

Sales/Use/Indirect:

Illinois: New Guidance Addresses In-State Physical Presence for Sellers and Sourcing Underlying Sales

PIO-125: Determining Physical Presence and Where a Sale is Sourced – Sales and Use Tax Help Guide, Ill. Dept. of Rev. (1/25). The Illinois Department of Revenue posted Illinois sales and use tax guidance addressing how to determine whether retailers have an in-state physical presence so they may properly remit and pay the correct amount of tax for their Illinois sales. The guidance explains that having a “physical presence in Illinois” generally refers to a seller:

URL: <https://tax.illinois.gov/content/dam/soi/en/web/tax/research/taxinformation/sales/documents/pio-125.pdf>

1. Having or maintaining within Illinois, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent or other representative operating within Illinois under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located in Illinois permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in Illinois;
2. Having a contract with a person located in Illinois under which the person, for a commission or other consideration based on the sale of the retailer’s product, refers potential customers to the retailer by providing a promotional code or other mechanism that allows the retailer to track purchases referred by such persons (applicable only if income derived from the contract exceeds \$10,000 in prior year); or
3. Having a contract with a person located in Illinois under which the retailer sells the same or substantially similar line of products as the person located in Illinois and the retailer provides a commission or other consideration to the person located in Illinois based on the sale of the retailer’s product (applicable only if income derived from the contract exceeds \$10,000 in prior year).

Once a seller is considered to have physical presence in Illinois, the guidance explains that the seller must evaluate where each sale is sourced to determine the proper amount of tax that is due – and includes:

- Examples for determining in-state physical presence and where a sale is sourced, and
- Charts illustrating where and how a sale should be taxed for Illinois sales tax purposes.

Please contact us with any questions.

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