

This letter responds to an annual survey. See 86 Ill. Adm. Code 130. (This is a GIL.)

August 11, 2006

Dear Xxxxx:

This letter is in response to your survey dated July 25, 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 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:

The ABC, in conjunction with XYZ, annually undertakes a major information collection effort with respect to the application of the tax laws of the states. ABC's goal in gathering this information is to assemble and publish the GUIDE. As the market has shown, such a publication is a useful reference source for departments of revenue, attorneys, corporate tax departments, and public accounting firms.

ABC is in the process of updating the Guide for its 2007 annual edition. Accordingly, we ask for your state's assistance in preparing this important publication. I have attached a Microsoft Word file with this year's questionnaire. (If you do not have a copy of your 2005 response, and it would be helpful to you in completing the 2006 questionnaire, please let me know and I will email you a copy.)

This year, the numbering scheme and the sequence of the questions remains essentially the same. Also, please note that the new questions are highlighted in boldface and larger print. Therefore, you should be able to easily follow the changes from last year to this year. Because of anticipated time constraints for respondents, this year we are asking that you only respond to the questions that have changed and the new questions.

All unanswered questions will be considered the same as last year's answer unless otherwise noted.

Please complete the 2006 questionnaire and return it by July 15, 2006. The enclosed questionnaire should be answered in accordance with laws in effect as of July 1, 2006. If there is legislation pending or recently enacted that would alter your answers, please explain any such changes that you are aware of at the time the questionnaire is completed.

Beginning in the fall 2000, ABC began a tuition assistance program for state department of revenue employees in appreciation for the assistance in publishing the GUIDE. A limited amount of tuition assistance is available for courses in ABC's Graduate Certificate in State and Local Taxation. This Certificate program is the first of its kind in the nation to be offered totally online. To receive the Certificate, students must complete the four-course curriculum. For further information about the program or available tuition assistance contact #.

If you have any questions about the questionnaire or individual questions, please contact me. Thank you for your continued cooperation and support. Your contributions are extremely valuable in maintaining the quality of this outstanding reference work. A complimentary copy of the 2007 GUIDE will be sent to you when it is published next year.

In your questionnaire, you have stated and made inquiry, in part, as follows:

III. SALES AND USE TAXES

4. What form must be filed in your state to report sales tax? _____

If no sales tax applicable, is use tax reported on the same form?

_____ Yes _____ No

If 'No,' what form is used?

Do you accept reproductions of the sales/use tax return? _____ Yes _____ No

Can one obtain an extension of time to file? _____ Yes _____ No

How is such an extension obtained? _____

Maximum extension period _____

May a consolidated form be filed when a taxpayer operates at more than one site? _____ Yes _____ Yes, with prior permission _____ No

Is a final return or notification required when a taxpayer terminates or ceases to do business? _____ Yes _____ No

Is payment due when the reporting form is filed? _____ Yes _____ No

Are some taxpayers required to make tax payments via electronic funds transfer (EFT)? _____ Yes _____ No

If 'Yes,' which taxpayers are so required?

Must the taxpayer be contacted by the state before an EFT payment can be made? _____ Yes _____ No

If 'No,' must the taxpayer request permission before making an EFT payment? _____ Yes _____ No

Which EFT methods are permitted (check all that apply)?

_____ Debt method _____ Credit method _____

_____ Other (please explain) _____

Does the state allow prompt payment discounts? _____ Yes _____ No _____ Dollar or Percentage Discount

Are direct payment permits available? _____ Yes _____ No

Online Filing of Sales and Use Tax Returns

Does your state provide for online filing of sales and use tax returns?

Yes No

If yes, is pre-approval required? Yes No

What is the website for taxpayers to use in online filing?

How is the payment handled when taxpayers file online?

EFT

Mail payment

Credit Card

Other Please specify _____

Return Due Dates

What is the due date of your state's sales tax return for the following filers? Monthly filer

_____ Quarterly filer _____

_____ Semi-annual filer (if available as filing status) _____

_____ Annual filer _____

_____ Other (seasonal, etc., if available) _____

11. Are private rulings issued? Yes No

If rulings are issued, is the issuance pursuant to (check one):

Statute (please identify) _____

Regulation (please identify) _____

Can a ruling be retroactive? Yes No

Does the ruling have value as precedent? Yes No

Which office is responsible for issuing rulings?

Are rulings published? Yes No If 'Yes,' where published _____

If rulings are not published, are they available for public inspection?

Yes No

Can a ruling applicant contest the disclosure of the ruling? Yes No Are

rulings expanded into tax policy statements? Yes No

Is a filing or other fee charged for the ruling? Yes No If 'Yes,' charge:
\$ _____

Are requests for rulings ever declined? Yes No

Check all of the following statements that apply to sales and use tax rulings.

