

This letter discusses the exemption for computer or communications equipment leased to an exempt hospital. See 86 Ill. Adm. Code 150.331 (This is a GIL.)

November 20, 2008

Dear Xxxxx:

This letter is in response to your letter dated May 2, 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](http://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:

On behalf of our client ('Taxpayer'), we hereby respectfully request, pursuant to 2 Ill. Admin. Code Section 1200.120, a general information letter (GIL) from the Illinois Department of Revenue ('Department'). Through this request, we seek information to help the Taxpayer confirm whether the equipment described below qualifies as 'computer or communication equipment' exempt from the Illinois use tax pursuant to 35 ILCS Sec. 105/3-5(31); 86 Ill. Admin. Code Sec. 150.331(a).

### **FACTS**

Taxpayer is engaged in the business of, among other things, leasing equipment and serves a broad market from small businesses to Fortune 500 companies. Its portfolio includes more than ninety different equipment types, including trucks, trailers, aircraft, manufacturing facilities, and construction, medical and office equipment. Taxpayer is registered with the Department and remits use tax to the Department on its leased equipment unless an exemption applies.

Specifically, for purposes of this GIL, Taxpayer leases document management devices to exempt hospitals in Illinois. These document management devices become part of the hospital's computer network so that the hospital can image documents, save them to a shared drive, or email them to another user. The equipment also copies, prints, scans, sends and receives faxes and emails.

These devices come equipped with memory and hard drives (for example, one of the Taxpayer's more popular models contains 512 MB RAM and 20GB hard disk drives.) This equipment can serve as a centralized system for sharing information where paper documents are scanned and converted to electronic formats and delivered instantly to email inboxes, fax servers, content management systems or users' desktops. These devices can also serve as an on-site document storage device with print-on-demand applications.

Users have the ability to select from several industry-standard file formats as well as the ability to take advantage of searchable PDF modes, encrypted PDFs, and URL send modes. The devices contain an editable address book that is stored internally and can be used to choose destinations for images via email or fax. The equipment provides for traditional faxing through one or two fax lines and personal computer faxing from the desktop. Images can also be copied to network file folders and the equipment is easily integrated into existing infrastructures because it is compatible with most computer operating systems.

Taxpayer leases the document management devices to tax exempt hospitals in Illinois for periods of one year or longer. Taxpayer seeks clarification as to whether such devices falls [sic] within the definition of 'computer and communication equipment' pursuant to the regulation described below.

## **LAW**

In general, the Illinois use tax is imposed on the privilege of using tangible personal property purchased at retail from a retailer in Illinois. This includes property that is purchased for lease.

An exemption, however, is provided for persons who lease tangible personal property to exempt hospitals.<sup>1</sup> Under the Department's statute and regulation, computers and communication equipment utilized for any hospital purpose that is purchased by persons who lease that equipment to exempt hospitals is not subject to use tax.<sup>2</sup> To qualify for this exemption, a lessor must meet four requirements: (1) the equipment must be 'computers and communications equipment'; (2) the equipment must be purchased for lease to a tax exempt hospital; (3) the hospital must have an active tax exemption identification number issued by the Department under Section 1g of the Retailers' Occupation Tax Act; and (4) the lease must be for a period of one year or longer.<sup>3</sup>

Illinois sales/use tax statutes, regulations and case law do not define the terms 'computer' or 'communications equipment.' However, definitions are provided in other Illinois statutes. For example, under the Illinois School Code the term 'computer' is defined as both 'an internally programmed, general purpose digital device capable of automatically accepting data, processing data and supplying the results of the operation.'<sup>4</sup> The Illinois Criminal Code defines the term 'computer' as 'a device that accepts, processes, stores, retrieves or outputs data, and includes, but is not limited to, auxiliary storage and telecommunications devices connected to computers.'<sup>5</sup> Although 'communications equipment' is not defined, under the Illinois Criminal Code a 'communication device' is defined to mean:

