

This letter provides references for information regarding motor vehicles converted for use by disabled persons. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

May 9, 2006

Dear Xxxxx:

This letter is in response to your letter dated November 4, 2005, 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:

We submit this letter to request an official position from the Illinois Department of Revenue (Department) regarding the proper method for collecting and remitting sales tax on vehicles that we sell in Illinois (IL).

Our company is a used vehicle dealer in the state of IL. We have two (2) locations. Our company installs mobility equipment into vehicles to make them accessible to disabled persons. These installations are made based upon a prescription from a doctor or a certified driver evaluator.

The installations are made on customers' vehicles or on a limited number of vehicles that we carry in stock. Each vehicle requires modifications or installation of equipment to meet the prescribed needs of the disabled person who is purchasing the van. When we install equipment on a customer's vehicle we charge the customer and forward the sales tax based on the medical appliance rate of 1.25% of the invoice which includes the price of the equipment and the labor to install. When we install equipment and modifications in a van that we own in stock, we separate the selling price of the van into the vehicle selling price and the price of the equipment and modifications that were necessary to make the van accessible for the disabled customer and charge the appropriate sales tax rate on each portion.

Prior to starting business in IL, we called the Department of Revenue, and we were instructed, via that phone discussion, that the normal vehicle portion of the transaction is subject to the normal 6.25% IL sales tax rate based on the address of the customer and the portion of sales price attributed to the specialized modifications to render the vehicle usable by the disabled user should be taxed at the 1.25% rate for medical appliances. We therefore implemented an accounting system which segregates the selling price of materials and labor involved in modifications for the disabled person v. the selling price of the unmodified van and charge the appropriate tax rates to the respective portions.

Subsequent research by our accounting firm lends support to the procedures we have implemented. Specifically, IL Admin. Code 130.310 (copy attached) states in part:

(e)(1) ...modifications made to a motor vehicle, ...for the purpose of rendering it usable by a disabled person, qualify for the reduced rate of the tax (Section 2-10 of the Act). The low rate applies to the modifications which enable a disabled person to drive a vehicle, or which assist in the transportation of disabled persons. Examples of such modifications include, but are not limited to, special steering, braking, shifting, or acceleration equipment which modifies the vehicle for accessibility, such as a chair lift.

The types of modifications discussed in IL Admin. Code 130.310 (e) (1) above are the types of modifications ABC makes to vehicles for its disabled customers.

While it does not provide specifics on how invoices will be prepared, IL Admin. Code 130.310 (f) states in part:

(f)(1) The retailer must keep actual record of all sales and must report tax at the applicable rates, based on sales as reflected in his records. Books and records must be maintained in sufficient detail so that all receipts reported with respect to food, drugs, medicines and medical appliances can be supported. The determination of the percentage of sales of food items sold in individual-sized servings referred to in (b)(2)(B) and (b)(3) ..., will be made by comparing the dollar amounts of the gross receipts of the two categories of foods. The determination shall be based upon a period which will generally reflect the true character of overall sales rather than isolated or seasonal sales.

(2) If a retailer finds it difficult to maintain detailed records of receipts from sales of food, drugs, medicines and medical appliances at the reduced rate, as well as detailed records of receipts from all other sales of tangible personal property at the full rate, he may request the use of a formula.... Upon findings that the formula can be audited and will produce results that will reasonably approximate the actual taxable receipts in each category, the Department may issue its approval for use of such formula.

It is obvious from reading IL Admin. Code 130.310(f)(1) and (2) that IL recognized how challenging recordkeeping could be to support the segregation of sales revenue into categories to accommodate charging the applicable sales tax rate and offered flexibility to retailers who made a supportable effort to segregate revenues and charge the lower rate to the applicable portion. From its start of business in IL, ABC has made a full attempt to segregate the portion of each sale which is eligible for the reduced tax rate and charge the appropriate rates of tax. Furthermore, ABC has met the intent of the Code by maintaining the detailed records of receipts to accommodate IL Admin. Code 130.310(f)(2). As a matter of fact ABC has kept records that are detailed enough to

preclude the need for a formula to estimate the portion of receipts that are eligible for the reduced tax rate.

Over the last several weeks we have received forms RA-52-08 Notice of Assessment for form ST-556 for additional sales tax due based on the entire purchase price being taxed at the applicable vehicle rate based on the customer address. These notices do not take into consideration the equipment installed and modifications that were performed to make the vehicle accessible for the disabled customer.

We respectfully submit that ABC has diligently followed advice received from your Department in segregating its revenues and properly charging the lower sales tax rate to only the applicable portion of its sales revenues. Furthermore, our approach to collecting and remitting IL sales tax on our IL sales clearly seems to meet the spirit and intent of IL Admin. Code 130.310. As a result we request that IL examine our records to substantiate that the IL sales tax collected, remitted and supported by our detailed records and invoices can be accepted as reported. If IL determines a different approach which makes more sense to use for future transactions, we will make every effort to comply prospectively.

If you need additional information please contact me at the address below. Thank you for your consideration.

DEPARTMENT'S RESPONSE:

We are unable in the context of a general information letter to respond to your specific request. It is the Department's position that the Audit Division is in the best position to determine your tax liabilities. However, information regarding the tax implications for motor vehicles converted for use by disabled persons may be found in FY Bulletin 96-16 and general information letter ST-04-0094-GIL. The Department's Informational Bulletins and "Sunshine Letter" rulings are available on the Department's Internet website under the headings of "Forms/Publications" and "Laws/Regs/Rulings."

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. 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,

Edwin E. Boggess
Associate Counsel

EEB:msk