

Products that only purport on the label to whiten teeth do not make medicinal claims. As a result, these items are subject to the full rate of tax. See 86 Ill. Adm. Code 130.310(c)(1). (This is a GIL.)

September 25, 2006

Dear Xxxxx:

This letter is in response to your letter dated May 26, 2006, 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:

Per your telephone conversation, May 24th, 2006, with ABC Tax Department, it was determined that the taxability of gum with whitening stated on the label was to be changed to the low tax rate for the State of Illinois. This decision was made verbally after two original letters were sent to your office dated February 7th, 2002 and April 25, 2006.

We are requesting a written confirmation stating this tax rate change.

Thank you for your help.

DEPARTMENT’S RESPONSE

For information regarding the sales tax rate for food, drugs and medical appliances, we refer you to the Department’s regulation “Food, Drugs, Medicines and Medical Appliances” at 86 Ill. Adm. Code 130.310. This regulation describes how sales of food can be subject to either low (1%) or high (6.25%) rates under the Retailers’ Occupation Tax Act.

Subsection 130.310(c)(1) states that “[a] medicine or drug is any pill, powder, potion, salve, or other preparation intended by the manufacturer for human use and which purports on the label to have medicinal qualities. A written claim on the label that a product is intended to cure or treat

disease, illness, injury or pain, or to mitigate the symptoms of such disease, illness, injury or pain constitutes a medicinal claim.” Examples of qualifying language are provided.

Products that only purport on the label to whiten teeth do not make medicinal claims. As a result, these items are subject to the full rate of tax.

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

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