for, or directly related to, the retailer's provision of telecommunications to customers, and the charges for these services are disaggregated and separately identified from other charges, then the retailer need not include the charges in gross charges. Examples of these services may include directory advertising, specialized designing or engineering services, specialized security measures and consulting services. "Gross charges" for private line service include charges imposed at each channel point within Illinois, charges for the channel mileage between each channel point within Illinois, and charges for that portion of the interstate inter-office channel provided within Illinois.

4. Customer Equipment Charges

Gross charges do not include charges for customer equipment including equipment that is leased or rented by the customer from any source, but only if the charges are disaggregated and separately identified from other charges. (M.C.C., 3-73-020(F)(4).) For purposes of this provision, customer equipment includes, but is not limited to, all items generally classified as customer equipment or terminal equipment, such as telephone instruments and station sets, dialers, modems, private branch exchanges (PBX's), inside wiring, facsimile machines and pagers. Although charges for customer equipment may not be subject to the Chicago Simplified Telecommunications Tax, the lease or rental of customer equipment may be subject to the Chicago Personal Property Lease Transaction Tax. (M.C.C., chapter 3-32.)

5. Computer-Related Charges

Charges for automated data storage, retrieval and processing services or for the use of computer time or other equipment are not included in gross charges. (M.C.C., 3-73-020(F)(3).) Automated information retrieval or data processing charges also are not included in gross charges. For example, customers who access on-line computer data bases are subject to the Chicago Simplified Telecommunications Tax on the charge for the transmission of the data, but not on the charge for the data processing or inquiry. If a telecommunications retailer provides both transmission and data processing services, however, the charge for the data processing services will be subject to the tax unless it is disaggregated and separately identified on billing statements and in the books and records of the retailer. In addition, customers who access on-line computer data bases may be subject to the Chicago Personal Property Lease Transaction Tax. (M.C.C., chapter 3-32; Meites v. City of Chicago, 184 Ill.App.3d 887, 540 N.E.2d 973 (1st Dist. 1989).)

6. Value-Added Services

Value added services in which computer processing applications are used to act on the form, content, code and protocol of information for purposes other than transmission are not subject to the Chicago Simplified Telecommunications Tax. (M.C.C., 3-7 3-020(Q)(2).) For example, charges for computer data, and protocol conversions (permitting computers to exchange data, regardless of the language or protocol a computer's out-put may be in) are not subject to the tax. To avoid taxation, however, charges for these services must be disaggregated and separately stated. Furthermore, charges for services that are provided for the purposes of transmission are subject to the tax, even if the form, content, code or protocol of the information is acted upon in the course of providing the services. Thus, for example, charges for the service commonly referred to as "Voice Over Internet Protocol" (or "VOIP") are subject to the tax.

Generally, persons that provide customers access to the Internet ("Internet Service Providers" or "ISPs") and who do not, as part of that service, charge customers for the line or other transmission charges that are used to obtain access to the ISP's server or other point of access, are not considered to be telecommunications retailers from these activities. This is the case so long as such ISPs do not, as part of their billing, charge customers for such line charges and instead pay their telecommunications suppliers all transmission costs that they incur in providing the Internet service. In this situation, an ISP's customer pays his telecommunications supplier for all transmission costs incurred while using the service. The single monthly fee charged by the ISP, which often represents a flat charge for a package of items including Internet access, e-mail, and electronic newsletters, would generally not be subject to tax. If, however, the ISP charges customers for line or other transmission charges, then it should provide its telecommunications suppliers with Certificates of Resale and should collect and remit the tax. For example, if an ISP provides customers with Internet access, as described in this section, but also provides customers the use of a 1-800 service to access the ISP, and separately assesses customers per minute charges for the use of the 1-800 service, then the ISP is considered a telecommunications retailer and incurs telecommunications tax on

the charges made for the 1-800 service. If the charges are not disaggregated as provided in subsection (c), then all charges are subject to the telecommunications tax.

7. Advertising Revenue

Gross charges do not include advertising revenue either from directory sales (such as "yellow pages") or from message additions to telecommunications. For example, revenues from an advertising message preceding a time/weather call are not included in gross charges.

8. Certain Services Included in Gross Charges

Gross charges include, but are not limited to, charges for unlisted or unpublished numbers, operator assistance, directory information, call-waiting, call-forwarding, burglar alarm services and answering services provided by telecommunications retailers.

9. "900" Numbers

The Chicago Simplified Telecommunications Tax applies to telephone calls made to 900 numbers if the caller is located in Chicago and receives a billing at the caller's service address. The telecommunications retailer, however, is required to collect the tax only upon the line charge. The invoice to the caller for a 900 number call need not separately state the line charge and tax. For example, a call to a 900 code number is made to register an opinion in a poll. The caller is billed $1.00. The $0.80 transmission charge is retained by the telecommunications retailer, and $0.20 is given to the poll tabulator. $0.80 is included in gross charges.

