

This letter discusses nexus. See Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992). (This is a GIL.)

July 28, 2008

Dear Xxxxx:

This letter is in response to your letter dated March 11, 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:

LLP submits this Request for a Ruling on behalf of its client, respectfully requesting a ruling on whether certain affiliated entities are required to register and/or collect Illinois sales/use tax.

I. Request

XYZ, COMPANY and Retailer seek a ruling regarding whether they have a sales/use tax registration or collection obligation in Illinois, based on the presence of their affiliate, ABC. XYZ, COMPANY, Retailer and ABC are affiliated entities that are owned by a common parent (the 'Affiliated Group'). Based on the structure and transactions described below and as set forth in the legal analysis, XYZ, COMPANY and Retailer should not have a sales/use tax registration or collection requirement in Illinois as a result of the presence of ABC in the state. In addition, ABC should not have a sales/use tax registration or collection requirement in Illinois based on its activity in the state.

II. Background

Following is a description of the services provided by members of the Affiliated Group in Illinois. Following the description of services is a description of the relevant members of the Affiliated Group.

A. Digital Content Services

The Affiliated Group is planning to establish a Content Delivery Network ('CDN') (also referred to as Content Distribution Networks or CDNs; these terms are used interchangeably) to provide services to third-party (unrelated) customers who are content providers seeking to take advantage of such a network ('3P Customer Offering'). It is also contemplated that shortly after the 3P Customer Offering launch, the CDN will provide services to other members of the Affiliated Group, including services to support COMPANY activities.

The CDN will operate to provide digital content services consisting of HTTP/web distribution of extensive libraries of voluminous media objects to large Internet audiences. These services are generally used by media companies and other enterprises that require massive capacity for delivering digital media files containing images, video, music, games, software and social media to their customers. Digital content services are also used for delivering content such as purchased movies and games that are destined to reside, either permanently or for some period of time, on a user's computer or other device. The CDN allows content providers to make their entire content libraries available for 24x7 [round-the-clock] global distribution to broadband and mobile audiences.

The digital content services will function as a self-service model with the following features:

- Pay-as-you go pricing, with no minimum fees or charges;
- Simplified registration and deregistration features;
- Basic reporting and performance monitoring data; and
- HTTP-only requests, which includes HTTP-streaming.

B. Service Infrastructure

ABC will own and operate the CDN. The CDN is composed of individual data centers, which consists of racks and servers, designed to facilitate delivery of the content in the most efficient way possible. The individual data centers (also known as 'POPs' - Points of Presence) will be maintained in space rented from unrelated third parties (e.g., hotel basement). POPs are physical locations where the hardware necessary for network access resides. These POPs will be strategically selected to be physically located near major markets in any state in order to reduce the latency in the delivery of digital data over a global network and provide faster performance, resulting in a better website customer experience. The POP network will consist of internal network and will also access the public internet. ABC will maintain one or more data centers - POPs - in Illinois. The data centers will not be retail establishments or a similar type of facility, warehouse or store where customers will be frequenting.

The network build-out of the data centers will require the purchase of hardware, servers and racks as well as the design of software. The hardware will be used to store the content, and the software consists of network optimization software and patented software. The only persons that will visit the data centers are ABC employees, or third-party contractors hired by ABC, to handle any repair or maintenance or other related issues. The data centers generally will be managed remotely using standard monitoring

and performance tools, i.e., software. All security, maintenance, technical support and other functions associated with operating the network will be handled by ABC.

C. Structure

The following is a simplified overview of the Affiliated Group's structure as described in more detail below.

[CHART]

1. Entity: ABC

ABC, STATE1 limited liability company, will own and operate all CDN property and infrastructure in multiple states, including Illinois. This infrastructure includes equipment, servers and other network equipment.

ABC will provide CDN services to XYZ pursuant to a services contract. The contract will provide for arm's-length pricing and terms. ABC will not interact or have direct contact with XYZ's customers.

All of the intellectual property (e.g., software) that will be used in providing ABC's CDN services will be licensed by ABC. ABC does not own any of the software. All deployment and maintenance of the software will be done remotely.

