

ST 03-0168-GIL 11/05/2003 EXEMPT ORGANIZATIONS

Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, or charitable, receive an exemption identification number (an "E" number). See the enclosed copy of 86 Ill. Adm. Code 130.2007. (This is a GIL.)

November 5, 2003

Dear Xxxxx:

This letter is in response to your letter received in Legal Services on April 25, 2003, 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 1200.1120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) 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:

As a newly elected treasurer of a non profit origination and I have a couple questions I need help with.

1. We sell food to the public once a week, some is donated some purchased. Could we be using a tax free number to purchase our food and paper supplies? We do not charge tax on our food sales.
2. In the past our qt. sales & use taxes were figured on a gross amount. If we are paying taxes on our food and supplies when we purchase them, shouldn't we be using the net amount to figure our taxes due?

I realize the answer to question 1 could alter the answer to question 2.

We also have a checking account and CD that we collect interest on. The checking account is credited monthly to our checking account. The CD is added and rolled over upon maturity. Should we be claiming any of this interest some where in filing?

In general, the Illinois Retailers' Occupation Tax (i.e. sales tax) is imposed upon the total gross receipts received by retailers who make sales of tangible personal property, including food, to Illinois end users. See 86 Ill. Adm. Code 130.101. Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, or charitable, receive an exemption identification number (an "E" number). See the 86 Ill. Adm. Code 130.2007. This number evidences that the Department recognizes the organizations as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of their organizational purposes. If an organization does not have an E number, then its purchases are subject to tax. Please be aware that only sales to organizations holding the E number are exempt, not sales to individual members of the organization.

Organizations that have E numbers are also allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. These limited amounts of selling are described in 86 Ill. Adm. Code 130.2005(a)(2) through (a)(4). An exempt organization may engage in sales to members, noncompetitive sales, and certain occasional dinners and similar activities (two fundraisers a year) without incurring Retailers' Occupation Tax liability. Organizations could use their E numbers to purchase items for such limited exempt sales. However, if organizations engage in ongoing selling activities (such as Little League concession stands or sales of items in a thrift shop run by a church), they must also register with the Department as retailers, file returns and remit tax. For these types of ongoing sales, the organizations would provide their suppliers with Certificates of Resale for the items they purchase to resell and remit Retailers' Occupation Tax on their gross receipts from sales. See 86 Ill. Adm. Code 130.1405, which describes the requirements for validly executed Certificates of Resale.

Sales of food can be subject to either low (1%) or high (6.25%) rates under the Retailers' Occupation Tax Act. Local sales taxes may also apply, depending upon where retail sales are made. Please be advised that Section 2-10 of the Retailers' Occupation Tax Act allows the reduced rate of tax for food sold for human consumption that is to be consumed off the premises where it is sold, other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption, 35 ILCS 120/2-10. The total rate for any location in Illinois listed in the Sales Tax Rate Reference Manual. This publication is available for viewing or downloading at the Department's Website at <http://www.revenue.state.il.us/Publications/index.htm>.

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b). ]

Very truly yours,

Martha P. Mote  
Associate Counsel

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