

The language of 86 Ill. Admin. Code 130.455(c)(C), that “[a] third party trade-in authorization may not be used in conjunction with an advance trade transaction” means not only that the car being traded in the advance trade must be owned by the purchaser of the new vehicle, but also that regular trade-in transactions involving third parties may not be part of an advance trade transaction. (This is a GIL.)

March 28, 2007

Dear Xxxxx:

This letter is in response to your letter dated October 11, 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:

As a follow up to our telephone conversation, this letter requests an information letter clarifying the application of the trade-in credit rules under Section 130.455 of the Illinois Retailers' Occupation Tax Regulations. Essentially, the question is when can advance trade-in credit transactions and separate third party credit transactions be used in the purchase of a new vehicle.

Under Regulation Section 130.455(f)(3), combined trade-ins credits, involving multiple trade-in ‘transactions’ and advanced trade-in ‘transactions’ are allowed, if all the vehicles involved in the trade are recorded as part of a single sales transaction. A multiple trade-in transaction occurs when an owner, third party and/or lessee trades-in more than one vehicle in the purchase of a new vehicle. An advance trade-in transaction occurs when an individual or company trades in a vehicle, that it owns, under an advanced trade-in agreement or his or her purchase of a future vehicle within 9 months.

Because an advance trade-in transaction may not be structured so that the purchaser is not the owner of the automobile offered for trade, a ‘prospective lessees or third party trade-in authorization may not be used in conjunction with an advanced trade

transaction.' Section 130.455(c). This is similarly explained in Booklet ST-9, whereon page 18 it states:

Advance trade-in credits are not transferable to another buyer. They are not permitted when the buyer of an item is not the owner of the trade-in. In other words, you may not use advanced trade-in credits in conjunction with third party trade-ins.

Likewise, in ST 05-008-PLR(08/25/2005), the Department of Revenue made it clear that 'except in advanced trade-in situations, trust may provide an 'off-lease' vehicle as a trade in for a third party (including a leased customer).'

The Department's Regulation, Booklet ST-9, and this opinion letter on the advanced trade-in issue all make it clear that a vehicle traded-in in conjunction with an advanced trade-in 'transaction' must be owned by the person purchasing the new vehicle. However, at the same time, the Regulation, Booklet ST-91 and the opinion letter also are clear that advanced trade-in 'transactions' can be used in addition to other types of trade-in 'transactions' in multiple combined trade-in situations. The only limitation (besides from the required documentation) is that the vehicle transferred in the advanced trade-in transaction is owned by the person purchasing the vehicle. As we discussed in our telephone conversation, you acknowledged that this was also the Department's understanding of the Regulation.<sup>1</sup>

While this question appears quite basic, there is apparently some recent confusion on this issue. Therefore, please confirm that the Department has not changed its position that in the purchase of a new vehicle involving multiple trade-in transactions, such as a third party or lessee trade-in 'transaction' of one vehicle and a separate advance trade-in 'transaction' of another vehicle, can be used in the purchase of such new vehicle, as long as that in the advance trade in transaction the vehicle being traded in must be owned by the purchaser of the new vehicle.

If you have any questions, please call.

## DEPARTMENT'S RESPONSE

The Department's regulation regarding Motor Vehicle Leasing and Trade-in Allowances is set forth at 86 Ill. Admin. Code 130.455. Under the regulation, a transaction may constitute an advance trade-in if, at the time the vehicle is traded to the dealer, the purchaser becomes contractually obligated to purchase one or more vehicles from the dealer within 9 months after the date of the advance trade-in transaction. Advance trade credits not used within the time specified expire and may not be used subsequent to the 9-month credit period. Advance trade credits are nontransferable. 86 Ill. Admin. Code 130.455(d). As stated in 86 Ill. Admin. Code 130.455(c)(C), "[a] third party trade-in authorization may not be used in conjunction with an advance trade transaction...."

As discussed in letter ST 05-0008-PLR, except in advance trade-in situations, the purchaser may provide an "off-lease" vehicle as a split trade-in for more than one third party when those third

---

<sup>1</sup> This logical interpretation of the Regulations is also how the Department has used the term "in conjunction with" in certain other regulations to mean as part of the specific transaction as opposed to "in addition to" another transaction). See, Regulation Section 100.2900(c)(9) ('such services are in conjunction with the specific sale.') Regulation 153.110(e) ('any motor sold in conjunction with the watercraft.') No doubt, any other interpretation of Section 130.455 would lead to absurd results by making it internally inconsistent, as well as directly contrary to Booklet ST-9.

parties purchase new or used vehicles so long as the trade-in and purchases are recorded as a single transaction.

Likewise, except in advance trade-in situations, the purchaser may also provide more than one “off-lease” vehicle for use as a trade-in for a third party’s purchase of a new or used vehicle so long as the trade-ins and purchase are recorded as a single transaction.

The transaction you are asking about in which a third party offers a trade-in vehicle, and the purchaser offers an advance trade-in vehicle for the purchase of a new vehicle is the same transaction described above. This kind of mixed ownership transaction involving an advance-trade is not allowed.

Advanced trade-ins are allowed by the Department as an accommodation for car dealers. That has meant that the Department has allowed certain advance trade-in arrangements that it can administer. As a result, there are limits to what advance-trade arrangements are allowed. The language of 86 Ill. Admin. Code 130.455(c)(C), that “[a] third party trade-in authorization may not be used in conjunction with an advance trade transaction” means not only that the car being traded in in the advance trade must be owned by the purchaser of the new vehicle, but also that regular trade-in transactions involving third parties may not be part of an advance trade transaction. To allow otherwise is more than the Department can administer.

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. 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