



# This Week in State Tax (TWIST)

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## Illinois: Pending Bill Would Revise Sourcing Provisions for Certain Retailers

Under Illinois' Level the Playing Field Act, fully in-state retailers are required to collect Retailer's Occupation Tax (ROT) on sales to Illinois customers at the origin tax rate, i.e., where the selling activity takes place. Out-of-state retailers with some physical presence in Illinois, but no selling activities occurring in Illinois for a particular transaction, collect the 6.25 percent state use tax rate and the Chicago use tax (if applicable). Out-of-state retailers with physical presence and selling activities occurring in Illinois for the particular transaction collect ROT at the origin rate. Finally, remote retailers with no physical presence collect ROT at the destination rate (assuming the retailer meets the state's economic nexus threshold).-Under Senate Bill 3362, beginning on January 1, 2025, a "retailer maintaining a place of business in Illinois" (as defined in the Use tax Act) that makes retail sales of tangible personal property to Illinois customers from a location or locations outside of Illinois is liable for all applicable state and local ROT administered by the Department. Further, also beginning January 1, 2025, for sales that would otherwise be sourced outside Illinois, a retailer maintaining a place of business in Illinois that makes sales of tangible personal property to Illinois customers from a location outside Illinois is engaged in the business of selling at the Illinois location where the property is shipped or delivered, or at which possession is taken by the purchaser. This means that retailers with some physical presence, but that are making sales into Illinois from outside the state will no longer collect use tax. Rather, these retailers will be required to collect ROT at the destination rate. The bill does not change the fact that retailers making intrastate sales use origin sourcing, while out-of-state retailers use destination sourcing. This in-state vs. out-of-state issue is being challenged in the Pet Meds case pending before the Illinois Tax Tribunal. Please stay tuned to TWIST for updates on this bill.

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