



This Week in State Tax (TWIST)

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Illinois: DoR rules employer subsidies for employee food services not subject to ROT

The Illinois Department of Revenue (Department) recently released Private Letter Ruling [ST 25-0004-PLR](#), addressing whether certain types of subsidy payments must be included in a taxpayer's gross receipts for purposes of the Retailers' Occupation Tax (ROT). The taxpayer involved enters into agreements with employers to operate cafeterias for their employees. Under the agreement, employers provide the physical space and equipment for the cafeterias, and the taxpayer purchases, prepares, and sells food to the employees. The taxpayer and the employer collaborate on the cafeteria operating policies, including the price of food, but the employer has the final say on pricing. For compensation, the taxpayer receives a fixed administrative fee from the employer plus receipts from the sale of meals. If the sales to employees do not cover the cost of conducting the business, the employer must pay the taxpayer a subsidy to make up the difference. The subsidy is based on total operating results for the cafeteria and is paid at the end of an accounting period as specified by the contract.

The taxpayer requested a ruling from the Department on whether these subsidy payments should be considered taxable gross receipts for ROT purposes. Under Illinois law, a taxpayer's "gross receipts" subject to the ROT generally encompass total consideration from retail sales. The Department explained that because the subsidy is not directly tied to an individual sale at retail, it would not be subject to the ROT. In support, the Department cited an Illinois Supreme Court case from 1978, *Chet's Vending Service Inc. v. Department of Revenue*, 71 Ill. 2d 38 (1978), wherein the court found that similar subsidy payments were not related to any individual sale and, therefore, not subject to ROT. For questions on [ST 25-0004-PLR](#) (July 17, 2025), please contact [Drew Olson](#).

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