

While a watercraft is in the retailer's sales inventory, the retailer may use the watercraft without incurring any Use Tax for 18 months. See 86 Ill. Adm. Code 150/306(c). (This is a GIL.)

August 16, 2007

Dear Xxxxx:

This letter is in response to your letter dated November 13, 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 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:

Please be advised my client, an Illinois resident, is a retailer of boats. He intends to purchase a used boat from a non-retailer for the purpose of *reselling* the boat. It is our understanding that my client would be amenable to the Watercraft Use Tax (35 ILCS 157/10-1 to 157/99-99) because he is purchasing the boat from another party that is not in the business of selling watercraft at retail. After being advised by your office's 800 Information Line, it is also our understanding that there is no resale exemption available in this Use Tax situation. If the previous statements are true, we need to know in writing:

- 1) Under the Interim Use and Demonstration Exemption (86 Ill. Adm. Code 150.306), in subsection (c) it expressly describes guidelines for a watercraft or aircraft exemption from the Use Tax. Would my client be exempted from the Watercraft Use Tax, if he adhered to those guidelines listed in subsection (c)?
- 2) The procedures he must follow to ensure that the Interim Use and Demonstration Exemption remains enforceable.
- 3) Any other tax matters he should consider.

DEPARTMENT'S RESPONSE

The Watercraft Use Tax Law, at 35 ILCS 158/15-35, provides in relevant part that "the Department and persons who are subject to this Law have the same rights, remedies, privileges,

immunities, powers, and duties, and are subject to the same conditions, restrictions, limitations, penalties, and definitions of terms, and employ the same modes of procedure, as are prescribed in the Use Tax Act (except for the provisions of Section 3-70), that are not inconsistent with this Law, as fully as if the provisions of the Use Tax Act were set forth in this Law.”

As a result of this incorporation by reference to the Use Tax Act, when a registered retailer of watercraft purchases a watercraft for resale he does not incur Watercraft Use Tax liability.

As you have pointed out, the Department’s regulation regarding “Interim Use and Demonstration Exemptions” under the Use Tax Act provides that “[f]or watercraft or aircraft, if the period of demonstration use or interim use by the retailer exceeds 18 months, the retailer shall pay Use Tax on the original cost price of the aircraft or watercraft, and no credit for that tax is permitted if the aircraft or watercraft is subsequently sold by the retailer. For purposes of this Section, the term “watercraft” means a Class 2, Class 3 or Class 4 watercraft as defined in Section 3-2 of the Boat Registration and Safety Act [625 ILCS 45/3-2], a personal watercraft, or any boat equipped with an inboard motor.” 86 Ill. Adm. Code 150/306(c).

This means that while the watercraft is in the retailer’s sales inventory, the retailer can use the watercraft, including for demonstration purposes, without incurring any Use Tax for 18 months. If the retailer uses the watercraft beyond that time, the retailer will be required to pay Use Tax on the original cost price of the watercraft. When the retailer subsequently sells the watercraft, there will be no credit for the Use Tax paid against the retailer’s Retailers’ Occupation Tax liability.

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,

Martha P. Mote
Associate Counsel

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