10. Information and Entertainment Services

Gross charges include the transmission charges for information or entertainment services such as time/weather, gab line/party line and other public announcement services. However, charges for the message content or information of these services are not included in gross charges.

11 . Persons Selling to Retailer's Customers

a. If a telecommunications retailer receives billing and collection fees from persons selling services or products to the retailer's customers, and these fees are billed and collected by the telecommunications retailer, the fees are not included in gross charges. For example, a call to a 900 code number is billed by the telecommunications retailer as follows:

$25.00 - purchase price charged to caller for product or service

$ 0.35 - call charge ($0.20 call, $0.15 billing and collection fee).

Only the $0.20 charged for the telephone call is included in gross charges and subject to the tax.

b. The following fees also are not included in gross charges: (i) billing and collection fees paid by persons selling services or products directly to a telecommunications retailer's customers; and (ii) billing and collection fees paid by a telecommunications retailer to a credit card company whose holders have charged calls.

12. Other Taxes

Gross charges do not include the taxes imposed by the Chicago Simplified Telecommunications Tax Ordinance, the Illinois Telecommunications Excise Tax Act, section 4251 of the Internal Revenue Code, or the charges imposed on consumers for 911 service. (M.C.C., 3-73-020(F) (1).)

13. Exemption for State Governments and Universities

The exemption for state governments and state universities created by statute extends only to telecommunications they purchase for their own use. (M.C.C., 3-73 - 020(N)(1).) They are not exempt from the obligation to collect and remit tax on sales of telecommunications to others when they act as retailers of telecommunications. For example, a state university is exempt from the Chicago Simplified Telecommunications Tax on purchases, by the university, of telecommunications for use by its faculty and staff in the course of their duties. However, the university is required to collect and remit tax on sales of telecommunications to students in university dormitories.

14. Retailers and Resellers of Telecommunications

a. Retailers of telecommunications are persons who engage in the business of making sales of telecommunications at retail. (M.C.C., 3-73-020(L), (N).) Telecommunications retailers include, but are not limited to, persons that operate or provide radio repeater services, paging services, radio dispatch services, facsimile transmission services and party line services.

b. Resellers of telecommunications are considered telecommunications retailers and, therefore, are required to collect and remit the Chicago Simplified Telecommunications Tax based upon the gross charges they receive for telecommunications. In the event that a retailer who resells telecommunications has paid the tax to a local exchange carrier or other retailer, the reseller may make an application (including supporting documentation) to the department for a credit memorandum. Telecommunications resellers include, but are not limited to, universities and hotels.

15. Mobile Operations Reporting Option

a. Retailers of telecommunications who provide cellular phone, mobile radio, paging or other services, where the customer's service address is in fact not a fixed site but rather a motor vehicle or other mobile location, shall use the customer's place of primary use as defined in the Mobile Telecommunications Sourcing Conformity Act, Public Law 106-252, as amended from time to time, which as of January 1, 2003 provides that the "place of primary use" means the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, and which further provides that this means the residential street address or the primary business street address of the customer within the licensed service area of the home service provider. For air-to-ground systems and the like, "service address" shall mean the location of a taxpayer's primary use of the telecommunications equipment as defined by telephone number, authorization code, or location in Illinois where bills are sent. (M.C.C., 3-73--020(O).)

b. Retailers should not apportion gross charges based upon the physical location of a mobile portable telecommunications device at the time service is provided. For example, a retailer providing service to a place of primary use in Chicago must collect Chicago Simplified Telecommunications Tax on all telecommunications billed to the customer.

16. Interstate and International Telecommunications

Interstate telecommunications means all telecommunications that either originate or terminate outside Illinois. This term includes telecommunications that originate or terminate outside the United States of America. Consumers paying a foreign tax on telecommunications may file a claim for credit with the department of revenue in the same manner as with taxes paid to other municipalities. (M.C.C., 3-73-020(G); M.C.C., 3-73-030(B).)

17. Responsibility for Accounting and Payment of Tax

a. Obligation of agents. If a local exchange carrier acting as an agent of a long distance carrier, inter-exchange carrier, alternative operator service or billing and collections contractor (a) bills local customers for long distance service, local service and the taxes applicable for those services and (b) remits a portion of the collections to its principal, then the local exchange carrier or retailer must remit tax to the department of revenue only for the amounts it retains. The local exchange carrier or retailer is required to maintain billing and accounting data and to provide the data to the department of revenue upon request.

b. Obligation of principals. Principals are responsible for remitting the Chicago Simplified Telecommunications Tax on all amounts paid over to them by their agents. Long distance carriers, inter-exchange carriers and other retailers who retain local exchange carriers or other agents in Illinois to bill and collect gross charges from Chicago customers are considered to be retailers

maintaining a place of business in this state. Thus, they are required to register with the department and file returns.

c. Collection fee. The 1.0% commission authorized by M.C.C., 3-73-040(D) may be claimed only by the retailer filing a return with the department of revenue, not by the billing agent, unless the agent also files a remittance return on behalf of the retailer and remits the applicable tax.

