

Under the Service Occupation Tax, servicemen are taxed on tangible personal property transferred incident to a sale of service. See 86 Ill. Adm. Code Part 140. (This is a GIL.)

February 28, 2008

Dear Xxxxx:

This letter is in response to your letter dated October 9, 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:

We are looking for a written ruling regarding charging or not charging our customers IL sales tax on our service of hanging holiday lights for customers. We purchase the lights based on what the customer likes and then hang them, take them down, and then store the lights in our inventory.

DEPARTMENT'S RESPONSE

Based upon the very limited information contained in your letter, we are unable to provide you with a specific ruling. Whether you are selling the lights or other materials to your customer or your company retains ownership of these items will impact what tax liabilities may be incurred. We can, however, direct you to various statutes and administrative regulations that may be helpful. For example, the Retailers' Occupation Tax imposes a tax upon person engaged in this State in the business of selling at retail tangible personal property for use or consumption. See 35 ILCS 120/2. The Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased anywhere at retail from a retailer. See 35 ILCS 105/3.

Illinois Retailers' Occupation and Use Taxes do not apply to sales of service that do not involve the transfer of tangible personal property to customers. However, under the Service Occupation Tax Act, businesses providing services (i.e. servicemen) are taxed on tangible personal property transferred as an incident to sales of service. The purchase of tangible personal property that is

transferred to the service customer may result in either Service Occupation Tax liability or Use Tax liability for the servicemen depending upon his activities. See 86 Ill. Adm. Code 140.101 through 140.109 regarding sales of service and Service Occupation Tax.

In addition, you may review previous letters issued by the Department on the Department's website, under "Legal Research."

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,

Debra M. Boggess
Associate Counsel

DMB:msk