The state acknowledges receipt of the ruling request.

A ruling is issued only regarding prospective transactions.

The taxpayer can obtain a ruling for alternative plans for the transaction.

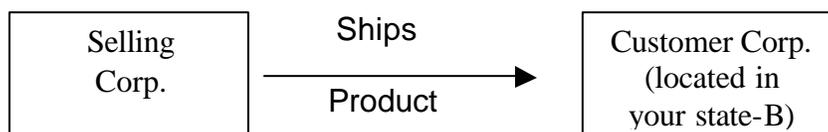
Prior to issuance, the taxpayer can obtain a face-to-face meeting with the state to discuss the ruling.

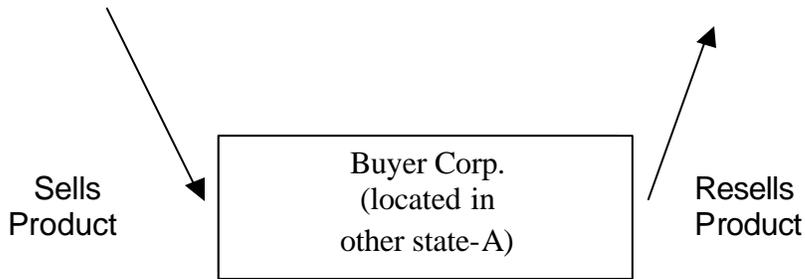
The taxpayer can request a ruling with respect to an issue that is under audit.

The taxpayer can withdraw a ruling request before issuance.

Responses to this survey constitute a ruling.

15. Drop Shipments





Please use the following facts for these questions:

Buyer Corporation is a registered seller in State A. Buyer has no nexus in your state and is not required to collect sales or use tax in your state (State B). Selling Corporation has a valid exemption certificate from Buyer Corporation for State A. Selling Corporation is required to collect sales/use tax in your state (State B).

Since Buyer Corporation is not registered in, and has no nexus with your state (State B), will your state recognize the sale from Selling Corporation to Buyer Corporation as a sale for resale, not subject to sales or use tax in your state (State B)? Yes No

If 'Yes,' what documentation will your state accept to evidence that the sale from Selling Corporation to Buyer Corporation is a sale for resale? (please explain)

Does it matter if Selling Corporation delivers in its own vehicles, rather than by common carrier? Yes No

Do the FOB terms of sale matter in the taxation of this transaction? Yes No

Does it matter if Other Corporation is reselling rather than consuming the items purchased? Yes No

If Selling Corporation is required to remit or collect and remit the tax, is the tax measured by the price paid by Buyer Corporation, or by the price paid by Other Corporation?

Yes No

Buyer Corp. Price

Other Corp. Price

If measured by the price paid by Other Corporation, how is Selling Corporation to determine that price? (please explain) _____

Purchases subsequently transferred to another state

Does your state (B) provide a credit for legally imposed taxes by another state (A) when the goods were shipped to state A when purchased but subsequently transferred to state B by the taxpayer? Yes No

Do local jurisdictions in your state (B) provide a credit for legally imposed taxes by another state (A) when the goods were shipped to state A when purchased but subsequently transferred to state B by the taxpayer? Yes No

If the taxpayer goes into a store and purchases an item of taxable tangible personal property, but directs that it be shipped to another state, would your state impose tax upon that purchase? _____ Yes _____ No

If the taxpayer goes into a store and purchases an item of taxable tangible personal property, but directs that it be shipped to another state, would local jurisdictions in you state impose tax upon that purchase? _____ Yes _____ No

23. Streamlined Sales Tax Agreement (SST)

Is your state involved in the Streamlined Sales Tax **Agreement**?

Yes _____

No _____

If yes, is your state a 'participating state' or an [sic] '**Governing** state?' Participating state _____
Governing state _____

Has your state enacted any provisions drafted by the **SST** into law?

Yes _____

No _____

Is there currently any legislation under consideration in your state that incorporates language recommended by the **SST**?

Yes _____

No _____

If yes, what provision(s) has/have been enacted? Please specify _____

27. Nexus and Filing Requirements

Assume that a taxpayer has nexus in your state and is registered to collect sales tax. If the situation changes in such a way that the taxpayer no longer has nexus, must the taxpayer continue to collect tax after nexus has been terminated?

_____ Yes _____ No

If yes, for how long after the nexus creating event has terminated, must the taxpayer continue to collect your state's sales tax?

_____ One filing cycle (month, quarter, etc., as appropriate) with no activity

_____ Filing obligation ceases with elimination of nexus.

_____ A defined period of time in months or years

_____ Please specify

28. Short-term Rentals of Tangible Personal Property

Does your state impose tax upon short-term rentals of tangible personal property? Yes

_____ No _____

If Yes, how is a 'short-term rental' defined? _____ Please indicate number of consecutive days defining 'short-term rental.'

