ST 04-0013-GIL 01/14/2004 NEWSPRINT & INK

This letter informs the taxpayer that the publications described qualify for the newsprint and ink exemption under the Retailers' Occupation Tax Act. See 86 Ill. Adm. Code 130.2105. (This is a GIL.)

January 14, 2004

Dear Xxxxx:

This letter is in response to your letter dated July 3, 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 1200.120. You may access our website at 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:

> ABC), a STATE corporation with its headquarters in CITY/STATE, hereby requests a formal ruling on the applicability of the Illinois Retailers' Occupation Tax (ROT) to ABC publications sold in Illinois. These publications are described below and examples are included for your review. A copy of a previous ruling issued August 20, 1985, is also enclosed for your reference. In accordance with 2 Ill. Adm. Code Sec. 1200.110(e) and in light of the fact that the facts and law described in the August 20, 1985 ruling have not changed, ABC respectfully requests that the Department of Revenue renew this letter ruling.
>
> There is no particular tax period at issue for this ruling request. ABC is not currently under audit and is not involved in any litigation with the Department of Revenue concerning the issues raised in this ruling request. ABC is unaware of any authority contrary to the views expressed in this request.
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> Sheets
> ABC publishes on a weekly basis in soft-cover pamphlet form. THEY are eventually published as permanent, bound volumes. These pamphlets are entitled to the periodical

(second-class) mailing privilege as classified by the United States Postal Service (USPS).

Pamphlets
ABC provides its customers a soft-cover pamphlet service. The service provides the customer prompt and ready access through a series of pamphlets. In 2002, ABC published seven pamphlets.

For 2003, ten pamphlets are forecasted for publication. These pamphlets are not entitled to the USPS periodical mailing privilege.

Newsletters
In addition to the soft-cover publications previously described, ABC publishes numerous printed publications categorized as newsletters. Newsletters are published on a weekly, bi-weekly, or monthly basis and are available to the general public. The vast majority of newsletter sales are through subscription. Each newsletter contains articles on specific topics. Some newsletters are entitled to the periodical mailing privilege but the majority is mailed through the USPS first-class mailing privilege.

Sales of newspapers and magazines are not subject to Illinois ROT under the newsprint and ink exemption (Ill. Admin. Code 86 § 130.2105(a)). In addition, this regulation was discussed in *Moody's Investors Service, Inc., v. The Department of Revenue,* 101 Ill.2d 291, 78 Ill.Dec. 138, 461 N.E.2d 972 (1984), as well as several rulings issued by the Illinois Department of Revenue. In view of the determinations made in these matters and in light of the previous ruling issued by the Department on August 20, 1985, ABC respectfully requests that the Department renew its August 20, 1985 ruling and state in writing that charges to Illinois customers for sheets, service pamphlets, and newsletters are not subject to the Illinois ROT. If you concur, please issue your favorable ruling to the undersigned. If you do not concur, please advise so that we may discuss your reasoning before an adverse ruling is issued. In this regard, please be advised that the facts and law set forth in the August 20, 1985 ruling have not changed

Please contact me at the above address of telephone number if you have questions or need additional information. Thank you for your attention to this matter.

Based upon the information provided, it is our opinion that the sheets, service pamphlets and newsletters are exempt from Retailers' Occupation Tax as newsprint and ink. See 86 Ill. Adm. Code 130.2105(a)(2).

I hope this information is helpful. If you require additional information, please visit our website at 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

MPM:msk