

CHAPTER 3-50
CHICAGO CHECKOUT BAG TAX

3-50-010 Title.

This chapter shall be known and cited as the “Chicago Checkout Bag Tax Ordinance”, and the tax herein imposed shall be known and cited as the “Checkout Bag Tax”.

3-50-020 Definitions.

Whenever any of the following words, terms or phrases are used in this chapter, they shall have the following meanings:

“Customer” means any person who purchases tangible personal property from a store.

“Department” means the Department of Finance of the City.

“Checkout bag” means a paper carryout bag or a plastic carryout bag.

“Paper carryout bag” means any paper bag that is provided by a store to a customer for the purpose of carrying goods out of the store. The term “paper carryout bag” does not include bags that are ordinarily intended and designed for use by customers inside a store to: (1) package loose bulk items, such as fruit, vegetables, nuts, grains, candy, cookies or small hardware items; (2) contain or wrap frozen foods, meat or fish, whether prepackaged or not; (3) contain or wrap flowers, potted plants or other damp items; (4) segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a bag; or (5) contain unwrapped prepared foods or bakery goods. Nor does the term “paper carryout bag” include: (i) bags provided by a pharmacist to contain prescription drugs; (ii) bags sold in packages containing multiple bags intended for use as garbage bags, pet waste bags or yard waste bags; (iii) bags provided by a dine-in or take-out restaurant to contain food or drink purchased by the restaurant’s customers; or (iv) bags of any type that customers bring to a store for their own use or to carry away from the store goods that are not placed in a bag provided by the store.

“Plastic carryout bag” means any plastic bag provided by a store to a customer for the purpose of carrying goods out of the store. The term “plastic carryout bag” does not include bags that are ordinarily intended and designed for use by customers inside a store to: (1) package loose bulk items, such as fruit, vegetables, nuts, grains, candy, cookies or small hardware items; (2) contain or wrap frozen foods, meat or fish, whether prepackaged or not; (3) contain or wrap flowers, potted plants or other damp items; (4) segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a bag; or (5) contain unwrapped prepared foods or bakery goods. Nor does the term “plastic carryout bag” include: (i) newspaper bags; (ii) dry cleaning or garment bags; (iii) bags provided by a pharmacist to contain prescription drugs; (iv) bags sold in packages containing multiple bags intended for use as garbage bags, pet waste bags or yard waste bags; (v) bags provided by a dine-in or take-out restaurant to contain food or drink purchased by the restaurant’s customers; (vi) bags of any type that customers bring to a store for their own use or to carry away from the store goods that are not placed in a bag provided by the store; (vii) plastic liners that are permanently affixed, or designed and intended to be permanently affixed, to the inside of a particular bag; or (viii) bags with a retail price of at least fifty cents (\$0.50) each.

“Purchaser” means any person who purchases a checkout bag in a retail sale.

“Retail sale” means any sale to any person for use or consumption, and not for resale, from either a wholesale checkout bag dealer or a store.

“Store” means any person who engages in the business of selling tangible personal property, other than tangible personal property titled or registered with an agency of Illinois government, at retail in the City of Chicago, pursuant to the Home Rule Municipal Retailer’s Occupation Tax Act, and who delivers or provides its property through the use of checkout bags.

“Use” of a checkout bag occurs when a store sells or gives (i.e., does not charge for the transfer) the checkout bag to a customer and the customer departs the store with such bag. Where a store sells such a bag to a customer, and the customer departs the store with such bag, the customer shall be deemed the user of such bag. Where a store gives such a bag to a customer, and the customer departs the store with such bag, the store, as well as the customer, shall be deemed a user; however the tax shall be imposed only once.

“Wholesale checkout bag dealer” or “wholesaler” means any person who engages in the business of selling or supplying checkout bags to any store for use in the City and includes any such person who makes or fabricates checkout bags, or packs and sells checkout bags in packages.

