

This letter references the Department's rules on drop shipments. See 86 Ill. Adm. Code 130.225. (This is a GIL.)

July 5, 2007

Dear Xxxxx:

This letter is in response to your letter dated June 19, 2007, 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 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:

ABC currently collects and remits sales/use tax to your state. We have only one location in Illinois and we ship all of our products via common carrier. We are a manufacturer and distributor of restaurant equipment. We would like to know your official rule concerning this drop shipment scenario:

ABC has a customer (AA) that is not registered for sales tax or physically located in your state. ABC drop ships directly to AA's customer/end user (BB) in your state. ABC invoices AA and charges them your state's sales tax rate for the drop shipment made to your state. Customer AA claims that they are not liable for the sales tax charged on the sales invoice from ABC. Customer AA does not charge end user BB sales tax on their invoice since they are not registered for sales tax for your state.

Since ABC is registered with your state, are they obligated to always collect sales tax on your state's behalf? Do you accept other states [sic] dealer resale certificates for those businesses not registered with your state? In this example, does the sales tax burden fall on the end user entirely by self-assessing use tax and if so, are there any specific documents that ABC should obtain other than your state's resale certificate (like a no-nexus letter)?

Any information on this topic would be greatly appreciated.

Please call me if there are any other factors or information that you need to know.

Thank you for your time.

DEPARTMENT'S RESPONSE:

You have inquired about a drop shipment situation. The enclosed copy of 86 Ill. Adm. Code 130.225 entitled "Drop Shipments" should answer your questions. You may also want to review some of the Department's sales tax letter rulings regarding drop shipment situations that are contained on the Department's website under the heading of Laws/Regs/Rulings.

I hope this information is helpful. If you require additional information, please visit our website at 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,

Terry D. Charlton
Senior Counsel, Sales & Excise Taxes

TDC:msk