2. Entity: XYZ Co.

XYZ Co. ('XYZ') is the seller of a wide variety of XYZs available through the World Wide Web. XYZ provides web developers with direct access to its licensed private technology platform. It allows developers to build on its suite of XYZs to enable and enhance their applications. Access to the service is through the World Wide Web. XYZ does not offer or sell software, canned or customized. XYZ is headquartered outside Illinois and it does not own or lease any real property in Illinois and is not registered in Illinois.

XYZ will offer the digital content services described previously. It will enter into an arm's-length service contract with ABC for the provision of the digital content services.

XYZ will enter into all contracts outside of Illinois with unrelated third party customers for the provision of the storage and delivery of its digital content services. XYZ will handle all customer transactions and interactions, including contracts, billing, payments, complaints, technical issues and any other issues that may arise in the provision of such services to the customer. All of these activities will take place outside of Illinois.

3. Entity: COMPANY

COMPANY provides a website whereby numerous retailers of tangible as well as digital products list items for sale to consumers. These retailers are unrelated third parties as well as affiliated companies. COMPANY may contract with ABC to provide digital content services, pursuant to a services contract. ABC's CDN services will enable COMPANY to increase the speed and performance of COMPANY' offerings. The contract between ABC and COMPANY will provide for arm's-length rates and terms.

COMPANY will not have any property, employees or any other presence in Illinois. ABC will not interact with COMPANY' customers.

4. Entity: Retailer

Retailer is an Internet seller of tangible property and digital goods to customers around the world, including customers in Illinois. Retailer is located outside of Illinois. Retailer does not operate any retail stores or own or lease any real property in Illinois, and is not registered as a retail merchant in Illinois. Though at this time, it has not been decided, Retailer may also contract with ABC directly in an arm's-length pricing structure for the provision of digital content services.

5. Entity: BUSINESS

ABC's sole member/owner is BUSINESS, a STATE1 corporation. BUSINESS is organized outside of Illinois and owns a data center located in STATE2 that houses computer servers. These servers support the Affiliated Group's website and transaction processing as well as third-party websites. At this time it is unknown whether ABC will, as a single-member LLC, 'check-the-box' to be treated as a corporation or will remain a disregarded limited liability company for federal income tax purposes.

III. Issues

1. Based on the above description of activities, is XYZ required to collect and remit Illinois sales and use tax?
2. Based on the above description of activities, is COMPANY required to collect and remit Illinois sales and use tax?
3. Based on the above description of activities, is Retailer required to collect and remit Illinois sales and use tax?
4. Based on the above descriptions of the services provided, is ABC required to collect and remit Illinois sales and use tax?

IV. Applicable Law

A. U.S. Constitution

Federal constitutional limitations as well as limitations imposed by federal law are the foundation for state taxation. The Commerce Clause limits the states from levying a tax on income that is unduly burdensome on interstate commerce. The U.S. Supreme Court has held that a tax on interstate commerce is permissible under the Commerce Clause if the tax is: (1) applied to an activity with substantial connection (nexus) to the state; (2) is fairly apportioned; (3) does not discriminate against interstate commerce; and (4) is fairly related to the services provided by the taxing state. *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274 (1977). The Due Process Clause also prevents a state from taxing a business unless the business has some connection with the taxing state. There must be a definite link or minimum connection between the in-state activities of the taxpayer and the state before the state may impose its tax.

In its analysis of sales and use tax nexus, the U.S. Supreme Court has emphasized that physical presence is required in order to create Commerce Clause substantial nexus. In *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992), the U.S. Supreme Court held that the Commerce Clause bars a state from imposing a use tax collection duty on an out-of-state seller with no physical presence in the state. Thus, the 'bright-line' physical presence standard first established by the Supreme Court in *National Bellas Hess v. Department of Revenue*, 386 U.S. 753 (1967), was reaffirmed by the Court in *Quill* and continues to govern today.

