

ST 14-0031-GIL 05/12/2014 MISCELLANEOUS

The electronic download of a book is not subject to Retailers' Occupation Tax, Use Tax, Service Occupation Tax or Service Use Tax. See 86 Ill. Adm. Code 130.2105(a)(3). (This is a GIL.)

May 12, 2014

Dear Xxxx:

This letter is in response to your letter dated April 22, 2014, 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:

We are asking for an opinion letter to **two** sales matters:

Our company will be **selling and renting electronic textbooks** to students in public and/or private schools. This transaction will be done entirely via the internet. Is this a taxable transaction?

Thank you for your assistance with this matter. If you have any questions or concerns, please call me at xxx-xxx-xxxx.

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

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. 86 Ill. Adm. Code 130.101. The Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased at retail from a retailer. 86 Ill. Adm. Code 150.101. If no tangible personal property is being transferred to the customers, then neither Illinois Retailers' Occupation Tax nor Use Tax would apply. Likewise, the Service Occupation Tax Act and Service Use Tax are imposed on the transfer of tangible personal property incident to sales of service. 86 Ill. Adm. Code 140.101 and 160.101. If no tangible personal property is being transferred to customers incident to the services being provided then no Illinois Service Occupation Tax or Service Use Tax would apply.

The Department does not consider the viewing and downloading of text and similar data over the Internet such as downloaded books, musical recordings, newspapers or magazines to be the transfer of tangible personal property. These types of transactions represent the transfer of intangibles and are thus not subject to Retailers' Occupation and Use Tax. However, downloads of

canned software, as defined more fully in 86 Ill. Adm. Code 130.1935, are subject to Retailers' Occupation and Use Tax. See 86 Ill. Adm. Code 130.2105(a)(3). Thus, the electronic download of a book is not subject to Retailers' Occupation Tax, Use Tax, Service Occupation Tax or Service Use Tax liability in this State regardless of whether it is rented or sold.

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,

Cara Bishop  
Associate Counsel

CB:ikm