

The sale of a motor vehicle that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act, 35 ILCS 155/1 et seq., is exempt from tax under the Retailers' Occupation Tax Act and Use Tax Act. 35 ILCS 120/2-5(5); 35 ILCS 105/3-5(5). (This is a GIL).

May 26, 2023

COMPANY1
d/b/a COMPANY2
ADDRESS

Dear NAME:

This letter is in response to your letter dated December 13, 2022, in which you requested 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:

Dear Illinois Department of Revenue Legal Service office,

We are a small rental van business located in CITY IL. Our company name is COMPANY1. Our DBA is COMPANY2. Our EIN is ##-##### and our IBA is #####-#####.

We are in the business of renting vans for less than [sic] 30-day period. We collect the Motor Vehicle Renting Tax from our customers for the State of Illinois.

Unfortunately, company's [sic] that we buy vehicles from will not allow us to not pay Sales Tax on the vehicles we need for the business, even though SST-556 Section 5, E allows us to be tax exempt. Some dealers are afraid that this will come back months later and they will have to pay the sales tax.

Please give us a letter that COMPANY1 and COMPANY2 falls under the exempt status under the SST-556 and we do not have to pay the sales tax because are paying motor vehicle renting tax to the State of Illinois.

DEPARTMENT'S RESPONSE:

Automobile Renting Occupation and Use Tax

Persons who are engaged in the business of renting automobiles in Illinois under rental terms of one year or less are subject to the Automobile Renting Occupation Tax set forth in Section 3 of the Automobile Renting Occupation and Use Tax Act ("Act"). See 35 ILCS 155/1 *et seq.*; 86 Ill. Adm. Code 180.101 *et seq.* Section 180.115 of the Department's administrative rules for the Automobile Renting Occupation Tax provides that "[a]ny person who habitually engages in renting automobiles under lease terms of one year or less, or who, in any manner or at any time, advertises, solicits, offers for rent or holds himself out to the public to be a rentor of automobiles under lease terms of one year or less is engaged in the business that is taxed by the Act, provided that such person is engaged in such business in this State." 86 Ill. Adm. Code 180.115. The Act defines "rentor" as "any person, firm, corporation or association engaged in the business of renting or leasing automobiles to users." 35 ILCS 155/2. The Act defines "renting" as "any transfer of the possession or right to possession of an automobile to a user for a valuable consideration for a period of one year or less." 35 ILCS 155/2. This tax is imposed at the rate of 5% of the gross receipts from such business. 35 ILCS 155/3. "Gross receipts" from the renting of tangible personal property or "rent," means the total rental price or leasing price. 35 ILCS 155/2; see also, 86 Ill. Adm. Code 180.120 and 180.125.

A corresponding Automobile Renting Use Tax is imposed upon the privilege of using in Illinois an automobile rented from an automobile rentor under a lease term of one year or less. 35 ILCS 155/4; 86 Ill. Adm. Code 190.101(a). The Act defines "rentee" as "any user to whom the possession, or the right to possession, of an automobile is transferred for a valuable consideration for a period of one year or less" 35 ILCS 155/2. The rentor must remit the Automobile Renting Use Tax he collects to the Department, but first reduces what he must remit in this connection by the Automobile Renting Occupation Tax, if any, which he is required to pay and does pay to the Department in connection with the same automobile rental transaction. 86 Ill. Adm. Code 190.115(b).

In addition to State Automobile Renting Occupation and Use Taxes, municipalities and counties are authorized to impose automobile renting occupation and use taxes that are collected and administered by the Illinois Department of Revenue. See 65 ILCS 5/8-11-7; 65 ILCS 5/8-11-8; 55 ILCS 5/5-1032; 55 ILCS 5/5-1033. Certain special districts are also authorized to impose automobile renting occupation and use taxes that are collected and administered by the Department. See e.g., 70 ILCS

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210/13(d), (e); 70 ILCS 3610/5.02; 70 ILCS 3615/4.03.1. Please note that, currently, the Metropolitan Pier and Exposition Authority is the only special district imposing such a tax. These municipal, county, and special district automobile renting occupation and use taxes are generally subject to the same conditions, restrictions, limitations, penalties and definitions of terms, and employ the same modes of procedure, as are prescribed in the Automobile Renting Occupation and Use Tax Act. See e.g., 55 ILCS 5/5-1032, 5-1033; 70 ILCS 210/13(d), (e); 65 ILCS 5/8-11-7, 8-11-8. In addition, municipal, county, and special district automobile renting occupation tax statutes authorize persons subject to the tax (i.e., “rentors”) to reimburse themselves for their tax liability by collecting it from the rentee. See e.g., 70 ILCS 210/13(e); 65 ILCS 5/8-11-8; 55 ILCS 5/5-1033.

Retailers’ Occupation and Use Tax

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. 35 ILCS 120/2; 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. 35 ILCS 105/3; 86 Ill. Adm. Code 150.101. These taxes comprise what is commonly known as “sales tax” in Illinois.

The Retailers' Occupation Tax Act and the Use Tax Act provide an exemption from tax for the sale of “[a] motor vehicle that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act.” 35 ILCS 120/2-5(5), 35 ILCS 105/3-5(5). This exemption is available for a motor vehicle that will be used exclusively for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act. This exemption is not available for a motor vehicle that will be used substantially for personal or other non-exempt purposes. See Private Letter Ruling ST-22-0002 (February 1, 2022).

Retailers must maintain complete books and records covering receipts from all sales and distinguishing taxable from nontaxable receipts. 86 Ill. Adm. Code 130.801(b). The books and records must clearly indicate and explain all the information, deductions as well as gross receipts, required for tax returns. 86 Ill. Adm. Code 130.801(c). For more information regarding book and records requirements refer to 86 Ill. Adm. Code 130, Subpart H.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Katarzyna Kowalska

COPMANY1 d/b/a COMPANY2/NAME

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Associate Counsel

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