The Supreme Court has also held, in *Tyler Pipe Industries, Inc. v. Dept. of Revenue*, 483 U.S. 232 (1987), *aff'g* 715 P. 2d 123 (Wash. 1986), that "the crucial factor governing nexus is whether the activities performed in this state on behalf of the taxpayer are significantly associated with the taxpayer's ability to establish and maintain a market in this state or the sales." The State court had concluded that the record 'reveal[ed] ample activities by the in-state sales representative which helped Tyler Pipe establish and maintain its market n this state,' thus satisfying the Due Process nexus standard of minimum contacts. In considering 'attributional nexus' fact patterns, the state is bound to consider both the substantial nexus -- i.e., physical presence -- of an entity's representative, as well as whether the presence of said representative is specifically directed to 'establish and maintain a market' in the state for the sales at issue.

B. Illinois

1. Sales Tax

a. Registration or Collection Requirement

Illinois tax law imposes a collection requirement for its Illinois Retailers' Occupation Tax on persons engaged in the business of selling tangible personal property at retail. 35 Ill. Comp. Stat. § 120.2. A 'retailer' is defined as a person engaged in the business of making sales at retail. 35 Ill. Comp. Stat. § 105.2. A 'sale at retail' is defined as the transfer of ownership of tangible personal property for the purpose of use, and not for the purpose of resale. 35 Ill. Comp. Stat. § 105.2.

In addition, in order for a retailer to be subject to Illinois' sales/use tax jurisdiction, the retailer must maintain a place of business in Illinois. 35 Ill. Comp. Stat. § 105.2. 'Place of business' includes the following: an office, distribution house, sales house, warehouse or other place of business. 35 Ill. Comp. Stat. § 105.2. Additionally, a place of business in the state includes any agent or other representative 'operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State.' 35 Ill. Comp. Stat. § 105.2.

Illinois Regulations provide additional guidance. 86 Ill. Adm. Code § 150.201(i). According to the regulations, 'retailer maintaining a place of business in this state' includes the following activities:

- (1) A retailer having or maintaining, directly or through a subsidiary, an office, distribution house, sales house, warehouse, or other place of business. This

includes an agent operating in the state under the authority of a retailer or its subsidiary.

- (2) Soliciting orders for tangible personal property by means of telecommunications with the intent to be broadcast in the state.
- (3) Soliciting orders for tangible personal property by means of advertising.
- (4) Soliciting orders for tangible personal property by mail, and the retailer benefits from banking, financing, debt collection, telecommunication, or marketing activities in the state, or benefits from repair, service, or installation activities in the state.
- (5) Being owned by or controlled by the same interests that own or control any retailer engaging in business in the same or similar line of business in this State.
- (6) Having a franchisee or licensee operate under its trade name.
- (7) Soliciting orders over cable television in the state pursuant to a contract.
- (8) Engaging in activities in Illinois that would result in nexus under the law of the retailer's domicile.

Subpart (5) of the regulation sets forth Illinois' version of an 'affiliate nexus' provision. This provision requires two facts before the Department may apply it to any affiliated group that otherwise satisfies the statutory and regulatory definition of a 'retailer' 'engaged in the business of selling at retail tangible personal property,' namely: (1) an in-state retailer and out-of-state retailer are 'controlled' by the same interests; and (2) the in-state retailer engages in the 'same or similar line of business' in Illinois as the out-of-state retailer. The Illinois Department of Revenue has not developed a test to define the term 'same or similar line of business.' Additionally, the definition of lines of business for sales and use tax purposes has not been addressed in case law. The statutory language suggests that for activities to be considered in the same line of business, the retail activities of the in-state and out-of-state retailers are to be very closely related to each other (e.g., same product lines).

2. Taxability

In addition to maintaining a business in Illinois, a 'retailer' must also be making sales at retail in order to be required to register to collect and remit Illinois sales and use tax. 35 Ill. Comp. Stat. § 105.2. Illinois has four different sales and use tax regimes. The Illinois Retailers' Occupation Tax imposes a sales tax on persons 'engaged in the business of selling at retail tangible personal property, including computer software....' 35 Ill. Comp. Stat. § 120.2. The tax is calculated by the gross receipts from sales. 86 Ill. Adm. Code § 130.101. The Illinois Service Occupation Tax imposes a tax on the transfer of tangible personal property acquired as an incident to the purchase of service. 35 Ill. Comp. Stat. § 115.3-40. The services tax only applies if tangible personal property is actually transferred incident to the service. 35 Ill. Comp. Stat. § 115.3-40.

