

This is a follow up to letter ST 06-0015-PLR involving coal emission allowances. (This is a GIL.)

September 26, 2006

Dear Xxxxx:

This letter is in response to your letter dated August 9, 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.ILTAX.com](http://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:

We have a question about the ruling the [sic] July 19, 2006 private letter ruling. As you know, the ruling states in relevant part:

However, upon reviewing the facts that you have presented, including a review of the invoices for the coal, *the Department disagrees that the emission allowances are sales of intangibles.* (Emphasis added).

When we spoke this morning, you indicated that what the Department meant was that, in the Department's view, the purchases in question do not involve emission allowances, and not that emission allowances themselves are not intangible property. I respectfully request clarification that the Department regards the purchase of emission allowances as the purchase of intangible property.

## **DEPARTMENT'S RESPONSE**

This is in response to your letter following up on letter ST 06-0015-PLR issued to you on July 19, 2006.

You are correct. Sales of actual emissions allowances are generally not subject to Retailers' Occupation Tax. These emissions allowances are debits and credits that companies have earned as

a result of testing coal emissions. Sales of these debits and credits generally involve no transfer of tangible personal property. In the Department's view, the sales in question in your letter, ST 06-0015-PLR, did not involve emission allowances. The sales involved adjustments to the selling price of coal based on the sulfur content of the coal. These adjustments in the selling price of coal are not the same as the debits and credits that are sold as emission allowances. As a result, the adjustments to the price of the coal were subject to sales tax.

If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

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