

This letter discusses tax on food, drugs and medical appliances. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

August 31, 2009

Dear Xxxxx:

This letter is in response to your letter dated August 13, 2009, 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](http://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:

I'm a tax researcher and I have a few questions about the recent Sales and Use Tax changes affecting candy, personal grooming and hygiene products, and soft drinks.

The new definition of soft drinks does not address the tax implications of soft drink mixes (i.e., Tang or fruit flavored soft drink mixes) as the previous definition, described in Regulation 130.310(b)(5), did. Under the former definition, soft drink mixes were NOT soft drinks, and thus subject to the low rate as food.

- Could you please verify whether soft drink mixes are still considered low rate or are they now included in the definition of a soft drink?

The state has also adopted a new definition of grooming and hygiene products.

- Are contact lens solutions defined as a grooming and hygiene product or a medical appliance?
- Is the increase limited to adult grooming and hygiene products, medicated and non-medicated, or does it extend to medicated infant hygiene products and medicated feminine hygiene products?

- Are denture adhesives defined as a medical appliance or a grooming and hygiene product?

Finally, under Section 130.310(c)(D), lip balm was described as a medicinal product and subject to the low rate.

- Due to the current definition changes, is lip balm still a medicinal product or a grooming and hygiene product?

Thank you very much for your time and patience in the above matter.

## **DEPARTMENT'S RESPONSE:**

### Soft Drinks

Beginning September 1, 2009, "soft drinks" mean non-alcoholic beverages that contain natural or artificial sweeteners; but "soft drinks" do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume. (See Public Acts 96-34, 96-37, and 96-38 and 35 ILCS 120/2-10).

Powdered soft drink mixes are not beverages, and thus, does not fall within the new definition of "soft drinks."

### Grooming and Hygiene Products

The tax changes going into effect September 1, 2009, provide that grooming and personal hygiene products for humans are taxed as general merchandise (high rate) whether or not they make medicinal claims, unless available by prescription only.

1. Contact lens solutions: Contact lens solutions are grooming and hygiene products.
2. Feminine hygiene products such as tampons and pads, are grooming and hygiene products and subject to tax at the high rate. We are unable to answer your inquiry regarding "medicated infant and medicated feminine hygiene products" without specific information regarding these products.
3. Denture adhesives: Denture adhesives are not grooming and hygiene products and are subject to tax at the low rate.
4. Lip balm: Lip balms are grooming and hygiene products.

I hope this information is helpful. If you require additional information, please visit our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Debra M. Boggess  
Associate Counsel