

Exclusively religious, educational, or charitable organizations are allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.2005. (This is a GIL.)

March 10, 2008

Dear Xxxxx:

This letter is in response to your letter dated January 3, 2008, 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 writing to you regarding a sales tax exemption for items sold by a non-profit organization in the state of Illinois.

The ORGANIZATION is a non-profit, 501(c)(3) organization, headquartered in CITY/STATE.

On May 21 - 25, 2008, ORGANIZATION will be a vendor and selling related merchandise at the conference held in CITY, IL. Items for sale will include related books, 'puzzle piece' jewelry, t-shirts with our logo, etc.

Are we required to collect and remit sales tax to the state of Illinois on items sold at the conference, or do we meet the exception for collecting sales tax because items sold are not in direct competition with businesses in the community?

Thank you for your consideration in this matter. We look forward to your response.

DEPARTMENT'S RESPONSE:

The Illinois Retailers' Occupation Tax is imposed upon the total gross receipts received by retailers who make sales of tangible personal property to Illinois end users. Unless the sales are specifically exempted, such retailers must collect and remit the sales tax. See 86 Ill. Adm. Code 130.101.

Organizations that make application to the Department 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 this State recognizes that the organization is exempt from incurring Use Tax when purchasing tangible personal property in furtherance of its organizational purpose. See 86 Ill. Adm. Code 130.2005.

While organizations that have received an "E" number are, as a general matter, subject to Retailers' Occupation Tax upon their own sales of tangible personal property, there are three limited exceptions where such organizations are authorized to engage in a restricted amount of retail selling activity without incurring Retailers' Occupation Tax liability. Organizations that hold exemption numbers may engage in (1) sales to members, (2) noncompetitive sales, and (3) certain occasional dinners and similar activities, without incurring Retailers' Occupation Tax liability. See 86 Ill. Adm. Code Sections 130.2005(a)(2) through 130.2005(a)(4).

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,

Richard S. Wolters
Associate Counsel

RSW:msk