

## Sales/Use/Indirect:

### Illinois Appellate Court Affirms Supplier's Sales of Products to Managed Care Organizations are Not Exempt

*Case No. 1-22-1518*, Ill. App. Ct. (12/26/23). In a case involving a durable medical equipment supplier's sales of products to managed care organizations (MCOs), an Illinois appellate court (Court) affirmed that the Illinois Independent Tax Tribunal (Tribunal) properly entered judgment in favor of the Illinois Department of Revenue (Department) that the Illinois retailers' occupation tax (ROT) exemption for sales to governmental bodies did *not* apply as the record showed that the MCOs are *not* agents of the Illinois Department of Healthcare and Family Services (DHFS). Rather, the facts showed that the DHFS is an outsider to the MCOs' contracts with providers, and the underlying contractual language specifies that MCOs are not DHFS's agents and will indemnify and hold DHFS harmless from liability. The Court also held that the supplier "could not have possessed a good faith belief that MCOs were agents of DHFS" under these facts and thus affirmed the Tribunal's decision to uphold the Department's imposition of underlying tax penalties.

**URL:** [https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/fe6eb2c8-9674-4e56-9bfb-561b39c05617/Midwest%20Medical%20Equipment%20Solutions,%20Inc.%20v.%20Illinois%20Department%20of%20Revenue,%202023%20IL%20App%20\(1st\)%20221518-U.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/fe6eb2c8-9674-4e56-9bfb-561b39c05617/Midwest%20Medical%20Equipment%20Solutions,%20Inc.%20v.%20Illinois%20Department%20of%20Revenue,%202023%20IL%20App%20(1st)%20221518-U.pdf)

Note that in order for the Illinois ROT exemption to apply to a governmental agency, Illinois' administrative code requires the exempt governmental body to hold an active Illinois exemption identification number ("E-number") that was issued by the Department and provide this active E-number to the retailer, which then records this number instead of collecting tax. In addition, only sales of tangible personal property invoiced directly to and paid by the governmental body that possesses an active E-number are exempt from Illinois sales tax. Please contact us with any questions.

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