

This letter concerns the Department's obligations regarding liens under the Retailers' Occupation Tax Act. 35 ILCS 120/5a & 5b. (This is a GIL.)

December 8, 2009

Dear Xxxxx:

This letter is in response to your letter dated September 14, 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](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:

I am writing this letter to get clarification on the State of Illinois law concerning the collection of taxes. I have gotten what I believe to be erroneous information concerning the law and what I have read concerning the Illinois statutes. I will list the chronological order of events and you can tell me if I am not correct and where I made the mistake, please be specific.

We owed ROT from August, 1985 to June 1986. The total due including tax, penalty and interest was \$. On DATE we were both personally assessed this debt. It is my understanding that the 20 year statute of limitations begins on the date we where [sic] made personally responsible, DATE. The state must file their lien no longer than three years from the date of when we where [sic] made personally responsible DATE. Three years would cover from May, 1986 so I believe the taxes August 1985 thru February, 1986 do not apply under the statute. On the same date DATE liens where [sic] filed against myself and my wife and recorded with the recorders [sic] office. The amounts where [sic] \$ tax, \$ penalty and \$ in interest for a total of \$. At this point after reviewing the statutes I believe that they expired on DATE3 and that we should receive releases and that the state should notify my wife's employment and issue a release stopping them from sending any more money. If this is not correct please advise where I am not reading the statute correctly.

As another part of this the State of Illinois released both liens, mine and my wife's on DATE2 in the amount of \$. On the same day they refiled both liens, \$ tax, \$ penalty and \$ interest. The total amount was for \$. The difference between the two amounts was in interest, the tax and penalty remained the same. When I questioned INDIVIDUAL about this her answer was 'it was probably a mistake, what's your point'. When I asked her about getting releases she said 'pay it off and then you will get a release'. She had no interest in talking about a statute of limitation. You have been deducting money from my wife for three years now and I believe it should stop. Again, if I am wrong tell me where.

## **DEPARTMENT'S RESPONSE:**

Generally, the Department has 3 years after an assessment becomes final to perfect the lien created by Section 5a of the Retailers' Occupation Tax Act by recording a notice of the lien in the county recorder's office. 35 ILCS 120/5a & 5b. When the lien has been satisfied and the taxpayer has paid the Department in cash or by guaranteed remittance an amount representing the filing fee for the lien and the filing fee for the release of that lien, the Department will issue a release of lien and file the release of lien with the recorder of the county where that lien was filed. 35 ILCS 120/5b. A proceeding to foreclose a lien on real property shall not be instituted more than 20 years after the filing the notice of the lien. 35 ILCS 120/5e. To the extent such lien is unenforceable, upon payment by the taxpayer to the Department in cash or by guaranteed remittance of an amount representing the filing fee for the lien and the filing fee for the release of the lien, the Department will issue a certificate of release of the lien and file the release of lien with the recorder of the county where the lien was filed. See 35 ILCS 120/5c for partial or complete release of liens.

The Department may levy upon the salary, wages, commissions and bonuses of any employee by serving a notice of levy on the employer. To the extent of the amount due on the levy, the employer or other person making payments to the taxpayer shall hold any non-exempt wages or other payments due or which subsequently come due. The levy or balance due thereon is a lien on wages or other payments due at the time of the service of the notice of levy, and such lien shall continue as to subsequent earnings and other payments until the total amount due upon the levy is paid, except that such lien on subsequent earnings or other payments shall terminate sooner if the employment relationship is terminated or if the notice of levy is rescinded or modified. 35 ILCS 120/5f.

No proceedings for a levy may be commenced more than 20 years after the latest date for filing of the notice of lien under Section 5b of this Act, without regard to whether such notice was actually filed. 35 ILCS 120/5f. As noted above, the Department has 3 years after an assessment becomes final to perfect the lien. As a result, the Department may levy on salary, wages, commissions and bonuses of any employee for a period of 23 years after an assessment becomes final.

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

Associate Counsel

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