

Charges designated as delivery or transportation charges are not taxable if it can be shown that they are both agreed to separately from the selling price of the tangible personal property which is sold and that such charges are actually reflective of the costs of shipping. See 86 Ill. Adm. Code 130.415. (This is a GIL).

June 4, 2009

Dear Xxxxx:

This letter is in response to your letter dated March 9, 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.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:

We are an Illinois based construction Sub-contractor. We purchase ceiling materials from an out of state vendor who does not charge us sales tax, so we self assess our taxes due.

Included in the vendor's unit price to us is prepaid freight. We know the amount of the prepaid freight via the vendor's discount terms.

We have been self assessing taxes due based on the vendor's gross unit price which includes the prepaid freight. Can we deduct the prepaid freight and self assess our taxes due on the net unit price?

Attached is a copy of an invoice from this vendor reflecting their billing policy.

DEPARTMENT'S RESPONSE:

Charges designated as delivery or transportation charges are not taxable if it can be shown that they are both agreed to separately from the selling price of the tangible personal property which is sold and that such charges are actually reflective of the costs of shipping. See 86 Ill. Adm. Code 130.415. In these circumstances, to the extent that shipping and handling charges exceed the costs

of shipping, the excess charges are subject to tax. The best evidence that transportation or delivery charges are agreed to separately and apart from the selling price, is a separate and distinct contract for transportation or delivery. A separate listing on an invoice of such charges is not sufficient to demonstrate a separate agreement. See subsection (d) of Section 130.415. Please note that the Department has indicated on its latest Regulatory Agenda that it may make a change to Section 130.415, to add language to better clarify the taxation of transportation and delivery changes.

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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