

Prepaid telephone calling arrangements are considered tangible personal property subject to tax imposed under the Retailers' Occupation Tax Act and Use Tax Act, regardless of the form in which those arrangements may be embodied, transmitted, or fixed by any method now known or hereafter developed. See 86 Ill. Adm. Code 130.101. (This is a GIL.)

December 31, 2007

Dear Xxxxx:

This letter is in response to your letter received in this office on August 22, 2007, 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:

Are stores suppose [sic] to charge or not charge state sales tax on purchase of phone cards?

One store doesn't charge me, but another store does.

Either it's [sic] stores option to pay the tax for me, (maybe a deal with the phone card people) or stores charging me are wrong, therefore cheating me..c [sic] chance, by an innocent mistake)

Was charged 7.00 tax on a card of 79.99. 7.00 lot of money, if it's a mistake.

I just want to be sure I am not being taken!

DEPARTMENT'S RESPONSE:

"Prepaid telephone calling arrangements" means the right to exclusively purchase telephone or telecommunications services that must be paid for in advance and enable the origination of one or more intrastate, interstate, or international telephone calls or other telecommunications using an

access number, an authorization code, or both, whether manually or electronically dialed, for which payment to a retailer must be made in advance, provided that, unless recharged, no further service is provided once that prepaid amount of service has been consumed. Prepaid telephone calling arrangements include the recharge of a prepaid calling arrangement. "Recharge" means the purchase of additional prepaid telephone or telecommunications services whether or not the purchaser acquires a different access number or authorization code.

Prior to January 1, 2001, prepaid calling card arrangements were possibly subject to the Telecommunications Excise Tax. The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. Sales of telephone cards by retailers were not subject to Retailers' Occupation Tax. The consequences from the sales of cards by retailers would vary depending upon whether or not the Department deemed the retail stores to be retailers of telecommunications. In general, retailers who purchased telephone cards from telephone service vendors and then resold the cards to customers for marked-up prices were not responsible for collecting and remitting the tax from their customers. The tax was incurred at the time the telecommunications originated or were received in a taxable manner. The amount of telecommunications charges for which the cards were redeemed by the telephone service providers would include any amount of Telecommunications Excise Tax incurred. The telephone service providers charged the phone calls and the tax against the balance of the cards, as they were responsible for collecting and remitting the tax

As of January 1, 2001, prepaid calling card arrangements are no longer considered telecommunications subject to the Telecommunications Excise Tax. They are now considered to be tangible personal property subject to the Retailers' Occupation Tax Act and the Use Tax Act, regardless of the form in which those arrangements may be embodied, transmitted, or fixed by any method now known or hereafter developed. The 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 at a rate of 6.25%. Under the Use Tax Act, a tax is imposed upon the privilege of using in this State tangible personal property purchased at retail from a retailer. The Use Tax Act applies when tangible personal property is purchased anywhere at retail. In essence, the retailer collects the Use Tax from the customer to reimburse it for the Retailers' Occupation Tax paid by it to the State. The Use Tax rate is also 6.25%. Some counties and municipalities have different local occupation rates. The tax rate is 7% in Cook County for both the Retailers' Occupation Tax and the Use Tax.

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).

Very truly yours,

Richard S. Wolters
Associate Counsel

RSW:mzk