

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. See 86 Ill. Adm. Code 130.101. (This is a GIL.)

May 23, 2007

Dear Xxxxx:

This letter is in response to your letter dated May 8, 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:

I represent a direct selling company that is in the start-up process. At this time sales have been made.

The company is reviewing its responsibility to administer the sales taxes on behalf of the independent sellers that will sell its products.

In anticipating this, the company has been able to determine the taxability of its products; however, there are three types of sales that it was not able to determine the taxability of.

These transactions are as follows:

- The company will charge an annual fee to register as an independent seller of its products.
- The company will replicate and personalize a website for its independent sellers. This will provide each independent seller with a customized web page linked to the official company site, which will allow the independent seller's customers to use. The company will charge a monthly fee for each seller that purchases this.

- It is anticipated that some of the independent sellers will hold monthly business meetings with other independent sellers that they have 'sponsored' into the business. For some meetings there will be a charge to attend.

A ruling is requested on the above transactions.

Thank you for your assistance.

## **DEPARTMENT'S RESPONSE**

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. See 86 Ill. Adm. Code 130.101. The Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased at retail from a retailer. See 86 Ill. Adm. Code 150.101. If no tangible personal property is transferred to the customer, then neither Illinois Retailers' Occupation Tax nor Use Tax would apply.

The Retailers' Occupation Tax does not apply to sales of intangibles. Therefore, registration fees are not generally part of the gross receipts that are subject to Retailers' Occupation Tax liability. However, if in return for payment of the registration fee tangible personal property is transferred, then the fee is subject to Retailers' Occupation Tax. The same analysis applies to fees charged to attend monthly business meetings.

In regard to the customized web page provided for a fee, if the fee does not involve the transfer of tangible personal property to the independent seller, then it will not be subject to sales tax. However, any transfer, even electronically, of pre-written computer software would be taxable as discussed at 86 Ill. Adm. Code 130.1935.

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

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