18. Bad Debts

Gross charges do not include bad debts. However, if any portion of a debt deemed to be bad is subsequently paid, the telecommunications retailer must report and pay the tax on that portion of the debt paid during the reporting period. (M.C.C., 3-73-020(F)(7).) For purposes of this provision, the term "bad debt" means any portion of a debt that is related to a sale at retail, for which gross charges are not otherwise deductible or excludable, that has become worthless or uncollectible as determined by relevant federal income tax standards. (M.C.C., 3-73-020(F).)

19. Credits

A consumer who has paid both the Chicago Simplified Telecommunications Tax and a similar tax imposed by another municipality on the same transmission may file a claim for credit with the department of revenue. The claim must be accompanied by documentation showing the taxes charged to the taxpayer and relating the taxes to the specific call or transaction. A credit may be available in Chicago to the extent of the tax imposed by the other municipality, if actually paid, but not exceeding the Chicago Simplified Telecommunications Tax paid. (M.C.C., 3-73-030(B).)

20. Application of State Rulings and Regulations

Published rulings and regulations promulgated under the Illinois Telecommunications Excise Tax Act (35 ILCS 630/1 et seq.) apply to the Chicago Simplified Telecommunications Tax unless (1) a state ruling or regulation relates to a provision of the Illinois Telecommunications Excise Tax Act that differs in substance from the Chicago Simplified Telecommunications Tax Ordinance or (2) the city's department of revenue has promulgated a ruling or regulation relating to the same subject.

21. Federal Regulatory Classifications

In the absence of a statute or judicial decision expressly and clearly providing otherwise, the regulatory classification of a service shall not be controlling as to the treatment of the service under the Chicago Simplified Telecommunications Tax Ordinance, and the terms of the Ordinance and these regulations shall control instead.

CITY OF CHICAGO
DEPARTMENT OF REVENUE
UNIFORM REVENUE PROCEDURES RULING

Uniform Revenue Procedures Ruling #1
Subject: Late Penalties
Effective date: June 1, 2004

Original effective date: September 9, 1996

Section 1. Section 3-4-200 of the Uniform Revenue Procedures Ordinance, chapter 3-4 of the Chicago Municipal Code, generally imposes a late filing penalty if a tax return or remittance return required by a tax ordinance is not filed with the Department of Revenue ("Department") within the time or in the manner provided by the tax ordinance. This penalty applies to returns that are incomplete even if they are filed on or before the date provided by the applicable ordinance. A return shall be considered complete only if it satisfies all of the following requirements:

a. The return must be filed on an original, unaltered form furnished by the Department or on a copy of an original, unaltered form; or the return must be filed by the taxpayer electronically via the Internet through the City of Chicago website.

b. Each applicable item on the front and back of the return must be completed according to the instructions provided on the return; and taxpayers that file electronically via the Internet through the City of Chicago website must fill in all applicable items on the electronic return.

c. The return must be signed and dated by the taxpayer or by the person duly authorized to sign on the taxpayer's behalf. If the return is filed electronically via the City of Chicago website, the proper pin number that was assigned to the taxpayer must be used, and the taxpayer must receive a confirming message from the website stating that the return has been accepted as complete, in order for the return to be considered signed and filed.

Section 2. If a tax collector or taxpayer files an incomplete return and then files an amended return with the Department on or before the due date provided by the applicable tax ordinance, and the amended return is complete, then the amended return will be accepted as timely filed and no late filing penalty shall apply. However, if the amended return is filed after the due date, the late filing penalty shall be imposed.

Section 3. If a payment accompanies an incomplete return, the payment will be accepted for deposit by the Department; however, the return will not be considered to be timely filed and will be returned to the tax collector or taxpayer for completion.

Section 4. Pursuant to Section 3-4-090 of the Uniform Revenue Procedures Ordinance, for all periods before January 1, 2000, any payment or remittance received by

the Department for a tax period will first be applied to penalties due for the period, then to interest due for the period, and then to the tax due for the period; for all periods on and after January 1, 2000, any payment or remittance received by the Department for a tax period will be applied first to the interest due for the period, then to the tax due for the period and then to the penalties for the period.

Section 5. Pursuant to subsection 3-4-120(E) of the Uniform Revenue Procedures Ordinance, unless the applicable tax ordinance provides otherwise, if a tax collector or taxpayer files an amended return, any applicable statute of limitations period shall commence at the end of the calendar year in which the amended return was filed.

