

By giving away tangible personal property in Illinois, the donor makes a taxable use of the property and is subject to Use Tax on the cost price of the property purchased to be given away. See 86 Ill. Adm. Code 150.305(c). (This is a GIL.)

September 3, 2009

Dear Xxxxx:

This letter is in response to your letter received in this office on August 6, 2009, 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:

COMPANY would like a written opinion on the sales and use taxability of a proposed promotional transaction. COMPANY will be administering limited free flu vaccines to individuals with no insurance. These flu vaccines do not require prescriptions. Individuals that meet the requirements for the free flu vaccines will receive a voucher from COMPANY that is to be presented at the time of vaccination. This will not be a coupon program which will be reimbursed by any manufacturer. COMPANY would like to know if use tax is owed on the cost of the flu vaccine when it is administered with this proposed free program.

Thank you for your assistance in this matter.

DEPARTMENT'S RESPONSE:

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. See 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See 86 Ill. Adm. Code 150.101.

When property is purchased and then given away, the donor has made a taxable use of the property by making such gift. Therefore, it is the donor of the gift who is deemed the end user of the property and who is subject to the Use Tax, rather than the donee. See 86 Ill. Adm. Code 150.305(c).

Use Tax liability is calculated on the cost price of the property used in this State or given away in this State. When the property is purchased at retail, the base for calculating Use Tax is the purchase price of the property. If, however, the property is a product produced by that person, the donor's Use Tax liability is calculated on that person's cost price of the materials and products purchased and incorporated into the finished product. See 86 Ill. Adm. Code 150.305(b).

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.

Very truly yours,

Terry D. Charlton
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