

Update Regarding the Cook County (Illinois) Non-Titled Tangible Personal Property Use Tax; Board of Commissioners Votes to Amend the Ordinance

June 24, 2013

Overview

On March 19, 2013, we issued an alert discussing the County's issuance of Notices and providing an overview of the tax, registration, and filing requirements regarding the new tax on use of non-titled tangible personal property.¹

Effective April 1, 2013, "a tax is imposed upon the privilege of using in the county non-titled tangible personal property which was purchased outside of the county."² The tax applies at a rate of 1.25% of the non-titled personal property's "value" when first subject to use in the county."³ The term "value" is defined as "an accurate assessment or evaluation of a non-titled personal property's worth when first subject to use within the county."⁴ Any person liable for the tax "shall receive an annual tax credit" for the first property acquired that is subject to the tax "with a value of \$3,500."⁵

With lawsuits challenging the validity of the Cook County Non-Titled Use Tax Ordinance (the "Ordinance") pending,⁶ on June 19, 2013, the Cook County Board of Commissioners voted to amend the Ordinance to lower the tax rate on non-titled personal property used in the county and to provide for a credit for county sales tax or county retailer's occupation tax paid in another county on that property. While the above-mentioned amendments to the Ordinance address two of the concerns raised in the lawsuits filed against the county, questions as to the potential limitations under the Illinois constitution and statute (55 ILCS 5/5-1009) regarding the tax remain.⁷

Tax Rate on Non-Titled Personal Property

This amendment to the Ordinance decreases the tax rate imposed on the privilege of using in Cook County non-titled personal property which was purchased outside of the county. Rather than the 1.25 percent tax initially imposed per § 74-652(a), the amendment has reduced the rate to 0.75 percent—which now mirrors the home rule municipal retailers occupation tax (sales tax) imposed by the County.⁸

Credit for Tax Paid

In addition, the amendment also changes § 74-652(d), providing a credit for county sales or county retailer's occupation tax imposed by and paid in another county. The Ordinance now states that "The use of non-titled personal property in Cook County by a person who paid a county sales or county retailer's occupation tax in another county with respect to the sale or purchase of the

¹ Our earlier alerts are accessible at: http://www.deloitte.com/assets/Dcom-UnitedStates/Local%20Assets/Documents/Tax/us_tax_multistate_IL_alert_11-26-12.pdf; http://www.deloitte.com/assets/Dcom-UnitedStates/Local%20Assets/Documents/Tax/us_tax_multistate_IL_Cook%20Cty_Alert_3-19-2013.pdf

² Cook County Tax Ordinance No. 12-O-63, 11-9-2012, § 74-652(a).

³ *Id.*

⁴ Cook County Tax Ordinance No. 12-O-63, 11-9-2012, § 74-651.

⁵ Cook County Tax Ordinance No. 12-O-63, 11-9-2012, § 74-654.

⁶ Horwood Marcus & Berk Chartered has brought suit in its own name. See [Publications - Tax Attorneys | Tax Litigation Lawyers | Horwood Marcus & Berk](#); The Chicagoland Chamber of Commerce also announced that it has filed suit. See [Chamber Files Lawsuit to Block Cook County's Use Tax on Non-Titled Personal Property](#),

http://www.chicagolandchamber.org/wdk_cc/innovation_and_knowledge_/2013_news/2013_june/chamber_files_lawsuit_to_block_cook_county_s_use_tax_on_non-titled_personal_property.jsp

⁷ <http://www.ilga.gov/commission/lrb/con7.htm>; Illinois General Assembly - Illinois Compiled Statutes,

<http://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=005500050K5-1009>

⁸ Cook County Use Tax Ordinance § 74-652(a), as amended. See [ORDINANCE AMENDMENT TO THE NON-TITLED PERSONAL PROPERTY USE TAX](#), http://cookcountygov.com/ll_lib_pub_cook/cook_ordinance.aspx?WindowArgs=1666.

property shall be entitled to a credit towards the tax imposed by this article in the amount of the tax actually paid in the other county.”⁹

Contacts

If you have questions regarding these Cook County Ordinance changes or pertaining to other Illinois or Cook County tax matters, please contact any of the following Deloitte Tax professionals.

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⁹ Cook County Use Tax Ordinance Section 74-652(d) as amended. See **ORDINANCE AMENDMENT TO THE NON-TITLED PERSONAL PROPERTY USE TAX**, http://cookcountygov.com/ll_lib_pub_cook/cook_ordinance.aspx?WindowArgs=1666.