

If a seller receives a reimbursement or rebate for a discount, the amount of that reimbursement or rebate is considered part of the gross receipts received by the seller and is subject to Retailers' Occupation Tax. If a seller provides a discount to a purchaser and does not receive a reimbursement or rebate for that discount, only the (discounted) amount received by the seller is taxable. See 86 Ill. Adm. Code 130.2125. (This is a GIL.)

January 10, 2011

Dear Xxxxx:

This letter is in response to your letter dated December 18, 2010, 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 have two questions regarding the proper sales tax treatment for some of our restaurant sales. First, if we give customers a 20% discount on certain menu items (no supplier or anyone else is reimbursing us for the discount). Does the customer pay sales tax on the discount amount?

For example, for an order of \$10 sales, a \$2 discount is applied. Should the customer pay sales tax on the \$10 amount or on the \$8 amount?

Secondly, if we give customers \$20 discount voucher if they spend \$100 at the restaurant, do they pay sales tax on \$100 or \$80?

According to the information bulletin FY91-44, if we are not reimbursed for a discount by a manufacturer or dealer, then we may subtract the discount from the selling price in figuring sales tax.

It is my understanding that if I do not receive reimbursement for the discount that I give to my customers, we will not calculate the sales tax on the discount amount. Please mail or email me a letter in response.

DEPARTMENT'S RESPONSE:

Gross receipts subject to Retailers' Occupation Tax are defined as all the consideration actually received by the seller, except traded-in tangible personal property. See 86 Ill. Adm. Code 130.401. If a seller receives a reimbursement or rebate for a discount, the amount of that reimbursement or rebate is considered part of the gross receipts received by the seller. This amount is fully taxable. If a seller provides a discount to a purchaser and does not receive a reimbursement or rebate for that discount, only the (discounted) amount received by the seller is taxable. See, for example, 86 Ill. Adm. Code 130.2125.

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,

Richard S. Wolters
Associate Counsel

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