Illinois tax law also has two use taxes. The Illinois Use Tax is imposed on the privilege of using tangible personal property in Illinois. 35 Ill. Comp. Stat. § 105.3. The Illinois Service Use Tax is imposed on the use of tangible personal property 'acquired as an

incident to the purchase of service.’ 35 Ill. Comp. Stat. § 110.3. The two Illinois Service Taxes, the Service Use Tax and the Service Occupation Tax, both require tangible personal property to be transferred with the sale of services.

V. Legal Analysis of Questions Presented

A. XYZ and COMPANY Do Not Have Nexus in Illinois Based on U.S. Constitutional Guidelines

XYZ and COMPANY do not satisfy the U.S. Constitutional nexus requirements. XYZ and COMPANY do not have employees, property or any other physical presence in Illinois. Thus, XYZ and COMPANY do not have a [sic] Illinois presence that satisfies the bright-line physical presence standard for sales and use nexus that was established in *Quill*.

Additionally, XYZ and COMPANY [sic] relationship with ABC does not meet the constitutional requirement for establishing attributional nexus as applied in *Tyler Pipe*. ABC does not conduct its activities as an in-state representative of XYZ or COMPANY for the purpose of establishing or maintaining a market in the state for these entities.

ABC sells services to XYZ and COMPANY, and none of these services relate to market making or enhancing activities on behalf of these entities. In addition, the network services that ABC will provide to XYZ and COMPANY will be pursuant to a services contract that contains arm's-length rates and terms. ABC does not solicit sales for either entity nor does ABC interact with either entities' customers (i.e., ABC will not take orders, sell or conduct any other activities that result in sales and/or orders). All customer sales, contracts, bills, payments and other related activities will take place between the XYZ and Platform and their customers. Furthermore, no other entity is performing market-related activities for either entity in Illinois sufficient to give rise to 'attributional' nexus. Therefore, XYZ and COMPANY do not establish a presence in Illinois either on their own, or via an in-state representative.

B. XYZ and COMPANY Do Not Have a Sales and Use Tax Registration or Collection Requirement in Illinois Based on Illinois Law

XYZ and COMPANY do not have a [sic] Illinois sales and use tax registration or collection obligation because they do not meet the Illinois statutory prerequisites to register or collect such taxes --XYZ and COMPANY are not transferring tangible personal property to customers for use, and neither entity has established jurisdictional ties to Illinois.

Illinois law provides two potential bases for asserting that a retailer has nexus with Illinois. The first potential rationale for establishing an out-of-state retailer has nexus in Illinois is if the retailer maintains a place of business in Illinois, either directly or through a subsidiary or an agent (hereinafter 'physical presence nexus'). The second rationale for asserting jurisdiction is premised upon the out-of-state retailer being owned by or controlled by the same interests that own or control any retailer engaging in business in the same or similar line of business in Illinois (hereinafter 'affiliate nexus'). While a physical presence nexus assertion is premised upon having a place of business, whether permanent or temporary, either directly or through an agent, affiliate nexus is based solely on a taxpayers [sic] affiliation with another entity in the state that engages in the same line of business as the out-of-state entity.

Addressing physical presence nexus, XYZ and COMPANY do not have an actual place of business in Illinois nor do they have a 'deemed' place of business due to the presence of an affiliate (i.e., ABC) in the state. XYZ and COMPANY do not have any employees or property in Illinois, and do not maintain any actual place of business directly; nor do they utilize agents to operate in Illinois under their authority and control, so as to give rise to a 'deemed' place of business for either entity. Thus, XYZ and COMPANY do not directly maintain a place of business in Illinois.

