

Aircraft Use Tax liability is incurred on aircraft acquired by gift, transfer, or non-retail purchase. See 86 Ill. Adm. Code 152.101. (This is a GIL.)

November 8, 2011

Dear Xxxxx:

This letter is in response to your letter dated July 13, 2011, 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 represent INDIVIDUAL in his capacity as the Trustee of the TRUST dated DATE ('Trust'). The Grantor of the Trust was PERSON who designated INDIVIDUAL as the initial Trustee, and reserved the exclusive and express right to amend the Trust at any time prior to his death. The Trust was part of an extensive estate plan that I prepared for PERSON. During the time I was representing PERSON, I did not represent INDIVIDUAL.

At the time that the Trust was created, PERSON personally was the sole owner of an aircraft the title for which he transferred to the Trust via a 'Bill of Sale and Assignment' document dated prior to his death, and which I prepared for PERSON. There was no consideration for the transfer from PERSON personally to INDIVIDUAL as the initial Trustee of the Trust. The Trust was for the benefit of PERSON as the Grantor and his two adult children.

On DATE-2, I sent to the Civil Aviation Registry of the Federal Aviation Administration ('FAA') the Bill of Sale previously described, an 'Aircraft Bill of Sale' an [sic] 'Aircraft Registration Application' (and the appropriate fee) both of which documents were provided to me by the FAA. I was provided with a copy of the Bill of Sale bearing the FAA's [sic] time stamp of 'DATE-3.'

PERSON died on DATE-4. Subsequent to PERSON'S death, INDIVIDUAL initiated the administration of PERSON [sic] entire estate which involved another trust containing a significant number of various types of assets in addition to the Trust. On December 19,

2009, I contacted EMPLOYEE of the Division of Aeronautics for the Illinois Department of Transportation ('IDOT') regarding my communications with the FAA, and EMPLOYEE promptly responded by sending me IDOT's 'Application for Registration of Federal Aircraft Certification' and your Department's 'RUT-75 Aircraft/Watercraft Use Tax Transaction Return' forms.

Subsequent to my contact with EMPLOYEE, INDIVIDUAL and my attention was diverted to other more pressing aspects of the administration of PERSON'S estate. At this time, I wish to resume the steps necessary to have the title of the aircraft properly registered in the name of the Trust with IDOT.

I apologize for this extensive explanation. However, I felt such an explanation was necessary as a basis of my following question. Since the transfer of the title to the aircraft was part of PERSON'S Estate Plan, there was no monetary consideration involved in the transfer, and the Trust was revocable at any time prior to PERSON'S death, was there a state transfer tax of any category due as a result of the transfer of title from PERSON personally to INDIVIDUAL as Trustee of PERSON'S Trust? I am familiar with the exemption from the RUT in the case of a transfer of an asset to the surviving spouse of a decedent. Is not PERSON'S transfer of the title of the aircraft from himself personally to his designated Trustee of his (PERSON'S) Trust of a similar nature? It does not appear that PERSON'S transfer of title from himself to the Trustee of his grantor Trust is a taxable event.

I would appreciate your consideration of my question, and your timely reply. There is a potential sale pending for which the proper title to the aircraft is essential.

Thank you for your assistance in this matter, and I look forward to your reply.

#### **DEPARTMENT'S RESPONSE:**

For general information purposes, the transfer of an aircraft from an individual owner to a trust is a taxable event. This result is because the aircraft is being transferred from one legal entity to another (from a person to a trust). Aircraft Use Tax liability is incurred on aircraft acquired by gift, transfer, or non-retail purchase. See 86 Ill. Adm. Code 152.101. The exemption for a transfer that is a gift to a beneficiary in the administration of an estate if the beneficiary is a surviving spouse is a statutory exemption. See 35 ILCS 158/10-15(iv). The Department of Revenue is unable to either expand or narrow the scope of this exemption. This exemption does not apply if the beneficiary is not a surviving spouse. In addition, this exemption does not apply if the transfer occurs prior to the administration of an estate, as would be the case when an aircraft is transferred from an individual to a trust prior to the individual's death.

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.

Sincerely,

Samuel J. Moore  
Associate Counsel