

This letter concerns discount coupons. See 86 Ill. Adm. Code 130.2125(b). This is a GIL.)

January 23, 2009

Dear Xxxxx:

This letter is in response to your letter dated August 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:

I was directed to this office from another IDOR department with the instruction to write a letter regarding the above referenced department store. I shop at the ABC's stores in Cook County. From time to time ABC's has a promotion wherein for each \$50.00 a customer spends, a \$10.00 gift card is 'earned'. See attached postcard. The 'gift card' is issued on a pre-tax basis, but when the card is redeemed, it is credited to the purchase after-tax (see attached receipt) .

These 'gift cards' are in-house, meaning they are not a vendor coupon from a newspaper, magazine, etc. or purchased as a gift to give someone, wherein the coupon might state the consumer is subject to sales tax. Also, nowhere on the advertisement or gift cards does it state the redemption of the cards are subject to sales tax. It simply states, 'See associate for details.' This becomes humorous when the customer shops from department to department. There are conflicting responses as to the redemption of these cards. Other large chain stores credit their in-store coupons before taxes. ABC's does, too, when they send coupons, but for some reason, they believe these cards (according to the CITY, IL store location) are considered 'cash' and therefore the sales tax is applied first.

I spoke with the manager at the XYZ location and he advised me that he was in contact with the corporate offices, but he never received a response and I have not heard from him in a couple of weeks. This issue has been going on since the middle of June. As

you probably know, Cook County has the highest sales tax in the nation. I see no supportive reason why an in-house gift card that is not purchased, but 'earned' on the pre-tax amount of the sale is redeemed on the after-tax amount of the sale.

I would appreciate your assistance in resolving this discrepancy. The individual I was working with at IDOR and the person he requested assistance from were unable to obtain any information on this particular situation in IDOR's rulings. The consumer has the right to have an understanding as to the practice of applying sales tax on issues similar to this one.

Thank you for your prompt attention to this matter.

DEPARTMENT'S RESPONSE:

The Retailers' Occupation Tax Act, 35 ILCS 120/1 *et seq.*, imposes a tax upon persons engaged in the business of selling tangible personal property at retail. The State tax rate is 6.25% of gross receipts for most items, and a lower rate of 1% for qualifying food, drugs and medical appliances. Local occupation taxes may also be applicable.

Gross receipts subject to Retailers' Occupation Tax are defined as all the consideration actually received by the seller. If a seller provides a discount to a purchaser and does not receive a reimbursement or rebate from any source for that discount, only the (discounted) amount received by the seller is taxable. For example, if a retailer sells an item for \$10 and the purchaser provides the retailer with a \$1 in-store coupon for which the retailer receives no reimbursement from the manufacturer of the item or any other source, the retailer's gross receipts of \$9 are subject to Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.2125(b)(1).

When a retailer receives full or partial coupon reimbursement (from a manufacturer, distributor or any other source), the retailer incurs Retailers' Occupation Tax liability on the receipts received from the purchaser and the amount of any coupon reimbursement. For example, if a retailer lists an item for sale for \$15 and the purchaser provides the retailer with a \$5 manufacturer's coupon for which the retailer receives full reimbursement from the manufacturer of the item, the retailer's gross receipts are the \$10 received from the customer and the \$5 received from the manufacturer for a total of \$15 that is subject to Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.2125(b)(2).

When a retailer issues a coupon to a purchaser which entitles the purchaser to a free item conditioned on the purchase of a separate item (two-for-one, buy one get one free, etc.), the retailer's gross receipts are measured only by the amount actually received from the purchaser for both items. Thus, tax is only incurred on the amount actually received from the purchaser. The retailer does not incur tax based upon the value of the free item received because technically the item was not free and no gift was intended. The retailer was simply offering a special price for both items sold.

Likewise, if a retailer provides a customer with a card, coupon or other certificate later to be used to reduce ("discount") the purchase price of an item or items and the retailer is not to be reimbursed for that discount from a manufacturer or any other source, the amount representing that discount would not be subject to Retailers' Occupation Tax liability. See in general 86 Ill. Adm. Code 130.2125(b)(1).

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.

Very truly yours,

Debra M. Boggess
Associate Counsel

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