

This letter provides a reference to the Interim Use and Demonstration Exemption. See, 86 Ill. Adm. Code 150.306. (This is a GIL.)

March 20, 2009

Dear Xxxxx:

This letter is in response to your letter dated February 6, 2009, 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.ILTAX.com 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:

ABC is an ultrasound equipment reseller of SYSTEMS. We are located in STATE though we sell nationwide.

We ordered an Ultrasound system from XYZ for delivery to LOCATION for a Tradeshow. The System was uncrated, set up for Display, re-crated, shipped out of Illinois and later sold to an end user in STATE2.

XYZ charged us Illinois Sales Tax on their invoice and we have disputed this charge with them including providing that the system has been installed at the end user in STATE2. They continue to insist we must pay the sales tax on this equipment.

Can you help us with a statement that we can show to XYZ so they will remove Illinois Sales Tax from their invoice to ABC?

DEPARTMENT'S RESPONSE

We are unable to provide you with the specific response you request in the context of a General Information Letter. Provided below, though, is information that we hope you will find helpful in determining the taxability of the product you displayed at the Tradeshow.

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property at retail to purchasers for use or consumption. See 86 Ill. Adm. Code 130.101. In Illinois, a Use Tax is also imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See 86 Ill. Adm. Code 150.101. These taxes comprise what is commonly known as "sales" tax in Illinois.

However, Section 2 of the Use Tax Act states in part that "'Use' does not mean the demonstration use or interim use of tangible personal property by a retailer before he sells that tangible personal property." See 35 ILCS 105/2. See also the Department's regulation at 86 Ill. Adm. Code 150.306 that describes the Interim Use and Demonstration Exemption. Specifically, subpart (a)(1) which provides guidance regarding when tangible personal property qualifies for the interim use exemption and subpart (b)(1) which provides guidance regarding when tangible personal property qualifies for the demonstration exemption.

If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Debra M. Boggess
Associate Counsel

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