

ST 10-0020-GIL 03/19/2010 EXEMPT ORGANIZATIONS

Exclusively religious, educational, or charitable organizations that have an exemption number issued by the Department are allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.2005. (This is a GIL.)

March 19, 2010

Dear Xxxxx:

This letter is in response to your letter dated October 21, 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 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 am a teacher at SCHOOL, a non-profit private school. We have 501(c)(3) federal tax status and have been assigned an 'e' number as a non-profit in the State of Illinois.

My question requires a little background. This year we have started a new class called 'NAME'. Students are learning about owning and operating a business of their own. They will learn management skills, marketing, sales and accounting. As a part of the class, the students have decided that they would like to put into practice some of the things they are learning. They plan to mirror a business within our school. They will set up a coffee shop within our building and sell to other students and faculty coffee, juice, muffins one hour before and one hour after school each day. Funds raised will be used to replenish supplies and enhancement of the class project. They are not in business to make a profit, employ anyone or to sell outside of our school family. This is an educational project.

My question is, do we need to charge sales tax and file quarterly sales tax returns?

If you have any questions, please call me on my cell phone, or leave a message at the school.

DEPARTMENT'S RESPONSE:

Although we cannot give you a specific answer in the form of a General Information Letter, we hope you find the following helpful.

The Illinois Retailers' Occupation Tax is imposed upon the total gross receipts received by retailers who make sales of tangible personal property to Illinois end users. Unless the sales are specifically exempted, such retailers must collect and remit the sales tax. See 86 Ill. Adm. Code 130.101.

While organizations that have received an "E" number are, as a general matter, subject to Retailers' Occupation Tax upon their own sales of tangible personal property, there are three limited exceptions where such organizations are authorized to engage in a restricted amount of retail selling activity without incurring Retailers' Occupation Tax liability. Organizations that hold exemption numbers may engage in (1) sales to members, etc., (2) noncompetitive sales, and (3) certain occasional dinners and similar activities, without incurring Retailers' Occupation Tax liability. See 86 Ill. Adm. Code Sections 130.2005(a)(2) through 130.2005(a)(4).

If your school only sells to students and faculty, it appears you may fall within the exception for sales limited to members, etc.

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.

Very truly yours,

Debra M. Boggess
Associate Counsel

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