Are short-term rentals subject to taxes in lieu of your state's sales tax?

Yes _____ No _____

If Yes, please specify alternative tax and rate imposed, e.g., Rental Tax at 1%, etc.

Are short-term rentals subject to additional miscellaneous taxes in addition to or in lieu of your state's sales tax?

Yes _____ No _____

If Yes, please specify additional miscellaneous tax imposed, e.g., Tourism Tax at 2%, etc. _____

Are there any special taxes on certain items of tangible personal property subject [sic] to short-term rentals? Yes _____ No _____

If Yes, please specify any special taxes on certain items of tangible personal property subject to short-term rental, e.g., Automobile Rental Tax at 1%

Is an election to pay sales tax on acquisition cost or rental proceeds available?

Yes _____ No _____

If election is made to collect tax on rental proceeds, is tax due in the event the renter is tax exempt? Yes _____ No _____

29. Items Consumed or Destroyed in the Manufacturing Process

Many states provide exemptions for items consumed or destroyed in the manufacturing process. However, an individual state's treatment of what qualifies can vary substantially. Please respond to the following questions regarding items consumed or destroyed in the manufacturing process.

Does your state provide an exemption for items consumed or destroyed in the manufacturing process? Yes _____ No _____

If Yes, what additional restrictions, if any, apply to make the items exempt? (If more than one condition applies, please indicate.)

_____ Must be able to trace item consumed as a component of the final product

_____ Must demonstrate that item is essential to and used in manufacturing process

_____ Item manufactured must be sold by manufacturer

_____ Other-please list

_____ No additional restrictions apply

30. Motion Picture Company Exemption

Does your state provide a sales and use tax exemption for motion picture companies that produce films in your state? Yes _____ No _____

If yes, what items are covered under the exemption? (Check all that apply and assume that all purchases are used or consumed directly in making the motion picture)

_____ **Supplies**

_____ **Technical equipment**

_____ **Machinery**

_____ **Electricity**

- _____ **Food for actors and production staff**
- _____ **Lodging for actors and production staff**
- _____ **Other (Please list)** _____

B. Sales and Use Tax Base

2. Indicate which of the following constitute taxable transactions in your state.

- | | |
|--|---|
| _____ Barter exchanges | _____ Sales for resale |
| _____ Conditional sales | _____ Sales for subsequent lease or rental |
| _____ Credit sales | _____ Services |
| _____ Incidental sales and service | _____ Storage |
| _____ Intercompany sales | _____ Tangible personality (Tangible personal property) |
| _____ Licensing of intangibles | _____ Wholesale sales |
| _____ Rentals | _____ Withdrawals from stock/inventory for own use |
| _____ Access to '900' numbers | _____ Electronic mail |
| _____ Beepers | _____ Faxes |
| _____ Cellular telephone usage | _____ Reports or lists received via modem |
| _____ Data retrieval systems, such as NEXIS | _____ Voice mail transmissions |
| _____ Cell phone activation charges | _____ Cell phone termination charges |
| _____ Voice-over Internet Protocol | _____ Mobile wireless charges |
| _____ Cell phone directory assistance chargers | |
| _____ Cell phone Internet access charges | |
| _____ Cell phone downloading charges for ring-tones | |
| _____ Cell phone downloading charges for games | |
| _____ Cell phone downloading charges for music | |
| _____ Cell phone downloading charges for pictures | |
| _____ Cell phone downloading charges for other information | |
| _____ (Please specify) | |

5. **Exemptions.** Are the following *exempt* from sales tax? If not, what tax rate applies to them?

- Production machinery _____ Yes _____ No (tax rate: _____)
- Pollution control equipment _____ Yes _____ No (tax rate: _____)
- Agricultural equipment _____ Yes _____ No (tax rate: _____)
- Direct materials, consumed _____ Yes _____ No (tax rate: _____) in producing the final product
- Direct materials, *not* consumed _____ Yes _____ No (tax rate: _____) in producing the final product
- Packaging _____ Yes _____ No (tax rate: _____)

Under the 'production machinery' sales and use exemption, must qualifying machine be:

- _____ Used directly in the manufacturing process
- _____ Used exclusively in manufacturing
- _____ Other requirements (please explain) _____

If your state exempts 'production machinery,' what level of manufacturing use qualifies for the exemption in your state?

Used in manufacturing more than 50%

Used in manufacturing more than 90%

100% use in manufacturing

Other standard of use applies (please explain) _____

Concerning 'casual/isolated' sales, identify all that apply

Casual/isolated sales can occur no more than _____ times per year

Casual/isolated sales are limited to \$_____ per year

The purchaser must pay use tax on a casual/isolated sale, even though the seller need not collect a sales tax thereon

Inventory can qualify for casual/isolated sales

Can any of the following qualify for the casual/isolated sale exemption (check all that can qualify)?