3-50-030 Tax imposed.

A tax is hereby imposed on the retail sale or use of checkout bags in the City. The tax shall be paid by the user, and nothing in this chapter shall be construed to impose a tax on the occupation of a wholesaler or a store. The tax shall be imposed at the rate of seven cents (\$0.07) per checkout bag sold or used in the City.

3-50-040 Liability for payment.

A. The ultimate incidence and liability for payment of the tax is to be borne by the user.

B. In the case of a checkout bag that is sold by a store to a customer, the tax shall be separately stated on the receipt provided to the customer at the time of sale and shall be identified as the “Checkout Bag Tax.” It shall be a violation of this chapter for the store to fail to separately itemize the tax upon a customer’s purchase of such bag, or to otherwise absorb the tax on such sale.

C. In the case of a checkout bag that is given by a store to a customer, the store shall, at its option, either:

1. separately state the tax on the receipt provided to the customer at the time of sale of the store’s tangible personal property, in which case the store shall collect the tax from the customer; or

2. not separately state the tax on the receipt provided to the customer, in which case the store shall not collect the tax from the customer.

3-50-050 Collection, remittance and payment.

A. The tax shall be collected by each wholesaler who sells checkout bags to a store located in the City. The wholesaler shall remit the tax and file returns in accordance with Section 3-50-060.

B. Any wholesaler required to pay the tax shall collect the tax from each store in the City to whom the sales of checkout bags are made.

1. Where a checkout bag is sold by a store to a customer, the store shall collect the tax from the customer in the manner set forth in Section 3-50-040(B).

2. Where a checkout bag is given by a store to a customer, the store shall either collect or absorb the tax at its option in the manner set forth in Section 3-50-040(C).

3. Every store that remits or pays the tax imposed by this Chapter shall be eligible to retain two cents (\$0.02) per checkout bag sold or used, resulting in a net remittance or payment of five cents (\$0.05) per checkout bag sold or used. A wholesaler receiving such remittance or payment from a store shall be required to remit to the Department only the net amount of five cents (\$0.05) per checkout bag sold or used.

C. If any store located in the City shall receive or otherwise obtain checkout bags upon which the tax has not been collected by any wholesaler, then the store shall collect the tax and remit it directly to the Department in accordance with Section 3-50-060 for sales made to its customers and shall pay or remit the tax for checkout bags that it has used in accordance with Section 3-50-060.

D. If a wholesaler sells checkout bags to a purchaser other than a store for use or consumption by such person in the City, such wholesaler shall collect the tax from such purchaser and remit it to the Department in the same manner as applies to its sales to stores. The wholesaler shall be eligible to retain a commission in the amount of two cents (\$0.02) per checkout bag sold to such purchaser.

3-50-060 Tax payments and returns.

A. All tax payments and remittances shall be made in accordance with either Section 3-4-187 (payment of actual tax liabilities) or Section 3-4-188 (payment of estimated taxes).

B. All tax returns shall be filed with the Department on an annual basis on or before August 15 of each year in accordance with Sections 3-4-186 and 3-4-189.

3-50-070 Returns and payments required upon implementation of the tax and after future tax rate increases.

A. The Comptroller is authorized to establish by rule the filing date under this Section, which: (1) shall be determined based on considerations of administrative efficiency, and (2) in no event shall be later than 30 days after the effective date of this Section.

B. On or before the filing date set in accordance with subsection 3-50-070(A), every store shall file with the Department, on a form prescribed by the Comptroller, a tax return reporting the inventory of checkout bags in the store's possession or control, on the effective date of this Section, for sale or use in the City. The store shall include with the tax return any tax due on the inventory of checkout bags in its control and possession, for sale or use in the City, for which all applicable tax has not been collected. The store shall in turn collect the tax from its customers in accordance with Section 3-50-040.

