

Section 4 of the Telecommunications Excise Tax provides that the tax is not imposed “on the act or privilege [of originating or receiving telecommunications] to the extent such act or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by the State.” To the extent to which consular officials enjoy tax exemption pursuant to the Vienna Convention on Diplomatic and Consular Relations, the Illinois Telecommunications Excise Tax should not be imposed by carriers who are otherwise required to collect the tax. (This is a GIL).

August 13, 2010

Dear Xxxxx:

This letter is in response to your letters dated June 16, 2010 and July 20, 2010, 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. The two letters you submitted were basically identical. As a result, this GIL will serve as a response to both letters. In your letter of June 16, 2010 you have stated and made inquiry as follows:

The AGENCY is responsible for administering the Diplomatic Tax Exemption Program in the eight-state Midwest Region. Recently, we have been in communication with COMPANY regarding the eligibility for tax exemption from the State of Illinois Telecommunications Excise Tax of a consular officer assigned to the Consulate General of the REPUBLIC in Chicago.

My office provided COMPANY with a copy of the attached letter, dated October 20, 1992, from the Illinois Department of Revenue’s Legal Services Bureau to support the consular officer’s tax exempt status. However, COMPANY has requested a more recent statement from IDOR before rectifying their error.

Therefore, we would like to confirm the finding in the attached letter, that foreign officials who enjoy tax exemption under the Vienna Convention on Consular Rights [sic: Relations] are not subject to taxes such as the Illinois Telecommunications Excise Tax.

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 information helpful:

The Illinois Telecommunications Excise Tax Act ("Act"), 35 ILCS 630/1 et seq., imposes a tax upon the act or privilege of originating or receiving interstate or intrastate telecommunications by persons in Illinois who have purchased such telecommunications at retail from a retailer.

Section 4 of the Act provides, however, that "such tax is not imposed on the act or privilege to the extent such act or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by the State." 35 ILCS 630/4.

In accordance with Section 4 of the Act, to the extent that consular officials enjoy tax exemption pursuant to the Vienna Convention on Diplomatic and Consular Relations, the Illinois Telecommunications Excise Tax should not be imposed by carriers who are otherwise required to collect the tax.

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,

Jerilynn Troxell Gorden
Deputy General Counsel, Sales and Excise Taxes