

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 is a GIL.)

April 11, 2008

Dear Xxxxx:

This letter is in response to your letter dated August 20, 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 am employed at the ASSOCIATION as the Finance Director. Our organization has a 501(c)3 status but we are also incorporated in the STATES and our headquarters are based in CITY/STATE. We have hired an out of house accounting firm to audit us on a yearly basis and in the audit they brought up some questions concerning our 501(c)3 status.

The firm wanted to know our situation with the state of STATE and other states involved regarding any collection of sales tax. We offer ASSOCIATION exclusive products for sale to our membership only, i.e. Bibles, t-shirts, tracts, devotionals. All of our products are only available through ASSOCIATION and are not available from any other retailer or vendor.

We contacted the STATE Department of Finance & Administration regarding the product sales and they advised we do not have to collect sales tax because the product was exclusive to ASSOCIATION and only made available only to our membership base.

Throughout the year, we have state events held in other states. We rent facilities or use church buildings to hold our events. At these events, we take our product to sell strictly to our ASSOCIATION members.

Accordingly, we respectfully request that your office issue a letter with the Department's position on the topic. We need to know if we will be required to collect the appropriate sales tax in your state.

If you have any questions please feel free to contact me. Thank you for your time and assistance with this matter.

DEPARTMENT'S RESPONSE

Organizations that are recognized as non-profit under Internal Revenue Code Section 501(c)(3), are not necessarily exempt organizations pursuant to Illinois tax law. Such organizations must obtain an exemption identification number (an "E" number) to qualify. See 86 Ill. Adm. Code 130.2007. Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, or charitable, receive an "E" number. The "E" 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. Please be aware that only sales to organizations holding the E number are exempt, not sales to individual members of the organization.

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,

Debra M. Boggess
Associate Counsel

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