CITY OF CHICAGO
DEPARTMENT OF REVENUE
UNIFORM REVENUE PROCEDURES RULING

Uniform Revenue Procedures Ruling #2
Subject: Reasonable Cause Standards to Abate Late and/or Failure to File Penalties
Effective date: June 1, 2004

Original effective date: February 15,1997

SECTION 1. Under the Chicago Uniform Revenue Procedures Ordinance (URPO) (Chapter 3-4 of the Chicago Municipal Code) and other Chicago tax ordinances, taxpayers and tax collectors are subject to penalties for failing to file returns, filing late returns, and making late payments. These penalties may be waived or abated if the return or payment was late, or was not filed or made, due to circumstances beyond the taxpayer's or the tax collector's control. In such cases, "reasonable cause" exists to excuse the payment of all or part of a penalty.

Taxpayers and tax collectors bear the burden of establishing "reasonable cause." Each request to waive or abate the payment of a penalty must be made in writing to the Chicago Department of Revenue and accompanied by (1) a written explanation of the reasons why reasonable cause exists and (2) supporting documentation. Each request will be evaluated on its own merits.

SECTION 2. A tax return or tax payment is timely when it is: (1) physically received by the Chicago Department of Revenue on or before the due date; (2) received by the Chicago Department of Revenue in an envelope or wrapper displaying a valid, readable United States mail postmark dated on or before the due date, properly addressed to the department, with adequate postage prepaid; or (3) filed electronically via the Internet through the City of Chicago website on or before the due date.

SECTION 3. The examples set forth below represent some of the "reasonable cause" claims most frequently made by taxpayers and tax collectors. These examples are not intended to be comprehensive.

A. In the following examples, "reasonable cause" exists to waive or abate the late payment and/or failure to file penalties:

1. The U.S. Postal Service mishandled the mail and, for this reason only, the envelope or wrapper containing the tax return or the tax payment was postmarked after the due date. In such cases, taxpayers and tax collectors must provide a letter written by the station manager of the local U.S. Postal Service facility, which establishes those facts.

2. The taxpayer or tax collector provides documentation, which shows that the business records of the taxpayer or the tax collector were destroyed by a fire or other casualty and, for this reason only, the tax return or the tax payment was late or not filed.

3. The taxpayer or tax collector provides documentation which shows that the tax return or the tax payment was late, or not filed or made, due to (a) an individual taxpayer's death or the death of a member of his/her immediate family or (b) the death of a person having the sole authority, on behalf of a corporation or a partnership, to execute or file the return or to pay the tax, or the death of a member of such person's immediate family.

4. The taxpayer or tax collector reasonably relied on erroneous written information as described in URPO Ruling #3.

5. The taxpayer or tax collector relied on erroneous advice from an accountant or an attorney and, for this reason only, the tax return or the tax payment was late or not filed. In such cases, the taxpayer or tax collector must provide either (a) a letter signed by the accountant or the attorney which specifically states that he or she gave the advice relied on by the taxpayer or tax collector or (b) a document prepared by the accountant or the attorney which contains the erroneous advice.

6. The taxpayer or tax collector was unable to file its tax return electronically via the Internet solely because the City of Chicago website was out of service on the date on which the return was due. The taxpayer or tax collector must demonstrate that it had its return information filled out and saved prior to attempting to file the return electronically. The taxpayer or tax collector also must file its return at the first reasonable opportunity thereafter.

B. In the following examples "reasonable cause" does not exist to waive or abate the payment of late and/or failure to file penalties:

1. The tax return or the tax payment was late, or was not filed or made, because the taxpayer or the tax collector was not aware of the obligation to file the returns or to pay the tax. All taxpayers and tax collectors are required to know about their tax obligations and to comply with all Chicago tax ordinances.

2. The taxpayer or tax collector delegated its duty to file the tax return or to make a tax payment to another person (e.g., an accountant or an attorney) whom, without reasonable cause, filed the return or made the payment late. All taxpayers and tax collectors are required to know about their tax obligations and to comply with all Chicago tax ordinances. Consequently, they are liable for their delegates' failure to comply with Chicago tax ordinances.

CITY OF CHICAGO
DEPARTMENT OF REVENUE
UNIFORM REVENUE PROCEDURES RULING

Uniform Revenue Procedures Ruling #3
Subject: Rules, Regulations and Opinions of the Department of Revenue
Effective date: June 1, 2004

ISSUANCE OF RULES OR REGULATIONS

Section 1. Pursuant to Section 3-4-150 of the "Uniform Revenue Procedures Ordinance, Chicago Municipal Code ("Code") chapter 3-4, the Department of Revenue ("Department") has the power to adopt, promulgate and enforce rules and regulations pertaining to the administration and enforcement of all ordinances of the City that impose a tax.

Section 2. Rules and regulations of the Department are the official interpretation of the applicable tax law as determined by the Department. These rules and regulations may set forth not only the Department's interpretation of the law but also the procedures the Department will use in carrying out the purpose of the law.