C. Every store that possesses checkout bags for sale or use in the City purchased prior to the effective date of a Checkout Bag Tax increase shall file with the Department, on a form prescribed by the Comptroller, a tax return attesting to the quantities of such checkout bags in its possession as of the last day prior to the tax increase, and remit to the Department the amount of tax due as a result of each rate increase. The store shall in turn collect the tax from its customers. Each such tax return and payment due under this subsection (C) shall be filed and received by the Department by the 30th day following the effective date of each tax increase.

D. Every store required to file a tax return under subsection 3-50-070(B) or 3-50-070(C) that does not file such tax return by its due date, or alternatively does not provide all required information on such tax return, or fails to remit all required tax due computed thereon, shall be subject to a penalty of \$100.00 per business location required to be reported on the tax return, in addition to all other penalties and interest that may be due under the Uniform Revenue Procedures Ordinance, Chapter 3-4 of this Code.

E. If the Comptroller determines that a person subject to the penalty in subsection 3-50-070(D) had reasonable cause for paying late, underpaying the applicable tax, or filing a late or incomplete tax return, then the applicable penalty shall be waived.

F. The Comptroller, or his or her designee, may at any time during the statute of limitations outlined in Section 3-4-120 examine the books and records of any person required to file a tax return under this Section, and may issue a tax determination and assessment to the person per Section 3-4-160, if a determination is made that any amount of tax, penalty, or interest is due.

G. Every person required to file a tax return under subsection 3-50-070(B) or 3-50-070(C) who files a complete tax return by its due date and makes timely payment of the amount computed thereon shall be eligible to retain a commission in the amount of two cents per checkout bag on which the tax is computed due thereon.

3-50-080 Books and records.

Every person required to collect the tax imposed by this chapter shall keep accurate books and records of its business or activity, including original source documents and books of entry denoting the transaction that gave rise, or may have given rise, to the tax liability or any exemption that may be claimed. All such books and records shall be kept in the English language and, at all times during regular business hours, shall be subject to and available for inspection by the Department.

3-50-090 Payment of tax required.

The failure of the wholesaler or store to collect the tax shall not relieve the user of its, his or her duty to pay it. In the case of a checkout bag that is sold by a store to a customer, if the wholesaler and the store failed to collect the tax, the customer of a store shall be required to pay the tax directly to the Department in the same manner and form as a store that has used a checkout bag.

3-50-100 Authority to appoint collection agents.

The Comptroller may appoint one or more persons within or without the City as collection agents for the tax, and may enter into contracts with outside parties for that purpose, subject to the availability of duly appropriated funds.

3-50-110 Exemptions and credits.

A. This tax shall not apply to the extent it would violate the United States Constitution or the Constitution of the State of Illinois.

B. This tax shall not apply to the retail sale or use of checkout bags that are used to carry items purchased pursuant to the Supplemental Nutritional Assistance Program or a similar governmental food assistance program.

C. It shall be presumed that checkout bags sold or used by wholesalers and stores are subject to the tax imposed under this chapter until the contrary is established. The burden of proving that such checkout bags are not taxable hereunder shall be upon the person so claiming.

D. In remitting the tax to a wholesaler, a store shall be allowed a credit of two cents per checkout bag purchased.

E. In remitting the tax to the Department, a wholesaler shall be allowed the same two-cent-per bag credit provided in (D), resulting in a five-cents-per-bag required remittance to the Department.

3-50-120 Registration.

Every wholesaler and store shall register with the Department within 30 days of the effective date of this chapter, or within 30 days of commencing business, whichever is later.

3-50-130 Supplementary provisions.

Whenever not inconsistent with the provisions of this chapter, or whenever this chapter is silent, the provisions of the Uniform Revenue Procedures Ordinance, Chapter 3-4 of this Code, shall apply and supplement this chapter.

3-50-140 Deposit of funds.

All proceeds resulting from the imposition of this tax, including interest and penalties, shall be deposited in the City's corporate fund.