

Organizations that have E numbers are allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. These limited amounts of selling are described at 86 Ill. Adm. Code 130.2005(a)(2) through (a)(4). (This is a GIL.)

August 1, 2007

Dear Xxxxx:

This letter is in response to your letter dated February 27, 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.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:

I was instructed by an individual at the Illinois Liquor Control Commission to contact your office regarding this request. I was instructed by your office to direct the request to your attention. If this is incorrect, please contact me or forward this request to the appropriate individual.

I am associated with CHURCH in CITY, Illinois, and I am in charge of securing proper compliance with State and local government agencies regarding three annual social fundraising events held at CHURCH. The first is St. Patrick's Day Dinner & Dance in March, the second is a 'Block Party' in July, and the third is Oktoberfest Dinner and Dance in September. These three events raise funds for many charitable programs at CHURCH. I have already obtained an Illinois Special Event Retailer's Liquor License for the first event, a copy of which is attached. The State Application allows for two calendar year events to be alcohol tax exempt. According to the Illinois Liquor Control Commission, it will issue a Liquor License for the third event as 'Non Certified' which may require CHURCH to pay sales tax on alcohol sales. Language contained in the application would allow CHURCH to sponsor two events during the year, each lasting 15 days, amounting to a combined 30 days of tax free alcohol sales. CHURCH is seeking to serve alcohol without paying sales tax for a total of only three days during the evening. Given that CHURCH could serve alcohol tax free for 30 days in a given calendar year and that the funds raised from alcohol sales are use for charitable

purposes, I find it reasonable to request the Illinois Department of Revenue to waive the 'two events during a calendar year' rule thereby allowing CHURCH to hold its third calendar year fundraiser event without being required to pay sales tax on alcohol sales.

Please advise me if the Illinois Department of Revenue will waive the restriction and grant permission to CHURCH to hold a third calendar year event as described herein without the necessity to pay sales on alcohol sold. I assume that if this permission is granted by the Illinois Department of Revenue, then the Illinois Liquor Control Commission will still issue the third license 'Non-Certified' and the Illinois Department of Revenue will not thereafter seek to collect sales tax on alcohol sold. Please advise me if this request is proper and/or sufficient or if you require additional information.

Thank you for your time and assistance with this matter.

DEPARTMENT'S RESPONSE:

In general, the Illinois Retailers' Occupation Tax (sales tax) is imposed upon the total gross receipts received by retailers who make sales of tangible personal property to Illinois end users. See 86 Ill. Adm. Code 130.101.

Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, or charitable, receive an exemption identification number (an "E" number). See 86 Ill. Adm. Code 130.2007. This number evidences that the Department recognizes the organizations as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of their organizational purposes. If an organization does not have an E number, then its purchases are subject to tax.

While they are generally subject to the Retailers' Occupation Tax for all retail sales made, organizations that have E numbers are also allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. These limited amounts of selling are described in the Department's regulation at 86 Ill. Adm. Code 130.2005(a)(2) through (a)(4). An exempt organization may engage in sales to members, noncompetitive sales, and certain occasional dinners and similar activities (two fundraisers a year) without incurring Retailers' Occupation Tax liability. Organizations can use their E numbers to purchase items for such limited exempt sales.

However, if organizations engage in ongoing selling activities to the public (such as Little League concession stands or sales of items in a thrift shop run by a church), or if organizations hold more than two fundraisers in a year, they must also register with the Department as retailers, file returns, and remit tax. For these types of taxable sales, the organizations would be required to obtain from the Department of Revenue a Certificate of Registration to engage in the business of selling tangible personal property at retail in Illinois. See 86 Il. Adm. Code 130.701.

A question was raised in telephone conversations with you whether, if an organization exceeded its limit of two fundraisers in a year, it could hold an event limited to members of the organization only and thereby make sales exempt from Retailers' Occupation Tax. Unfortunately, this option is not available to avoid incurring Retailers' Occupation Tax on these sales. That is because the "sales to members" exemption for exclusively charitable, religious, or educational organizations does not apply to sales of food and drink generally. Rather that exemption is limited to sales of items primarily for the benefit of the organization itself. This includes items such as uniforms and insignia sold by a Scouting organization for its members, or choir robes sold to members of the church choir to be worn during services. However sales of school books and school supplies to students, for

instance, would not be deemed to be “primarily for the purposes” of the school which does the selling. Similarly, sales of food and beverages to members of an organization at an organization function would not be primarily for the purposes of the organization.

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,

Samuel J. Moore
Associate Counsel

SJM:msk