

Pending amendments to Section 130.2145 explain when charges for banquet room rentals made in conjunction with the provision of food and beverages are a component of /gross receipts subject to tax. (This is a GIL.)

September 15, 2008

Dear Mr. Xxxxx:

This letter is in response to your letter dated July 23, 2008 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:

Each year our group holds a duplicate bridge tournament at the LOCATION.

For this tournament we rent the ballroom. We fill the room with 120 card tables. We purchase from the hotel 3 gallons of coffee which the players can take – at no charge. No other food and/or beverage is purchased or offered.

I've spoken with a REPRESENTATIVE at 217-524-0532 in the sale tax department. She referred me to ST 06-0191-GIL and advised because we served coffee the room would be subject to a 'room sales tax'. She then suggested we write you for a closer look and clearer clarification.

It's our belief when a room is rented for the 'purpose' of eating and/or cocktail party (wedding – corporate dinner etc) is much different than when you fill the room with card tables and the purpose is clearly for playing cards. The coffee is a minor hospitality gesture.

At the time this subject was debated between the State of Illinois and hoteliers there were concerns. I'm attaching a report noting some of the concerns. I would like to point out the debate covered some of our concerns. 1) why/purpose the room was rented and 2) the confusion over how much food and beverage was needed to trigger the room rental sales tax.

We are faced with another challenge with the LOCATION.

We also rent a hospitality room. There is no bed or any sleeping arrangements. We purchase no food/beverage from the hotel. Whatever snacks are eaten we bring them in. The question is: Is the room subject to a room rental tax and/or room rental sales tax? It's our understanding a room rental tax can't be charged unless it is used to sleep in – and – since no food/beverage was purchased from the hotel no room rental sales tax can be charged. Please clarify.

I hope I've properly outlined our concern and provided all the information needed for a legal opinion on both issues.

DEPARTMENT'S RESPONSE

The questions you ask in your letter concern the application of the Retailers' Occupation Tax to charges for banquet room rentals that are made in connection with the sale of food and beverages.

The Department recently proposed a regulation regarding these issues. A copy is attached for your information. This regulation will soon be published in the Illinois Register for First Notice.

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,

Jerilynn T. Gorden
Deputy General Counsel – Sales and Excise Taxes

JTG:msk
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