

The Watercraft Use Tax is a privilege tax imposed on the privilege of using, in this State, watercraft acquired by gift, transfer, or non-retail purchase after September 1, 2004. 86 Ill. Adm. Code 153.105. (This is a GIL.)

March 2, 2010

Dear Xxxxx:

This letter is in response to your undated letter received by the Legal Services Office on August 14, 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:

My name is NAME, I am Hungarian citizen and I live in Hungary. In February 2009 I purchased a sailboat on Ebay. The sailboat is still in the state of Michigan. I would like to register and title this sailboat in the state of Illinois and use it there but to make the registration I have to take care of the taxes related to this sailboat. My case is a little bit complicated because I am Hungarian, I do not live in the USA and I do not have Social Security Number either. I only go to Illinois for vacations. In my case how does the tax work?

Some details about the watercraft:

29 feet sailboat, 1971, purchase price was \$5,000.00, I bought it from the previous owner directly.

Could you please tell me how would it be possible to pay the taxes and how much it would be?

My stepdaughter lives in CITY so please, consider her address as my mailing address:

ADDRESS

My permanent address in Hungary is:

ADDRESS

I am looking forward to hear from you.

#### **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. See 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See 86 Ill. Adm. Code 150.101. These taxes comprise what is commonly known as "sales" tax in Illinois. If the purchases occur in Illinois, the purchasers must pay the Use Tax to the retailer at the time of purchase. The retailers are then allowed to retain the amount of Use Tax paid to reimburse themselves for their Retailers' Occupation Tax liability incurred on those sales. If the purchases occur outside Illinois, purchasers must self assess their Use Tax liability and remit it directly to the Department.

A person does not incur Retailers' Occupation Tax liability on the gross receipts from an isolated or occasional sale. See 86 Ill. Adm. Code 130.110 regarding "Occasional Sales." Consequently, the purchaser of that tangible personal property does not incur a corresponding Use Tax liability on that purchase. See 86 Ill. Adm. Code 150.101(d). As a general proposition, the occasional sale exemption is only available when a person (as defined in Section 1 of the Retailers' Occupation Tax Act, 35 ILCS 120/1) purchases an item and then, after using the item, disposes of it by selling it. See 86 Ill. Adm. Code 130.110. However, the sale will not qualify as an isolated or occasional sale if the person holds himself out as being engaged in the retail sale of that item or similar type of tangible personal property.

Even though a purchaser may not incur a Use Tax liability on a purchase of tangible personal property in an occasional sale transaction, the purchaser of specific types of tangible personal property may still incur a tax liability in this State under the Aircraft Use Tax Law (35 ILCS 157/10-1 et. seq.), Watercraft Use Tax Law (35 ILCS 158/15-1 et. seq.), or Vehicle Use Tax (625 ILCS 3/3-1001 et. seq.).

The Watercraft Use Tax is a privilege tax imposed on the privilege of using, in this State, watercraft acquired by gift, transfer, or non-retail purchase after September 1, 2004. The tax is imposed on the use of watercraft in this State regardless of whether the watercraft is actually registered under the Boat Registration and Safety Act. The rate of tax is 6.25% of the purchase price for each watercraft that is subject to tax under the Law. 35 ILCS 158/15-15. However, the purchase price shall not be less than the fair market value of the watercraft on the date the watercraft is purchased or the date the watercraft is brought into the State, whichever is later, unless the purchaser can document that a different value is reasonable. See 86 Ill. Adm. Code 153.110. The Watercraft Use Tax does not contain an exemption for isolated or occasional sales.

Watercraft Use Tax is reported on Form RUT-75, Aircraft/Watercraft Use Tax Transaction Return. This form is a multi-part (carbon) form that is not available on the Department's website. To obtain this form, please call the Department's Forms Order Hotline at 1-800-356-6302.

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

DMB:msk