Any type of instrument, device, machine or equipment which is capable of transmitting, acquiring, decrypting, or receiving any telephonic, electronic,

data, Internet access, audio, video, microwave, or radio transmissions, signals, communications, or services, including the receipt, acquisition, transmission, or decryption of all such communications, transmission, signals, or services provided by or through any cable television, fiber optic, telephone, satellite, microwave, radio, Internet-based, data transmission, or wireless distribution network, system or facility; or any part, accessory, or component thereof, including any computer circuit, security module, smart card, software, computer chip, electronic mechanism or component, accessory or part of any communication device which is capable of facilitating the transmission, decryption, acquisition or reception of all such communication transmissions, signals or services.<sup>6</sup>

## **DISCUSSION**

The document management devices that Taxpayer leases to exempt hospitals in Illinois constitute 'computers and communications equipment' for Illinois sales and use tax purposes. Indeed, the equipment becomes part of the hospital's network and is capable of accepting, processing, supplying, retrieving and storing data. The equipment is not limited to merely supporting computers. Rather, according to the definitions provided in other sections of the Illinois statutes, it is a computer in and of itself. The equipment described and has the ability to process, compute and convert different standard file formats, and contains 512 MB RAM and a 20GB hard disk drive. Pursuant to the definition provided in 105 ILCS 5/23.10(b), the equipment can save and retain data and files as well as email and fax documents. Additionally, the equipment can route incoming communications through various distribution methods including fax, ifax, LAN, paper output, email, mailbox, file server and file database, all of which are designed to provide effective management of a hospital's documents and easy transmission and communication of such documents. The equipment also allows archiving, editing, and retrieval and distribution of scanned documents and electronic files more efficiently. All of these capabilities qualify the equipment as a computer or communication equipment within the definitions provided under both the Illinois School Code and the Illinois Criminal Code.

Taxpayer leases the document management devices to tax exempt hospitals under leases that are executed or in effect at the time of purchase and all leases are for a period of one year or longer. All hospitals that Taxpayer does business with have an active tax exemption identification number issued by the Department under Section 1g of the Retailers' Occupation Tax Act.

The Department ruled on a similar issue in ST-98-0104-GIL (3/31/98), where it found that the exemption applies to actual communications equipment such as telephones, fax machines, etc., but does not apply to ancillary equipment such as office furniture. The equipment that is the subject of this GIL is clearly more akin to the communications equipment described by the Department in ST-98-0104 (fax machines and telephones) than office furniture. Accordingly, this ruling supports the Taxpayer's position.

## **CONCLUSION**

Based on the foregoing, we respectfully request that the Department issue a GIL finding that the equipment described above and leased by the Taxpayer to Illinois exempt hospitals qualifies for the computers and communications equipment exemption at 35

ILCS 105/3-5(31) and 86 Ill. Admin. Code Sec. 150.331. Thank you in advance for your consideration of this request.

**DEPARTMENT'S RESPONSE:**

Generally, the Department does not issue rulings on specific items in response to requests for General Information Letters. Furthermore, based on the information you have provided, we cannot opine on whether the "document management device" you describe in your letter qualifies as computer or communications equipment as those terms are used in 35 ILCS 105/3-5(31) and 86 Ill. Adm. Code 150.331. However, the device you describe sounds a lot like an advanced, modern office copier that can copy, scan, fax, email and store documents in digital format and contains software, memory and hardware to perform these and other functions. The incorporation of these functions into an office copier would not generally transform the equipment into a computer or communication device for purposes of the exemption contained in Section 3-5(31).

I hope this information is helpful. If you require additional information, please visit our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) or contact the Department's Taxpayer Information Division at (217) 782-3336

Very truly yours,

Richard S. Wolters  
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RSW:msk

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<sup>1</sup> 35 ILCS 105/3-5(31); 86 Ill. Admin. Code §150.331.

<sup>2</sup> 35 ILCS 105/3-5(31); 86 Ill. Admin. Code §150.331(a).

<sup>3</sup> *Id.*

<sup>4</sup> 105 ILCS 5/10-23. 10(b); See Also, 105 ILCS 5/34-18(b).

<sup>5</sup> 720 ILCS 5/16J-5; See Also, 720 ILCS 5/29D-10(b) and 720 ILCS 5/16D-2(a).

<sup>6</sup> 720 ILCS 5/16-18.