

Sales/Use/Indirect:

Illinois: Retailers Deemed Liable Under False Claims Act and Owe Sales Tax on Installed Appliances

Case Nos. 1-23-1163 and 1-23-1177, Ill. App. Ct. (9/30/24). In a lawsuit brought forth under Illinois' False Claims Act against various retailers, an Illinois Appellate Court (Court) agreed with a trial court that based on Illinois Department of Revenue guidance issued in 2015 [see *Compliance Alert: CA-2015-14, Construction Contracts and Retailers' Occupation Tax (June 2015)* for more details on this 2015 guidance], the appliance retailers at issue "knowingly":

URL: [https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/3a9bd197-2fe6-4041-b0ad-f2f297c2d8ea/People%20ex%20rel.%20Lindblom%20v.%20Sears%20Brands,%20LLC,%202024%20IL%20App%20\(1st\)%20231163-U.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/3a9bd197-2fe6-4041-b0ad-f2f297c2d8ea/People%20ex%20rel.%20Lindblom%20v.%20Sears%20Brands,%20LLC,%202024%20IL%20App%20(1st)%20231163-U.pdf)

URL: <https://tax.illinois.gov/content/dam/soi/en/web/tax/research/publications/compliancealerts/documents/ca-2015-14.pdf>

1. Owed Illinois sales tax (i.e., Illinois retailers' occupation tax (ROT)) on appliances they sold to Illinois customers after release of the 2015 administrative guidance, even when the customers also paid them for installing the same appliances; and
2. Were not functioning as construction contractors that only owed Illinois use tax on the cost price of the appliances they installed in Illinois.

The Court remanded for a new trial on the issue of damages, including resolving the difference between the Illinois State portion of the sales tax the retailers should have paid, and the Illinois use tax they did pay, after June 2015. Please contact us with any questions.

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