

The City of Chicago imposes a 3% Home Rule Municipal Soft Drink Retailers' Occupation Tax. See 65 ILCS 5/8-11-6b. (This is a GIL.)

October 7, 2009

Dear Xxxxx:

This letter is in response to a referral from the Attorney General's Office of your letter dated June 21, 2009 to that Office, 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.tax.illinois.gov 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:

On June 14, 2009, I stopped at a corner liquor store to purchase a couple drinks (see receipt copy attached; enlarged to 200%). I was charged a 'pop tax,' which took me by surprise, because it is greater than three times the stated 'cook county & city tax.'

Since I am the head of household, I do all of the grocery shopping for my home, and have never noticed this type of tax charged at other grocery stores. Please confirm whether this is a legitimate practice. If not, I am certain you will proceed according to the stipulated protocols of your Agency.

DEPARTMENT'S RESPONSE:

Illinois taxes the retail sale and use of tangible personal property under two separate but related statutes. The Retailers' Occupation Tax Act imposes a tax upon persons engaged in the business of selling at retail tangible personal property. 35 ILCS 120/2. The Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased at retail from a retailer. 35 ILCS 105/3. These taxes comprise what is commonly known as "sales" tax in Illinois.

In addition to the State Retailers' Occupation Tax and Use Tax, a number of statutes authorize units of local government to impose local taxes. One of those taxes is the Home Rule Municipal Soft Drink Retailers' Occupation Tax. Under the authority of Section 8-11-6b of the Illinois Municipal Code, 65 ILCS 5/8-11-6b, the corporate authorities of a home rule municipality with a population in

excess of 1,000,000 may impose a Home Rule Municipal Soft Drink Retailers' Occupation Tax upon all persons engaged in the business of selling soft drinks (other than fountain soft drinks) at retail in the municipality based on the gross receipts from those sales made in the course of such business. Retailers subject to the Home Rule Municipal Soft Drink Retailers' Occupation Tax may reimburse themselves for their tax liability by separately stating the tax as an additional charge, which charge may be stated in combination, in a single amount, with State taxes that the retailers are required to collect under the Use Tax Act.

The City of Chicago has imposed a 3% Home Rule Municipal Soft Drink Retailers' Occupation Tax (See Publication 116, "Chicago Soft Drink Tax" on the Department's website). Therefore, retail sales of soft drinks in Chicago are subject to the Home Rule Municipal Soft Drink Retailers' Occupation Tax, in addition to the State Retailers' Occupation Tax and Use Tax and other local taxes. This would explain the additional "POP TAX" on a receipt for soft drinks purchased in Chicago.

One way to confirm exactly which of the taxes administered by the Illinois Department of Revenue a given business is registered to collect is through the business' Account Number/Illinois Business Tax number on its certificate of registration issued by the Illinois Department of Revenue. All certificates of registration are required to be conspicuously displayed at the place of business. (See 86 Ill. Adm. Code 130.725) With this number, a person can go onto the Department's website and click on "Verify a Registered Business" under "Business Registration" on the "Businesses" link. Using the Illinois Business Tax number, this application will list the taxes that the business is registered to collect.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336.

Sincerely,

Samuel J. Moore
Associate Counsel