

## Guidance on the Chicago Checkout Bag Tax

The Checkout Bag Tax ("Bag Tax") is a \$.07 per bag tax on the retail sale or use of paper and plastic checkout bags in Chicago, of which retail merchants retain \$.02 and the remaining \$.05 is remitted to the City.

This notice provides additional guidance on the Bag Tax to assist retail merchants and wholesalers in applying for Bag Tax credits on bags that are used to carry items purchased pursuant to the Supplemental Nutritional Assistance Program or a similar governmental food assistance program; determining the Bag Tax application to restaurants, and determining placement of the Bag Tax on receipts. See "Chicago Checkout Bag Tax – Frequently Asked Questions" published on the website of the Chicago Department of Finance ("Department") at:

[https://www.cityofchicago.org/city/en/depts/fin/supp\\_info/revenue/tax\\_list/CheckoutBagTax.html](https://www.cityofchicago.org/city/en/depts/fin/supp_info/revenue/tax_list/CheckoutBagTax.html)

If further questions remain, please contact Customer Service at 312.747.4747 or by e-mail at [RevenueDatabase@cityofchicago.org](mailto:RevenueDatabase@cityofchicago.org).

### Guide to Bag Tax Credits on Purchases Made As Part Of Governmental Food Assistance Programs

The Bag Tax does not apply to bags that are used to carry items purchased pursuant to the Supplemental Nutritional Assistance Program ("SNAP"), the Illinois LINK card or a similar governmental food assistance program (Code Section 3-5-110).

Guidance for retailers:

- **Retailers paying the tax through their wholesaler:** Retailers should take a credit for non-taxable bags on the next bill received from their wholesalers and provide supporting documentation to substantiate their claim for credit. The wholesaler in turn should claim a credit for the tax amount credited to their retailers on the next monthly remittance.
- **Retailers paying the tax directly to the City of Chicago:** The Bag Tax must be paid on a monthly basis for bags used or sold in the prior month. Therefore, retailers should pay the tax due for taxable bags and be able to substantiate the use of non-taxable bags with supporting documentation.

Guidance for wholesalers:

- **Wholesalers remitting the tax to the City of Chicago:** If retailers take a credit on bills received from the wholesaler, the wholesaler in turn should claim a credit for the tax amount credited to their retailers on the next monthly coupon remittance. This amount should be reflected on the total amount of deductions claimed throughout the year on line 2 of the Checkout Bag Tax return.

In all cases, retailers and wholesalers must keep records of all such transactions and provide supporting documentation to the Department upon request.

### Guide to Determining Bag Tax Application to Restaurants

The Bag Tax Ordinance defines a taxable bag as one "that is provided by a store to a customer for the purpose of carrying goods out of the store." Code Section 3-50-020. The tax does not apply to "bags provided by a dine-in or take-out restaurant to contain food or drink purchased by the restaurant's customers." Id.

In applying this provision (hereafter "the Restaurant Exclusion"), the Department will consider a given store location (hereafter "Store") to be a "restaurant" if more than 50% of its sales of food and drink are subject to the "high" sales tax rate provided by Section 2-10 of the Illinois Retailers' Occupation Tax Act, 35 ILCS 120/2-10 (which applies to food prepared for immediate consumption), rather than the "reduced" rate provided by that same section (which applies to "grocery" food).

If a Store has some operations that would qualify for the Restaurant Exclusion if considered separately, but that do not qualify for the Restaurant Exclusion if considered together with the Store's other operations, then the bags provided by the former operations will still qualify for the Restaurant Exclusion, so long as the Store utilizes a reliable means of documenting, recording and accounting for receipts that clearly separates its restaurant sales from its other sales, so that the amount of its tax liability can be correctly determined and confirmed. In the absence of such a reliable means of documenting, recording and accounting for receipts, it will be presumed that all of the Store's sales of food and beverages are attributable to its non-restaurant operations, and that bags provided for carrying out such items are therefore taxable. This is similar to the "Mixed Facilities or Operations" rules set forth in the Chicago Restaurant And Other Places For Eating Tax Regulations.

For those stores that do not self-report, the Department will make available on its web site a form that may be provided to wholesalers for use in connection with the Restaurant Exclusion.

#### Guide to Placement of the Bag Tax on Receipts

If a business chooses to collect the Bag Tax from customers, Code Section 3-50-040 states that it shall "separately state the tax on the receipt provided to the customer at the time of sale ...." The Section also states that the Bag Tax shall be identified as the "Checkout Bag Tax."

Following multiple questions from customers and businesses, the Department is providing additional guidance to reduce customer confusion and help ensure businesses correctly state the Bag Tax on receipts:

- The Bag Tax is a tax, not a fee. In order to reduce confusion among consumers, businesses collecting the tax from customers should identify the Bag Tax separately on receipts as the "Checkout Bag Tax" or "Bag Tax" if space does not permit the longer tax name.
- If a business sells checkout bags to customers and is collecting the Bag Tax from customers, the tax shall be separately stated on receipts. "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." Code Section 3-50-030. Businesses collecting the tax from customers should not combine the Bag Tax with any other charge on receipts. More specifically, if a business as part of its business model charges for a checkout bag, it should not combine the Bag Tax with any of those charges.
- Certain point of sales systems do not allow for the Bag Tax to appear below the subtotal (i.e. the tax amount); therefore, to avoid confusion among customers, the Department suggests that such businesses add "non-taxable" or "NT" or some other denotation next to the Bag Tax on receipts to clarify that the Bag Tax is not subject to sales tax, if the Bag Tax appears above the subtotal.

To further assist businesses in clearly placing the Bag Tax on receipts, below are examples of correct placement of the Bag Tax on receipts.