ST 00-0193-GIL 08/31/2000 USE TAX

Retailers shall state the Use Tax, whenever possible and practicable, as a distinct and separate item apart from the selling price of the tangible personal property. See 86 Ill. Adm. Code 150.401. (This is a GIL).

August 31, 2000

Dear Xxxxx:

This letter is in response to your letter dated July 7, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at http://www.revenue.state.il.us/legalinformation/regs/part1200.

In your letter, you have stated and made inquiry as follows:

On behalf of our client, COMPANY, we are writing to respectfully request confirmation of our understanding regarding Illinois sales tax implications on the use of a pricing system that includes sales tax within the price of individual concession items sold at movie theatres.

Factual Scenario

COMPANY operates movie theatres throughout the United States including many in the state of Illinois. Food and beverages ('concessions') from concession areas located inside COMPANY's theatres are available for purchase by movie viewing customers. Sales of these concessions are subject to Illinois sales tax. In order to improve customer service, COMPANY has implemented an 'even pricing system' for concession sales. The even pricing system eliminates pennies from sales transactions by making the total price paid by the customer (COMPANY's price plus sales tax) always divisible by five, thus, reducing the time required for customers to pay for their purchases and for COMPANY's employees to count and return change to customers.

COMPANY has developed a pricing system that allows separately calculated sales tax to be included in the price of each concession item. Under COMPANY's even pricing system, COMPANY has posted signs that separately state the price and applicable sales tax for each item in the concession areas. In order to ensure consumer awareness of the inclusion of sales tax, the signs include language stating that the selling price of each item includes all applicable sales tax.

COMPANY's point of sale cash register system applies sales tax at the transaction level. Records and data files are available to document transaction detail, including sales and sales tax amounts.

Ruling Requested

Even pricing systems are very common in the entertainment industry, including movie theatres, theme parks, and other entertainment venues. COMPANY wishes to speed customer service by enhancing cash management procedures. The overriding need to move ticket holders quickly through concession lines clearly renders use of the sales tax bracket system impractical. For this reason, COMPANY has implemented the even pricing system.

Please confirm that the system described above meets the requirements pertaining to the notification and collection of tax, and provides the necessary documentation to satisfy Illinois sales tax audit requirements.

We appreciate your assistance in this matter. I will be happy to answer any questions or provide clarification of any facts, if necessary. If you have any questions or require additional information, please contact me at ###.

Please be advised that retailers shall state the Use Tax, whenever possible and practicable, as a distinct and separate item apart from the selling price of the tangible personal property. See the enclosed copies of 86 Ill. Adm. Code 150.401 and 150.1305. The practice of issuing a single total price to the customer does not comply with statutory requirements necessitating an identified tax on the receipt.

The only exception to this is the sign procedure under which the Department grants permission for the retailer to include the tax in the selling price of the tangible personal property. See the enclosed copy of Section 150.1310. This procedure is usually only authorized for a tavern that sells beverages and does not present a ticket or receipt to the customer. Movie theatre concessionaires may also use this procedure.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Martha P. Mote
Associate Counsel

MPM:msk
Enc.