Section 3. Rules and regulations are issued by the Director of the Department (the "Director"). In accordance with Code Section 3-4-030, any rule or regulation promulgated by the Department shall be published in one or more newspapers of general circulation in the City no fewer than 10 days and no more than 30 days prior to its effective date. Commencing in 2004, all such rules and regulations will also be posted on the Department's page of the City's Web site.

Section 4. Amendments to rules or regulations shall be made following the same procedures set forth in Sections 1 through 3 above.

ISSUANCE OF PRIVATE LETTER RULINGS BY THE DEPARTMENT OF REVENUE

Section 5. The Department, through the Corporation Counsel of the City of Chicago (the "Corporation Counsel's Office") will issue private letter rulings concerning the applicability of a particular tax ordinance or rule to a specific set of facts or a specific situation of the taxpayer or tax collector. Any taxpayer or tax collector may request from the Department a private letter ruling as to its particular situation. This request must be in the format specified in Section 6 below. In addition, in general:

(a) A request for a private letter ruling must be made by, or on behalf of, an identified taxpayer or tax collector. A request for private letter ruling may be made by a taxpayer or tax collector, or by a representative of a taxpayer or tax collector under a power of attorney. The Department will not issue private letter rulings to taxpayer or tax collector representatives for anonymous or unidentified taxpayers or tax collectors.

(b) A private letter ruling will not be issued on alternative plans of proposed transactions or hypothetical situations.

(c) A private letter ruling will not be issued, if the taxpayer or tax collector is under audit or other investigation by the Department, unless the Department agrees that the ruling should be issued to assist with the audit or other investigation.

(d) Private letter rulings will not be issued to business, trade, or industrial associations, or to similar groups concerning the application of tax laws to members of the groups. Members of such groups may submit suggestions of general issues that would be appropriately addressed in information bulletins, or may submit general questions to be addressed by the Department in a general information letter.

(e) If there is case law or there are rules, which are dispositive of the subject of the request, the Department will decline to issue a private letter ruling on the subject.

(f) Whether to issue a private letter ruling in response to a private letter ruling request is within the discretion of the Department. The Department will respond to all requests for private letter rulings either by issuance of an opinion or by a letter explaining that the request will not be honored.

Section 6. For a private letter ruling, a taxpayer or tax collector must submit a letter to the Tax Policy Section of the Department (see below) including the following information:

(a) A complete statement of the facts and other information pertinent to the request. The request must contain a complete statement of all material facts. The material facts include the identification of all interested parties, a statement of the business reasons for the transaction, and a detailed description of the transaction. The request must contain an analysis of the relations of the material facts to the issues;

(b) A statement of authorities supporting the taxpayer's views, an explanation of the grounds for that conclusion and the relevant authorities to support that conclusion;

(c) A statement of any authorities contrary to the taxpayer's views. Each taxpayer is under an affirmative duty to identify any and all authorities contrary to the taxpayer's views. If the taxpayer determines that there are no authorities contrary to its views, or the taxpayer is unable to locate such authority, the request must contain a statement to that effect;

(d) Copies of all contracts, licenses, agreements, instruments or other documents relevant to the request;

(e) Signature of the taxpayer (or one of its officers), or the taxpayer's representative. A taxpayer's signature must be under penalty of perjury. A taxpayer's representative must also provide a properly executed power of attorney.

The letter must state that the taxpayer or tax collector is requesting a private letter ruling from the Department and be addressed to the Tax Policy Section, City of Chicago, Department of Revenue, Room 300, DePaul Center, 333 South State Street, Chicago, Illinois 60604-3977. If the Department believes that sufficient information is lacking or that one or more of the above requirements is not present, it can refuse to issue a private letter ruling.

Section 7. Private letter rulings shall be the official position of the Department as to the specific factual situation presented by the taxpayer or tax collector and will have no effect on any other set of facts or on other taxpayers or tax collectors. Private letter rulings must be signed by the Corporation Counsel's Office in order to be effective.

Section 8. A private letter ruling may be relied upon by the taxpayer or tax collector in determining its tax liability; however, reliance upon private letter rulings is subject to the provisions of Section 12 below. Private opinions will be open to the public, except for the name of the taxpayer or tax collector and other confidential facts identified by the taxpayer or tax collector, which will be redacted from the public's copy.

Section 9. Private letter rulings will cease to bind the Department if there is a pertinent change in statutory law, case law, rules or material facts. In certain rare circumstances, it will be necessary for the Department to expressly revoke a private opinion previously issued to a taxpayer or tax collector. In the case of such a revocation, the taxpayer or tax collector will incur no liability for any tax, penalty or interest as a result of reliance on the private letter ruling up to the date of the issuance of the revocation of the private letter ruling.

