The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 270.115. (This is a PLR).

August 5, 2002

Dear Xxxxx:

This Private Letter Ruling, issued pursuant to 2 Ill. Adm. Code 1200 (see www.revenue.state.il.us/Laws/regs/part1200/), is in response to your letter of July 15, 2002. Review of your request for a Private Letter Ruling disclosed that all information described in paragraphs 1 through 8 of subsection (b) of Section 1200.110 appears to be contained in your request. This Private Letter Ruling will bind the Department only with respect to AAA for the issue or issues presented in this ruling. Issuance of this ruling is conditioned upon the understanding that neither AAA nor a related taxpayer is currently under audit or involved in litigation concerning the issues that are the subject of this ruling request.

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

A letter ruling is requested pursuant to Section 1200.110 of the Regulations of the Illinois Department of Revenue. Background information on our request includes the following:

1.) Company name, address and phone number

2.) Taxpayer federal employer identification number

3.) Illinois registration numbers

4.) The issue involves jurisdiction of the Retailers' Occupation Tax

5.) Statement of Facts

AAA, an Illinois corporation, has been engaged in the business of selling windows, doors and cabinets to contractors and the retail public for the past twenty-three years.

These materials are delivered by our employees using company-owned delivery vehicles from our warehouse and corporate office located in CITY, IL.

On Apri130, 2002, we opened a sales office and display showroom in CIT2, IL. located approximately one hundred (100) miles south of our corporate office in CITY, IL.

Our CIT2 salespeople work directly with home builders and retail customers to identify the appropriate materials needed to complete their specific construction projects. Often this requires a visit by the salesperson to the job site as well as an in-house review of the blueprint.

Once the customer and salesperson determine the needed material, a detailed sales order is prepared for written approval by the customer. Following approval by the customer, the order is accepted at the CIT2 office and then forwarded to our CITY office for data entry, scheduling and delivery.

After the material is received from our vendor(s) at our CITY warehouse, it is then delivered on our trucks to our Illinois customers located in the CIT2, IL. sales area.

6.) The Issue and Requested Letter Ruling

The issue is one of jurisdictional liability for Retailers' Occupation Tax. We are requesting a ruling from the Department of Revenue regarding the imposition of the proper Retailers' Occupation Tax; namely CITY or CIT2.

Since these sales orders are reviewed, accepted and approved at the CIT2 sales location in the normal course of business, we believe these sales are subject to the Retailers' Occupation Tax for CIT2, IL.

According to Section 270.115b(1) of the Regulations of the Department of Revenue (copy enclosed), it states that the Department's opinion is, ‘that the seller's acceptance of the purchase order or other contracting action in the making of the sales contracts is the most important single factor in the occupation of selling.’ This section continues by stating that, ‘if the purchase order is accepted at the seller's place of business within the municipality or by someone who is working out of such place of business who does not conduct the business of selling elsewhere, the seller incurs Home Rule Municipal Retailers' Occupation Tax liability in that home rule municipality if the sale is at retail and the purchaser receives the physical possession of the property in Illinois. ‘

The description outlining our Statement of Facts is consistent with the Department's opinion contained in Section 270.115b(1). We are also not aware of any statement of authorities contrary to our position on this sales tax matter.

We therefore request a personal letter ruling pursuant to section 1200.110, in light of the material facts presented, that the CIT2, IL. Retailers' Occupation Tax applies to these sales originating in the CIT2, IL. sales office.

Additionally, please be advised that neither AAA nor any related taxpayer has ever been involved in any current or prior protest, audit or litigation involving this issue or any other tax issue with the Department of Revenue.

Your consideration of our request for a private letter ruling is appreciated. Please do not hesitate to contact me if there are any questions.

The imposition of the various sales tax related local taxes in Illinois are triggered when 'selling' occurs in a jurisdiction imposing a tax. The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 270.115.

The tax rate is fixed by the location of the seller, not the delivery location. The fact that the item being sold is shipped from out-of-State or from another Illinois location is immaterial for purposes of local taxes if the sale occurs through order acceptance in an Illinois jurisdiction imposing a local tax. Although 86 Ill. Adm. Code 270.115 deals with the municipal Home-Rule taxes, the principles outlined in this regulation apply to all local taxes administered by the Department.

You indicate that the sales are reviewed, accepted and approved at the CIT2 sales location. Therefore, for sales originating in the CIT2, Illinois sales office, CIT2 is the Illinois jurisdiction that determines the rate of tax.

The facts upon which this ruling are based are subject to review by the Department during the course of any audit, investigation, or hearing and this ruling shall bind the Department only if the material facts as recited in this ruling are correct and complete. This ruling will cease to bind the Department if there is a pertinent change in statutory law, case law, rules or in the material facts recited in this ruling.

I hope this information is helpful. If you have further questions concerning this Private Letter Ruling, you may contact me at (217) 782-2844. If you have further questions related to the Illinois sales tax laws, please visit our website at www.revenue.state.il.us or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.