In addition, ABC's activities in Illinois will not cause XYZ and COMPANY to have a place of business in Illinois. ABC's activities in Illinois will be limited to providing network services. ABC's tangible property will be located in a discrete location, like the basement of a hotel, and will not be in an office, place of distribution or any other place of business where ABC has employees that are taking receipt of orders. XYZ and COMPANY will not have physical access to, or control over, ABC's tangible property or services. Further, XYZ and COMPANY will not have any representatives that will be located in Illinois to sell, deliver, install, assemble, or take orders for any of their services. While the digital content and web hosting services that will be provided by the XYZ and COMPANY may be supported by ABC's CDN Services, ABC's activities will be unrelated to the marketing of their services to Illinois customers. Thus, ABC is not an agent or representative acting under the authority of XYZ or COMPANY, nor is ABC creating a place of business in Illinois for these entities.

Alternatively, Illinois has the authority to assert affiliate nexus premised upon the out-of-state retailer being owned by or controlled by the same interests that own or control any retailer engaging in business in the same or similar line of business in Illinois. While XYZ, COMPANY and ABC are part of an affiliated group of companies, none of the entities directly own each other nor do any of the entities control the business of the others. More importantly, ABC is not engaged in the same line of business as either entity. As described above, ABC's business is to provide CDN Services. These CDN services are in a different line of business than the lines of business (i.e., web hosting services, digital media content, and retail) carried out by XYZ or COMPANY. Thus, XYZ is not engaged in the same line of business as XYZ or COMPANY sufficient to create nexus based on affiliation with an in-state entity.

C. Retailer Does Not Have Nexus in Illinois Based on U.S. Constitutional Principles and Is Not Doing Business Pursuant to Illinois Law

Retailer cannot be forced to collect Illinois sales or use tax because it has not established nexus in Illinois pursuant to the U.S. Constitution. Retailer will not establish a physical presence in Illinois as it does not have any employees or property in Illinois. Furthermore, no other entity is performing market-related activities in Illinois on behalf of Retailer which would give rise to attributional physical presence on the part of Retailer. Therefore, Retailer does not satisfy U.S. Constitutional nexus requirements, and is not required to collect and remit Illinois sales and use tax.

Furthermore, Retailer is not 'maintaining a place of business' in Illinois pursuant to Illinois law. Retailer does not 'have or maintain, directly or through a subsidiary, an office, distribution house, sales house, warehouse, or other place of business' in Illinois. Nor does Retailer have an agent operating [sic] Illinois under its authority. Furthermore, Retailer is not 'owned by or controlled by the same interests that own or control any

retailer engaging in business in the same or similar line of business' in Illinois. Thus, Retailer does not have a [sic] Illinois sales and use tax collection obligation.

Finally, while Retailer may be selling some tangible personal property, because Retailer is not 'maintaining a place of business' in Illinois, it does not have a sales and use tax registration or collection requirement in Illinois.

D. ABC Will Not Have a Sales Tax Registration and Collection Obligation

ABC does not have an Illinois sales and use tax registration or collection obligation. ABC will have a physical presence in Illinois through its ownership and maintenance of the CDN property placed in Illinois. However, it will not sell tangible personal property or taxable services. ABC will provide network services to XYZs, COMPANY and Retailer. Network services are not taxable services in Illinois. Therefore, none of the elements of the above-referenced statutory jurisdictional test -- a retailer selling tangible personal property at retail and having a place of business in Illinois -- have been met by ABC. Accordingly, ABC will not have a sales/use tax collection or registration obligation in Illinois.

VI. Conclusions

Taxpayer seeks confirmation of the Department's agreement with the following conclusions, which result from application of Illinois' statutory and judicial guidance, as well as constitutional nexus principles.

1. Because XYZ is not a retailer engaged in business in Illinois it does not have a sales and use tax collection obligation in Illinois. Further, XYZ's relationship with ABC does not constitute an agency relationship sufficient for XYZ to be considered a retailer engaged in business in Illinois.
2. Because COMPANY is not a retailer engaged in business in Illinois, it does not have sales and use tax collection obligation in Illinois. Further, although COMPANY will contract with ABC solely for the purpose of gaining access to its network, COMPANY' relationship with ABC does not constitute an agency relationship sufficient for COMPANY to be considered a retailer engaged in business in Illinois.
3. Because Retailer is not a retailer engaged in business in Illinois, it does not have sales and use tax registration or collection obligations in Illinois. Moreover, Retailer will not establish an Illinois physical presence, either on its own or through in-state representatives, and therefore Retailer does not satisfy U.S. Constitutional nexus requirements. Although Retailer may offer tangible personal property for sale to Illinois customers, there is no representational selling activity being conducted on its behalf by in-state affiliates. Therefore, there would not arise an agency relationship sufficient for Retailer to be considered a retailer engaged in business in Illinois for statutory purposes.
4. Because ABC does not sell tangible personal property or taxable services, it does not have Illinois sales and use tax registration or collection obligations.