GENERAL INFORMATION LETTERS

Section 10. If information is requested by a taxpayer or tax collector, or if a private letter ruling is denied, the Department, through the Corporation Counsel's Office, may issue a general information letter to the taxpayer or tax collector. This letter is a statement of the City's position as to a general area of the law and is not to be considered a private letter ruling. Thus, general information letters may not be relied upon by taxpayers or tax collectors with regard to the application of the law to any particular set of facts. General information letters must be signed by the Corporation Counsel's Office in order to be effective.

ORAL OPINIONS

Section 11. In order to be assured of protection, taxpayers or tax collectors should not rely on oral opinions from Department employees, or from any other persons

working on behalf of the Department. Taxpayers and tax collectors will be assured of protection as to a given set of facts only if the opinion from the Department is a private letter ruling. Even then, the opinion ceases to have any effect if the law is changed in any pertinent respect or if there is a material change in the facts.

RELIANCE ON WRITTEN INFORMATION OR WRITTEN ADVICE

Section 12. Chicago Municipal Code Section 3-4-325 provides: "In the event that a taxpayer or tax collector demonstrates reasonable reliance upon erroneous written information or written advice from the department or the corporation counsel, then the director shall abate any taxes, interest or penalties that result from such information or advice." The forms of "written information or written advice" on which a taxpayer or tax collector may reasonably rely are limited to rules and regulations, private letter rulings, general information letters (but not with regard to the application of the law to any particular set of facts), official information bulletins, and current tax return forms and instructions. Furthermore, reliance on any written information or written advice that is ten or more years old, other than a rule or regulation, shall be deemed not reasonable unless ratified in writing by the Corporation Counsel's Office.

CITY OF CHICAGO
DEPARTMENT OF REVENUECHICAGO USE TAX
FOR NONTITLED PERSONAL PROPERTY REGULATIONS

Effective date: June 1, 2004

Original effective date: March 3, 1992

1. Description of Tax

The Chicago Use Tax for Nontitled Personal Property ("Chicago Use Tax" or " tax") is imposed upon the privilege of using in the City of Chicago nontitled tangible personal property purchased at retail on or after January 1, 1992 from a retailer located outside the City. The tax is at the rate of one percent of the property's selling price and applies whether an item is purchased or used by an individual or a business entity. (Chicago Municipal Code ("Code") § 3-27-030).

Every taxpayer is entitled to an annual tax credit of $25 to be applied against the taxpayer's aggregate tax liability for each taxable year. Code § 3-27-040. Unless the tax is collected by a retailer, any person liable for tax in an amount greater than the $25 annual credit must pay the tax directly to the Chicago Department of Revenue ("Department"). Code § 3-27-070. Retailers who voluntarily collect the Chicago Use Tax and timely remit it to the city are allowed a fee in the form of a discount of five percent of tax collected to defray expenses in collecting and remitting the tax. Code § 3-27-080.

2. Application of State Rulings and Regulations

a. Published rulings and regulations promulgated under Illinois Use Tax Act, effective July 14, 1955, as amended, 35 ILCS 105/1 et seq., generally apply to the Chicago Use Tax unless (i) a state ruling or regulation relates to a provision of the Illinois Use Tax Act that differs in substance from the Chicago Use Tax Ordinance for Nontitled Personal Property ("Chicago Use Tax Ordinance ") or (ii) the Department has promulgated a ruling or regulation relating to the same subject.

b. All words or terms used in these Chicago Use Tax regulations that are not defined in the Chicago Use Tax Ordinance or in the Uniform Revenue Procedures Ordinance, chapter 3-4 of the Municipal Code of Chicago, as amended, have the meaning set forth in the Illinois Use Tax Act, as amended, and the rules and regulations promulgated thereunder.

3. Effective Date of Tax

For purposes of Section 3-27-030(A) of the Chicago Use Tax Ordinance, the date of purchase shall be considered the earlier of the (a) date of delivery and (b) the date the purchase price of the personal property is paid in full. Therefore, every item of

nonexempt, nontitled tangible personal property purchased at retail from an out-of-Chicago retailer for use in the city, and delivered to the purchaser on or after January 1, 1992, was subject to the Chicago Use Tax unless the item's purchase price was paid in full prior to January 1, 1992.

4. Purchases at Retail from a Retailer

a. Under the terms of the Chicago Use Tax Ordinance, a purchaser or user is liable for the Chicago Use Tax if an item of nontitled tangible personal property is purchased at retail from
a retailer located outside the city for use in the city. See Code § 3-27-030(A). For purposes of the Chicago Use Tax, an item of nontitled tangible personal property is purchased at retail if the purchaser acquires ownership of, or title to, the property through a sale at retail.

b. The terms "sale at retail" and "retailer" have the meanings set forth in Section 2 of the Illinois Use Tax Act, as amended. In general (and subject to all the exceptions and conditions contained in the Illinois Use Tax Act, as amended): (a) "sale at retail" means any transfer of ownership of, or title to, nontitled tangible personal property to a purchaser for the purpose of use, and not for the purpose of resale, in any form as nontitled tangible personal property to the extent not first subject to a use for which it was purchased; and (b) "retailer" means every person engaged in the business of making sales at retail.

c. Examples

(1) Manufacturer A purchases materials to be used as constituents in producing steel. Because the materials are deemed to be purchased for the purpose of resale, rather than for use, under the definition of "sale at retail," no tax is due.

