

Whether to issue a private letter ruling in response to a letter-ruling request is within the discretion of the Department. See 2 Ill. Adm. Code 1200.110(a)(4). (This is a GIL.)

February 24, 2006

Dear Xxxxx:

This letter is in response to your letter dated January 19, 2006, 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](http://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:

COMPANY requests a private letter ruling. COMPANY is currently being audited by the Illinois Department of Revenue for Use Tax. It is our belief that we do not incur Retailers' Occupation Tax liability.

COMPANY is in the sole business of renting and leasing trucks of 16,000 pound GVW and higher. COMPANY only sells trucks that come off lease, that are no longer needed. COMPANY does not buy [sic] trucks for retail sales.

Part 130 'Retailers' Occupation Tax' Section 130.2013 e), 1) states:

'A person who is strictly a lessor and whose only sales are items no longer needed for his rental inventory does not incur Retailers' Occupation Tax liability on those sales.' It goes on further in Section e) (3):

'The rule is also different with respect to the sale of used motor vehicles by leasing and rental companies. A person who is engaged in the business of leasing and renting motor vehicles to others and who sells a motor vehicle that is no longer needed in his rental inventory to a user or customer incurs a Retailers' Occupation Tax liability on that sale.' See Section 130.111 of this Part. In this context, a 'motor vehicle' means a passenger car defined in Section-157 of the Illinois Vehicle Code as a *motor vehicle of the First Division including a multipurpose passenger vehicle this is designed for*

*carrying not more than 10 persons.* (This is [sic] not the vehicles COMPANY leases) [625 ILCS 5/1-157] Vehicles not considered 'passenger vehicles' as defined in Section 1-157 of the Illinois Vehicle Code (for example, trucks) are subject to the provisions of subsections (e)(1)-(2) of this Section.

All of COMPANY's vehicles are larger trucks that clearly fall under the provisions of subsections (e)(1)-(2) of this Section. The law provides that sales of these trucks do not incur Retailers' Occupation Tax liability.

Please review and advise.

**DEPARTMENT'S RESPONSE:**

Your private letter-ruling request indicates you are currently under audit by the Department of Revenue for the issues presented in your letter. Whether to issue a private letter ruling in response to a letter-ruling request is within the discretion of the Department. See 2 Ill. Adm. Code 1200.110(a)(4).

The Department is declining to issue a private letter ruling in this instance. If you require additional information, please visit our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) where you may find information concerning the issues raised in your letter by reviewing the Department's "Sunshine Letter" rulings and regulations on the Department's internet website under the heading of "Laws/Regs/Rulings."

Very truly yours,

Edwin E. Boggess  
Associate Counsel

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Cc: Audit Division