

This letter discusses who must file a return when a leasing portfolio is acquired by a company that has a division that is already registered to file returns for the resale and leasing of property. See 86 Ill. Adm. Code 130.701. (This is a GIL.)

June 25, 2007

Dear Xxxxx:

This letter is in response to your letter dated June 5, 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.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:

ABC is a wholly owned subsidiary of XYZ. Both entities are registered with the state of Illinois. ABC is a finance company involved in the resale and leasing of computer and capital equipment. Monthly sales and use tax returns are filed accordingly. XYZ is considering acquiring a leasing portfolio and the seller is unable to provide administrative support. Can ABC file the XYZ activity under ABC's IBT number regarding the monthly sales and use tax?

If you need additional information, please feel free to contact me

DEPARTMENT'S RESPONSE:

Every person engaged in making retail sales in Illinois must register and obtain a Certificate of Registration from the Department. 86 Ill. Adm. Code 130.701. Each taxpayer is registered with an Illinois Business Tax number (IBT number) for sales and use tax reporting.

The Illinois Retailers' Occupation Tax Act defines a "person" as "any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian or other representative appointed by order of any court." 35 ILCS 120/1. Any corporation or other entity subject to the Retailers' Occupation Tax

Act or Use Tax Act must be separately registered with its own IBT number and must file returns under that number.

In the scenario presented, a leasing portfolio is acquired by Company A. Company A has a wholly owned subsidiary, Company B, that is a finance company involved in the resale and leasing of computer and capital equipment and that is separately registered for reporting sales and use tax in Illinois. The question is whether, in this instance, the sales and use tax activity of the leasing portfolio acquired by Company A can be reported on Company B's return. It is not clear from the letter what "acquired" means. But, assuming there is a sales and use tax reporting requirement accompanying the acquisition of the leasing portfolio, in accordance with the requirements of the statute and rules cited above, the sales and use tax activity of the leasing portfolio acquired by Company A must be reported on Company A's return and not on Company B's return.

For your information, Illinois taxes leases differently than the majority of other states. For more information on leasing please see ST 04-0162-GIL and ST 05-0051 GIL. These letters, and others may be found on the Department's website under the quick link "Laws/Regs/Rulings."

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. 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

SJB:msk