(2) Distributor B purchases promotional materials from a supplier located outside the City. Distributor B thereupon transfers the materials without charge to a Chicago retailer who will use the materials in the city. Because the sale of the materials to distributor B is a sale at retail, Chicago Use Tax is due.

(3) Construction contractor C purchases steel and lumber from a supplier located in Indiana to be used to construct an office building in the City. The construction contractor is liable for Chicago Use Tax on the purchase price of the steel and lumber.

5. Depreciation Allowed for Out-of-City Use

Section 3-27-030(C) of the Chicago Use Tax Ordinance states that if nontitled tangible personal property is used outside the City before being brought into the City for

use in the City, its "selling price" for purposes of computing Chicago Use Tax shall be reduced by an amount representing a reasonable allowance for depreciation attributable to the period of out-of-city use. For purposes of this provision, depreciation shall be determined by using the straight line method of depreciation, and an item's useful life shall be as provided in the U.S. Internal Revenue Code, as amended. Depreciation shall be calculated on a monthly basis with no adjustment for fractions of a month.

6. Credits to Prevent Multiple Taxation

To prevent multiple taxation, a taxpayer who purchases nontitled tangible personal property for use in the City from a retailer located outside the City may take a credit equal to any municipal tax due and payable that the taxpayer in fact has paid to another municipality in any state with respect to the sale, purchase or use of the property, whether or not the municipal is a home rule tax. For example, a purchaser of nontitled tangible personal property may take a credit equal to the amount of Home Rule Municipal Retailers' Occupation Tax paid. No credit may be taken for any part of the Retailers' Occupation Tax, 35 ILCS 120/1 et seq., paid to the State of Illinois.

7. Use Tax Obligation of Lessors

a. For purposes of the Chicago Use Tax, a lessor of nontitled tangible personal property is the user of the property. Therefore, if a person (wherever located) who will act as lessor purchases nontitled tangible personal property at retail from a retailer located outside the City, and the property is 1eased to a lessee for use in the City, the lessor is required to pay the Chicago Use Tax.

b. Examples

(1) Lessor A purchases a cash register from a manufacturer located outside the City which it will lease to a business located in the City. Lessor A is subject to the Chicago Use Tax on the purchase of the cash register.

(2) Lessor B, which is located in the suburbs, purchases raw materials from a supplier located outside of Illinois to manufacture photocopying machines. The raw materials will be incorporated into the final product by the lessor. Lessor B thereafter leases the photocopying machines to businesses for use in the City. Lessor B must pay Chicago Use Tax on the purchase price of the raw materials.

8. Boats

The purchase or use of every boat which is not in fact titled or registered with an agency of the state of Illinois and which is moored within the corporate limits of the City is subject to the Chicago Use Tax.

9. Annual Tax Credit for Married Couples

Section 3-27-040 of the Chicago Use Tax Ordinance provides for an annual tax credit of $25. Section 3-27-070 requires every taxpayer that is liable for Chicago Use Tax in an amount greater than the annual tax credit to file a return with the Department and pay all applicable tax. For the purpose of these sections, it shall be presumed that a married couple shall have no Chicago Use Tax liability and shall not be required to file a Chicago Use Tax return if the aggregate purchase price of all nonexempt, nontitled tangible personal property they jointly purchase during a taxable year is $5,000 or less.

10. Exempt Property

Section 3-27-050 of the Chicago Use Tax Ordinance exempts the following items of nontitled tangible personal property, and the use thereof, from the Chicago Use Tax:

a. Items of nontitled tangible personal property which are exempt from tax under the provisions of the Illinois Use Tax Act, as amended. Examples of exempt property include, but are not limited to, pollution control facilities, manufacturing and assembling machinery and equipment used primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease and graphic arts machinery and equipment (all as further described by the Illinois Use Tax Act, as amended, and the rules and regulations promulgated thereunder);

b. Food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food which has been prepared for immediate consumption); and

c. Prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics, for human use.

