

Organizations possessing "E" numbers issued by the Department are exempt on purchases used in furtherance of organizational purposes. See 86 Ill. Adm. Code 130.2007. (This is a GIL.)

July 8, 2009

Dear Xxxxx:

This letter is in response to your letter dated February 16, 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:

A local service station in VILLAGE, Illinois switched from purchasing their fuel from COMPANY to BUSINESS. The VILLAGE is purchasing gas and diesel fuel for our vehicles from this station. The village has been able to obtain a fleet credit card from each of the above oil companies. When I applied for each credit card, I sent a copy of our tax exempt letter for Retailers' Occupation Tax (sales tax) to each oil company.

COMPANY had our account set up correctly, Illinois Sales and Federal Excise taxes were not charged to the VILLAGE. However, BUSINESS is only deducting the Federal Excise tax and stated that they have an agreement with the Illinois Department of Revenue that they do not have to deduct the state sales or municipal sales taxes on their credit card statements.

Is this correct? Is BUSINESS exempt from deducting state and local sales taxes on fuel purchases that a municipality or any exempt entity would make on a fleet credit card?

I am a former Revenue Auditor with the Illinois Department of Revenue and stated this to the tax representative with BUSINESS. I conveyed to her that she was incorrect and that BUSINESS was required by Illinois Statute to deduct state sales taxes. She was persistent that BUSINESS had an agreement with the Illinois Department of Revenue that they do not have to deduct the sales tax from our purchases. I am also aware that

for BUSINESS would have to acquire a letter ruling from the Illinois Department of Revenue stating that BUSINESS is exempt from deducting state and municipal sales taxes from sales to tax exempt entities. I am asking BUSINESS for a copy of the letter ruling.

I am enclosing a copy of our tax exempt letter and await your reply to the above issue.

DEPARTMENT'S RESPONSE:

We are unable to issue the ruling you have requested. However, we hope the following information is helpful.

Section 2-5 of the Retailers' Occupation Tax provides that tangible personal property sold to a governmental body for use in furtherance of its governmental purposes is exempt from tax. An identical exemption from Use Tax is found in Section 3-5(4). However, these sections additionally provide that on and after July 1, 1987, "no entity otherwise eligible for this exemption shall make tax-free purchases unless it has an active identification number issued by the Department." The Department issues tax exemption identification numbers ("E" numbers) to exempt entities (e.g., charitable, religious or educational organizations or governmental bodies). An exempt organization must present its E number to a retailer when making purchases in order to document its tax exempt status. Retailers record the E number instead of collecting Use Tax on sales tax exempt purchasers. Provision of a Department-issued E number to a retailer is the statutorily-mandated procedure an exempt entity must follow in order to document exemption from tax. These procedures are more fully explained in our administrative regulations at 86 Ill. Adm. Code 130.2080.

Your letter indicates that the Village uses a fleet credit card to make purchases of motor fuel. The use of fleet cards can sometimes complicate transactions for the exempt purchase of motor fuel, since tax is included in the pump price. This is especially so if the card issuer is not also the seller of motor fuel. In your letter, however, you appear to indicate that the fleet card is issued by the seller of the motor fuel. We would direct your attention to General Information Letter ST 01-0094-GIL (06/07/2001) that discusses documentation of tax-exempt sales of motor fuel.

I hope that 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,

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

JTG:msk