Please feel free to contact INDIVIDUAL if you have any questions.

DEPARTMENT'S RESPONSE:

The Department's regulation "Public Information, Rulemaking and Organization" provides that "[w]hether to issue a private letter ruling in response to a letter ruling request is within the discretion of the Department. The Department will respond to all requests for private letter rulings either by issuance of a ruling or by a letter explaining that the request for ruling will not be honored." 2 Ill. Adm. Code 1200.110(a)(4).

Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The regulations provide that a request for PLR must be made by, or on behalf of an identified taxpayer. A request for ruling may be made by a taxpayer, or by a taxpayer's representative under a power of attorney from that taxpayer. The Department will not issue letter rulings to taxpayer representatives for anonymous or unidentified taxpayers.

Please be aware that the Department declines to make nexus determinations in the context of Private Letter Rulings or General Information Letters because the amount of information required to make those determinations is often best gathered by an auditor. The following information outlines the principles of nexus. We hope it is helpful to you in determining your client's tax obligations.

An "Illinois Retailer" is one who either accepts purchase orders in the State of Illinois or maintains an inventory in Illinois and fills Illinois orders from that inventory. The Illinois Retailer is then liable for Retailers' Occupation Tax on gross receipts from sales and must collect the corresponding Use Tax incurred by the purchasers.

Another type of retailer is the retailer maintaining a place of business in Illinois. The definition of a "retailer maintaining a place of business in Illinois" is described in 86 Ill. Adm. Code 150.201(i). This type of retailer is required to register with the State as an Illinois Use Tax collector. See 86 Ill. Adm. Code 150.801. The retailer must collect and remit Use Tax to the State on behalf of the retailer's Illinois customers even though the retailer does not incur any Retailers' Occupation Tax liability.

The United States Supreme Court in Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992), set forth the current guidelines for determining what nexus requirements must be met before a person is properly subject to a state's tax laws. The Supreme Court has set out a 2-prong test for nexus. The first prong is whether the Due Process Clause is satisfied. Due process will be satisfied if the person or entity purposely avails itself or himself of the benefits of an economic market in a forum state. Quill at 1910. The second prong of the Supreme Court's nexus test requires that, if due process requirements have been satisfied, the person or entity must have a physical presence in the forum state to satisfy the Commerce Clause. A physical presence is not limited to an office or other physical building. Under Illinois law, it also includes the presence of any agent or representative of the seller. The representative need not be a sales representative. Any type of physical presence in the State of Illinois, including the vendor's delivery and installation of his product on a repetitive basis, will trigger Use Tax collection responsibilities. Please see Brown's Furniture, Inc. v. Wagner, 171 Ill.2d 410, (1996).

The final type of retailer is the out-of-State retailer that does not have sufficient nexus with Illinois to be required to submit to Illinois tax laws. A retailer in this situation does not incur Retailers' Occupation Tax on sales into Illinois and is not required to collect Use Tax on behalf of its Illinois

customers. However, the retailer's Illinois customers will still incur Use Tax liability on the purchase of the goods and have a duty to self-assess and remit their Use Tax liability directly to the State. In such instances, those customers must remit their Illinois Use Tax along with a completed Form ST-44, Illinois Use Tax Return unless they are otherwise registered or are required to be registered with the Department and remit their Illinois Use Tax with a Form ST-1, Illinois Sales and Use Tax Return. Many retailers that do not have nexus with the State have chosen to voluntarily register as Use Tax collectors as a courtesy to their Illinois customers so that those customers are not required to file returns concerning the transactions with those retailers.

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