11. Exempt Uses

Section 3-27-060 of the Chicago Use Tax Ordinance exempts the following purchases and uses of nontitled-tangible personal property from the Chicago Use Tax:

a. Use in the City of nontitled tangible personal property acquired outside the City by a nonresident natural individual if the property is brought into the City by the individual for his or her own use while temporarily in the City or while passing through the City;

b. Use of nontitled tangible personal property either by: (a) an interstate carrier for hire as rolling stock moving in interstate commerce or (b) a lessor under a lease of at least one year, executed or in effect at the time of purchase of the property, to an interstate carrier for hire as rolling stock moving in interstate commerce but only as long as the property is so used by the interstate carrier for hire;

c. Use by an owner, lessor or shipper of nontitled tangible personal property which is utilized by an interstate carrier for hire as rolling stock moving in interstate commerce but only as long as so used by the interstate carrier for hire;

d. Temporary storage in the City of nontitled tangible personal property which is acquired outside the City and which, after being brought into the City and stored temporarily in the City, (a) is used solely outside the City, (b) is physically attached to, or incorporated into, other tangible personal property which is used solely outside the City or (c) is altered by converting, fabricating, manufacturing, printing, processing or shaping and, as altered, is used solely outside the City;

e. Temporary storage in the City of building materials and fixtures by a combination retailer and construction contractor registered with the state of Illinois, but only if the contractor thereafter incorporates the building materials and fixtures into real estate located outside the City;

f. Purchase or use of nontitled tangible personal property by a common carrier by rail which receives physical possession of the property in the City and which transports the property, or shares with another common carrier in the transportation of the property, out of the City on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside the City, for use outside the City;

g. Use in the City of nontitled tangible personal property acquired outside the City by a nonresident natural individual who has used the property outside the City for at least three months prior to bringing the property into the City; and

h. Use in the City of nontitled tangible personal property by a business which relocates to the City, or opens an office, plant or other facility in the City, if the property had been used at least three months outside the City by the business before being moved into the City.

12. Rolling Stock Exemption

a. The rolling stock exemption contained in section 3-27-060 of the Chicago Use Tax Ordinance and these regulations may be claimed only if each of the following three conditions is met: (i) the purchaser or user is either an interstate carrier for hire or a lessor of nontitled tangible personal property under a lease of one year or longer executed or in effect at the time of purchase to an interstate carrier for hire; (ii) the property purchased or used is rolling stock; and (iii) the property is used in the transportation process in interstate commerce. It does not apply to nontitled tangible personal property used by an interstate carrier or lessor solely between points in the City.

b. Example

Bus company A is an interstate carrier for hire which transports its passengers between O'Hare Airport and other points in the city. Bus company A cannot claim the rolling stock exemption with respect to its purchase or use of rolling stock such as tires for this purpose because the journeys of its passengers neither originate nor terminate outside the City.

c. A lessor that qualifies for the rolling stock exemption is required to pay the Chicago Use Tax upon expiration of its lease with the interstate carrier for hire and the reversion of the leased property. The tax shall be based upon the fair market value of the property at the time of the property's reversion and shall be paid on or before the payment due date set forth in Section 13 of these regulations.

d. A person claiming the rolling stock exemption must make available to the Department upon request a copy of the carrier's Interstate Commerce Commission (or, if applicable, other federal regulatory agency) Certificate of Authority or Illinois Commerce Commission Certificate of Authority showing that the carrier is an interstate carrier for hire.

13. Filing Returns and Tax Payments Annually or Monthly; Filing Requirements of Construction Contractors

a. Unless the tax has been collected by the seller, any person who is liable for the tax in an amount greater than the annual tax credit of $25.00 for any taxable year shall file returns with the department and pay all applicable tax to the department as set forth below.

b. Taxpayers who are natural individuals and are not engaged in business as sole proprietors shall file an annual return and pay all applicable tax on or before the last day of February of each year. The return shall report all taxable purchases and uses for the preceding calendar year.

c. For taxpayers that primarily purchase or use nontitled tangible personal property to be incorporated into real estate (i.e., contractors), (a) all tax returns shall be filed with the department on an annual basis on or before August 15 of each year in accordance with Sections 3-4-186 and 3-4-189 of the Code, (b) all tax payments shall be made in accordance with either Section 3-4-187 (payment of actual tax liabilities) or Section 3-4-188 (payment of estimated taxes), and (c) the provisions of Sections 3-4-186, 3-4-187, 3-4-188 and 3-4-189 shall control over any contrary provisions in chapter 3-27 regarding the subjects covered by those sections. It shall be presumed, unless proven otherwise by documentary evidence, that every construction contractor (as that term is defined by Regulation 130.1940 promulgated under the Retailers' Occupation Tax, 35 ILCS 120/1 et seq.) is required to file returns and pay the tax as described in this paragraph.

d. All other taxpayers (i.e., all taxpayers other than natural individuals, and real estate building contractors) shall file annual returns and pay all applicable tax on or before August 15 of each year.

e. Notwithstanding paragraphs c and d above, all taxpayers that cease to engage in a business making them responsible for paying the tax must file a final return and pay all applicable tax within 30 days after discontinuing the business.

f. All tax returns required by the Chicago Use Tax Ordinance shall be filed with the Chicago Department of Revenue -- not the Illinois Department of Revenue.