

This letter discusses sales of cigarette rolling papers. See the Cigarette Tax Act (35 ILCS 130/1 et seq.), the Cigarette Use Tax Act (35 ILCS 135/1 et seq.), and the Tobacco Products Tax Act of 1995 (35 ILCS 143/10-1 et seq.). (This is a GIL.)

April 14, 2006

Dear Xxxxx:

This letter is in response to your letter dated October 8, 2005, in which you request information. We apologize for taking so long to respond. 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.ILTAX.com 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:

It has recently come to my attention that there are cigarette rolling papers and rolling tubes being sold in the State of Illinois that consist of homogenized tobacco. These products are known as Blunt Wraps, Royal Blunts, True Blunts, Golden Wraps, Cyclones and others. The materials used to make these tobacco 'paper' products contain tobacco and therefore....they should be taxed as such!!! I am a concerned citizen notifying all of the 50 State Boards of Tobacco Taxation. I want to alert you people to the fact that...since these alleged 'rolling paper products' do contain tobacco, they should either not be allowed for sale, or they should be taxed like every other tobacco product. I trust you will alert your State Attorneys General to this fact, also!

Please respond at your earliest convenience with what action is being taken to either ban this product from the market or tax it as a tobacco product.

DEPARTMENT'S RESPONSE

Illinois taxes cigarettes under the Cigarette Tax Act (35 ILCS 130/1 et seq.) and the Cigarette Use Tax Act (35 ILCS 135/1 et seq.). Tobacco Products are taxed under the Tobacco Products Tax Act of 1995 (35 ILCS 143/10-1 et seq.). We do not have enough information to make a determination

about whether the items you describe are subject to any of these taxes. However, we hope that the following information is helpful.

The Cigarette Tax Act imposes a tax upon persons engaged in business as a retailer of cigarettes in this State at the rate of 98 cents per package of 20 cigarettes. The Cigarette Use Tax Act imposes a tax upon the privilege of using cigarettes in this State at the rate of 98 cents per package of 20 cigarettes. "Cigarette" is construed to mean: any roll for smoking made wholly or in part of tobacco irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, and the wrapper or cover of which is made of paper or any other substance or material except tobacco.

The Tobacco Products Tax Act of 1995 applies to sales of tobacco products. Under this act, "a tax is imposed on any person engaged in business as a distributor of tobacco products, as defined in Section 10-5, at the rate of 18% of the wholesale price of tobacco products sold or otherwise disposed of to retailers or consumers located in this State."

"Tobacco products" "means any cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff or snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings, and sweeping of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but does not include cigarettes or tobacco purchased for the manufacture of cigarettes by cigarette distributors and manufacturers defined in the Cigarette Tax Act and persons who make, manufacture, or fabricate cigarettes as a part of a Correctional Industries program for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility." 35 ILCS 143/10-5.

Please note that the taxes imposed on cigarettes and tobacco under the above mentioned acts are in addition to all other occupation or privilege taxes imposed by the State of Illinois, or by any political subdivision thereof. As a result, persons selling tangible personal property in Illinois, including cigarettes and tobacco products must also consider their sales tax obligations. See the Retailers' Occupation Tax Act, 35 ILCS 120/1 et seq. and the Use Tax Act, 35 ILCS 105/1 et seq. Persons selling tangible personal property subject to the taxes set forth above who fail to collect and pay such taxes are subject to all applicable penalties under those acts.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

MPM:msk