

ST 15-0116 (GIL) October 28, 2015 SALE OF SERVICE

If no tangible personal property is transferred to the customer, then no Illinois Retailers' Occupation Tax or Service Occupation Tax would apply. See 86 Ill. Adm. Code Parts 130 and 140. (This is a GIL.)

October 28, 2015

Dear Xxxxx:

This letter is in response to your letter dated October 16, 2015, 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:

We are contemplating opening up a commercial business entity in your state for the purpose of owning and operating a ABC CLUB.

One important component of our proposed business is to provide crew (rowing) lessons to children and adults. Our business entity will provide all of the equipment and the training coaches as may be necessary to provide such crew lessons. Anyone wanting to learn about the sport of rowing can pay a participant fee and enter one of our programs. All programs and lessons will be staffed by a coach. There will be no membership fees, no initiation fees, no sign-up/registration fees and no dues required to participate in our programs.

While programs vary in content, they will all be focused on rowing, both on and off the water. Programs will be held either on the water neighboring our facility or indoors in our facility. Our programs range in length from 2 to 12 weeks and may be held anywhere from 2 to 6 days per week. We operate similar row clubs

in many states and some of those jurisdictions consider our rowing lessons as subject to sales tax.

We seek your advice as to whether or not our business activity of providing rowing lessons to children and adults is subject to state or local sales tax AT THIS LOCATION.

**DEPARTMENT'S RESPONSE:**

The Illinois 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. 86 Ill. Adm. Code 130.101. The Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased at retail from a retailer. 86 Ill. Adm. Code 150.101. If no tangible personal property is being transferred to the customers, then neither Illinois Retailers' Occupation Tax nor Use Tax would apply. Likewise, the Service Occupation Tax Act and Service Use Tax are imposed on the transfer of tangible personal property incident to sales of service. 86 Ill. Adm. Code 140.101 and 160.101. Depending on the nature of the transaction, Service Occupation Tax or Service Use Tax could apply, but if no tangible personal property is being transferred to participants incident to the services being provided, then neither Illinois Service Occupation Tax nor Service Use Tax would apply.

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.]

Sincerely,

Debra M. Boggess  
Associate Counsel

DMB:ej