Vehicles Aircraft Vessels Mobile homes Commercial coaches

37. Fuel Surcharges, Disposal Fees, and Service Charges

Are fuel surcharges to offset the high cost of gasoline or other fuel, imposed by a vendor selling tangible personal property that is delivered by the vendor in its own vehicles subject to tax in your state? Yes _____ No _____

Are fuel surcharges to offset the high cost of gasoline or other fuel, imposed by a vendor performing services that require the use of its own vehicle subject to tax in your state? Yes _____ No _____

Are charges for the disposal of tires or hazardous chemicals subject to sales tax? Yes _____ No _____

Are service charges or compliance charges imposed by vendors selling products that require special handling and/or governmental reporting, such as EPA filing requirements, subject to sales tax? Yes _____ No _____

DEPARTMENT'S RESPONSE:

The response to this survey is based on the Department's previously completed survey dated September 14, 2004. Changes and responses to your new questions are listed below.

III. SALES AND USE TAXES

A. Compliance and Administration

Regarding Question 4:

Online Filing of Sales and Use Tax Returns

Illinois' Sales Tax Web File program allows taxpayers to file sales and use tax returns online.

There is no specific pre-approval process to be eligible for the Sales Tax Web File program. However, the taxpayer must meet certain criteria to be eligible to use the Web File program.

The Department of Revenue's website is www.tax.illinois.gov.

Taxpayers using the Sales Tax Web File method to file may pay any taxes owed by electronic funds transfer (EFT) using direct debit, ACH credit, or ACH debit. Taxpayers may also pay by paper check through the mail.

Regarding Question 11:

The Department's "Sunshine Letter" rulings are published on the Department's Internet Website at www.tax.illinois.gov under the heading of "Laws/Regs/Rulings."

Regarding Question 15:

For information regarding a credit for taxes properly due and paid to another state, see 35 ILCS 105/3-55(d). In addition, information regarding sales in interstate commerce may be found at 86 Ill. Adm. Code 130.605.

Regarding Question 23:

Illinois is involved in the Streamlined Sales Tax Agreement

Illinois is a "participating state."

Illinois has not enacted any provision drafted by Streamline.

Currently there is no legislation under consideration that incorporates language recommended by Streamline.

Regarding Question 27:

Determinations regarding nexus are very fact specific and cannot be addressed in the context of a survey. The Department has found that the best manner to determine nexus is for a Department auditor to examine all relevant facts and information.

Regarding Question 28:

Other than for certain rentals of automobiles, Illinois does not tax lease or rental payments. Please see 86 Ill. Adm. Code 130.2010 for information regarding persons who rent or lease the use of tangible personal property to others. In addition, please the Automobile Renting Occupation and Use Tax Act which imposes a tax upon persons engaged in this State in the business of renting automobiles in Illinois under lease terms of one year or less at the rate of 5% of the gross receipts from such business. See 86 Ill. Adm. Code 180.101.

Regarding Question 29:

Generally, consumable materials would not qualify for the manufacturing machinery and equipment exemption and are subject to tax. See part (c)(3) of Section 130.330.

Regarding Question 30:

The State of Illinois does not provide specific exemptions from sales and use taxes for motion picture companies.

B: Sales and Use Tax Base

Regarding Question 2:

Telecommunications are not taxed under the Sales and Use Taxes in Illinois. Telecommunications are taxed in Illinois under the Telecommunications Excise Tax Act and the Simplified Municipal Telecommunications Tax Act. Please see 35 ILCS 630/2(c) for information regarding telecommunications charges.

Regarding Question 5:

Please note, effective September 1, 2004, the Manufacturer's Purchase Credit (MPC) that manufacturers may earn on exempt purchases of manufacturing machinery and equipment and graphic arts machinery and equipment has been reinstated. See Bulletin FY2005-05. However, the exemption for pollution control equipment was not reinstated and such equipment remains taxable.

Regarding Question 37:

Illinois Retailers' Occupation Tax is imposed upon gross receipts from the sale of tangible personal property to end-users and no deductions shall be taken by a taxpayer from gross receipts on account of the cost of the property sold, the cost of materials used, labor costs, or any other expense whatsoever. See 86 Ill. Adm. Code 130.410.

The tax liabilities regarding transportation and delivery charges are addressed in 86 Ill. Adm. Code 130.415.

Information regarding the tire user fee may be found at 415 ILCS 5/55.8(e). The Department is unable to provide a specific response regarding fees for the disposal of "hazardous chemicals" without further information detailing the specific transactions.

For information regarding costs of doing business, please see 86 Ill. Adm. Code 130.410.

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