

If no tangible personal property is transferred to the customer, then no Illinois Retailers' Occupation Tax or Service Occupation Tax would apply. See 86 Ill. Adm. Code Parts 130 and 140. (This is a GIL.)

September 14, 2015

Dear Mr. XXXX:

This letter is in response to your letter dated July 23, 2015, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am writing to follow up on a Private Letter Ruling (PLR) issued on January 9, 2015 for the following taxpayers: COMPANY 1 (EIN # XX-XXXXXX); COMPANY 2 (EIN # XX-XXXXXX) and COMPANY 3 (EIN # XX-XXXXXX).

I have enclosed a copy of the PLR as well as power of attorney forms for each of the entities. The reason for this letter is that my original PLR request submitted sought a ruling on whether the services provided by the entities would be subject to tax as "telecommunications" under the Illinois Telecommunications Excise Tax Act, or "any other provision of the Illinois Revenue code." The ruling issued in January concluded that the specified services would not be subject to the Telecommunications Excise Tax. However, it did not address the question of whether any other tax might apply.

Therefore, I would like to request a supplemental PLR or other form of written confirmation that the services outlined in the existing PLR would be subject to any other tax imposed under the Illinois Revenue Code, including either the Retailers Occupation Tax or the Service Occupation Tax. I have enclosed a copy of our original PLR request as well as a copy of the PLR issued in January. The facts discussed in the ruling request and PLR have not changed since the issuance of the PLR.

Please contact me if there are any questions or procedural issues with processing this request.

DEPARTMENT'S RESPONSE:

The Department's regulation "Public Information, Rulemaking and Organization" provides that "[w]hether to issue a private letter ruling in response to a letter ruling request is within the discretion of the Department. The Department will respond to all requests for private letter rulings either by issuance of a ruling or by a letter explaining that the request for ruling will not be honored." 2 Ill. Adm. Code 1200.110(a)(4). The Department recently met and determined that it would decline to issue a Private Letter Ruling in response to your request. We hope however, the following General Information Letter will be helpful in addressing your questions.

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. See 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See 86 Ill. Adm. Code 150.101. These taxes comprise what is commonly known as "sales" tax in Illinois. If the purchases occur in Illinois, the purchasers must pay the Use Tax to the retailer at the time of purchase. The retailers are then allowed to retain the amount of Use Tax paid to reimburse themselves for their Retailers' Occupation Tax liability incurred on those sales.

The Illinois Retailers' Occupation and Use Taxes do not apply to sales of service. Sales of service will be subject to either Service Occupation Tax liability or Use Tax liability if tangible personal property is transferred incident to the sale of service. For your general information see 86 Ill. Adm. Code 140.101 through 140.109 regarding sales of service and Service Occupation Tax. If no tangible personal property is transferred incident to a sale of service, Service Occupation Tax liability or Use Tax liability do not apply.

I hope this information is helpful. If you have further questions related to the Illinois sales tax laws, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Richard S. Wolters
Chairman, Private Letter Ruling Committee

RSW:mdb