

This letter refers to the Department's rule concerning transportation and delivery charges. See 86 Ill. Adm. Code 130.415. (This is a GIL.)

November 8, 2004

Dear Xxxxx:

This letter is in response to your letter dated December 1, 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 provides a complete solution for financial transactions that require the determination, calculation, and reporting of U.S. sales and use tax. The ABC system automatically determines sales and use tax for all state, county, city, transit or special district taxes associated with a given address. ABC also provides product taxability. ABC determines whether particular products are taxable or exempt, and customers map their products to our product listing.

We are seeking guidance on the taxability of shipping and handling charges. Our specific product taxability questions are detailed below. It would be helpful to us if you indicate any statutes or authorities you use.

Are shipping and handling charges subjects to sales and use tax in the following scenarios?

We are a retail business selling tangible, personal property to the end users. We employ a variety of methods in delivering the products to the customer. The sale price of the merchandise does not include shipping charges. Shipping and handling charges may be lumped together depending on the scenario; however, they are separately stated from the price of the merchandise on the invoice.

Scenario #1:

- a) Delivered via common carrier
- b) F.O.B. destination
- c) Shipping charge is reflective of actual cost incurred to deliver the property

Scenario #2:

- a) Delivered via common carrier
- b) F.O.B. destination
- c) Shipping charge exceeds actual cost incurred by the vendor to deliver the property

Scenario #3:

- a) Delivered via common carrier
- b) F.O.B. destination
- c) Shipping and handling charges are combined and are reflective of actual cost to deliver the property

Scenario #4:

- a) Delivered via common carrier
- b) F.O.B. destination
- c) Shipping and handling charges are combined and are marked up in excess of the actual cost incurred by the vendor to deliver the property

Scenario #5:

- a) Delivered via common carrier
- b) F.O.B. origin

Scenario #6:

- a) Delivered via contract carrier
- b) F.O.B. destination
- c) Shipping charge is reflective of actual cost incurred to deliver the property

Scenario #7:

- a) Delivered via contract carrier
- b) F.O.B. destination
- c) Shipping charge exceeds actual cost incurred by the vendor to deliver the property

Scenario #8:

- a) Delivered via contract carrier
- b) F.O.B. destination
- c) Shipping and handling charges are combined and are reflective of actual cost to deliver the property

Scenario #9:

- a) Delivered via contract carrier
- b) F.O.B. destination
- c) Shipping and handling charges are combined and are marked up in excess of the actual cost incurred by the vendor to deliver the property

Scenario #10:

- a) Delivered via vendor equipment
- b) Shipping charge is reflective of actual cost incurred to deliver the property

Scenario #11:

- a) Delivered via vendor equipment
- b) Shipping charge exceeds actual cost incurred by the vendor to deliver the property

Scenario #12:

- a) Delivered via vendor equipment
- b) Shipping and handling charges are combined and are reflective of actual cost to deliver the property

Scenario #13:

- a) Delivered via vendor equipment
- b) Shipping and handling charges are combined and are marked up in excess of the actual cost incurred by the vendor to deliver the property

Does the taxability of any of the above scenarios change if the purchaser has the option to make other delivery arrangements of the property?

Thank you for your assistance in this matter.

DEPARTMENT'S RESPONSE:

You have inquired regarding shipping and handling charges. Unfortunately, we are unable to answer your questions in the form presented. For information on the taxability of these charges, please see 86 Ill. Adm. 130.415. For a discussion of this rule, please see ST-03-0087-GIL, a previous General Information Letter issued by the Department. Both the rule and the letter may be found on our website, listed below.

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).

Sincerely,

Samuel J. Moore
Associate Counsel

SJM:msk