ILLINOIS RENTAL-PURCHASE
DEALERS ASSOCIATION

Sales Tax Liabilities of Rental Companies

Applicable Law

The Illinois Retailers Occupation Tax Act and Use Act commonly referred to as Illinois sales tax laws, govern the tax liability, the amount payable, the manner of collecting, and the payment of that tax.

Applicable Department of Revenue Bulletin

The Department issued an informational bulletin to the videotape rental businesses in 1986 under Bulletin No. FY86-54 directed to videotape rental companies. This Bulletin is applicable to all rental businesses.

Business Procedures and Guidelines to be Followed
To Insure Compliance with Sales Tax Liability

The three basic types of business transactions are as follows:

(A) Purchasing of items with the intent to rent to the public;

(B) Purchasing items with the intent to sell to the public; and

(C) Purchasing items for the purpose of either renting or selling to the public, both new and used.

(A) ITEMS PURCHASED FOR RENT

All items purchased and placed into the rental inventory by the rental company are subject to the payment of sales tax at the time of purchase based upon the purchase price. The sales tax is paid to the supplier at the time of purchase. If tax is not paid to the supplier at the time of sale, the law requires the payment of a use tax or in other

words, the purchaser must self-assess the tax on a sales tax return. (Sales Tax Return Form, Line 27). The rental company collects no sales tax from the buyer.

(B) <u>ITEMS PURCHASED FOR RESALE</u>

On all items purchased with the intent or in fact resold to customers or placed in the sales inventory, a sales tax is not owed at the time of purchase because sales tax is exempt on purchases for resale. A sales tax exemption form filed with the supplier gives the rental company the right not to pay tax on items purchased for resale. The rental company must collect sales tax from the buyer.

(C) <u>ITEMS PURCHASED EITHER FOR RENT OR SALE (NEW AND USED)</u>

This category or type of business represents a majority of rental companies and is also the source of most of the audit problems and uncertainties in the business. Under this category, rental companies appear to engage in one or more of the following transactions:

(1) Items are purchased either for rent or resale;

(2) Items are purchased which are rented, but ultimately sold after the expiration of the rental period;

(3) Items are purchased for the purpose of selling at retail with rental being incidental;

(4) Items are purchased for rental with sales being incidental;

(5) Items are purchased, but primarily all rentals result in the renter becoming the owner;

(6) Items are purchased for rental with primarily all sales of items being used items (after having been rented);

(7) Items purchased are rented or sold on installment with the rental payments and installment payments being similar. Some companies treat all rental and sales transactions identical and Regulation Z disclosure forms are made on the basis that rentals are deemed to be installment sales; and

(8) That in addition to the items rented, supplemental services are furnished such as sale of a protection plan.

Rental Proceeds

Due to the fact that most rental businesses rent and sell items, both new and used, it is difficult, if not impossible to maintain so-called "separate rental inventories" and "sale inventories." The following guidelines are used by the Department of Revenue in determining whether or not a business is deemed to be a rental company or a retail sales company.

The tax treatment of items purchased depends upon a review of one's overall business. The best way to determine the type and nature of business is to review prior year's total income. If the prior year's total income is primarily produced from rentals, then the Department of Revenue will determine the business to be a rental business. If the primary amount of the income comes from sales, then the Department of Revenue will determine the business to be a retail business.

If the company is primarily a rental company, the Department will allow the filing of an exemption certificate with the supplier, which is a blanket certificate of resale but setting forth a percentage being purchased for resale. On such percentage one will be required to pay tax at the time of purchase, i.e., pay sales tax to the supplier on the percentage that will be primarily rental).

If the company's business income is primarily from retail sales, the business may file a certificate of exemption with the suppliers exempting all sales On any items on which sales taxes are not paid on the basis of an original intent to resell but in fact rent, then one must pay the tax that would have been required to be paid had you intended to rent the item. In order to pay the tax on rental items originally intended for resale and on which no tax was paid, it is necessary to pay a use tax. A use tax is a manner in which the rental company self-assesses the amount due. This is handled on Line 27 of the Sales Tax Return that is filed each month with the Department of Revenue. On all items that are sold, one must collect a sales tax from the customer at the time of the sale of the item. If in fact sales tax had been paid to the supplier at the time of purchase of the item, you are entitled to take a deduction or some or all of the tax originally paid to the supplier

Sale of Used Items

If an item was used as a rental item and then sold, sales tax must be collected at the time of sale based on the sales price. Since sales tax was paid at the time of purchase of the item from the supplier (since all rental items require sales tax to be paid by the rental company at the time of the purchase of the item from the supplier), the amount of sales tax collected at the time of the ultimate sale of the used item, can be credited. In reviewing the tax form attention is directed to the attached forms.

If the original tax was paid as a use tax (Self-assessment of the tax on Line 12 of the prior Return), one can recover the previously paid use tax by filing a credit claim on Form ST1 -X.