

If a seller receives a reimbursement or rebate for a discount, the amount of that reimbursement or rebate is considered part of the gross receipts received by the seller and is subject to Retailers' Occupation Tax. If a seller provides a discount to a purchaser and does not receive a reimbursement or rebate for that discount, only the (discounted) amount received by the seller is taxable. See 86 Ill. Adm. Code 130.2125. (This is a GIL.)

August 16, 2010

Dear Xxxxx:

This letter is in response to your letter dated July 9, 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. In your letter you have stated and made inquiry as follows:

COMPANY and its affiliates respectfully request formal guidance regarding the taxability of manufacturer and third party rebates as discussed below.

Facts

In an effort to promote the benefits of buying a new energy efficient appliance, appliance manufacturers, as well as utility companies, will offer customers a rebate upon the purchase of a qualifying appliance. In order to receive the rebate, customers are generally required to submit an approved rebate form, along with proof of purchase, to the third party (either the appliance manufacturer or utility company) that is offering the rebate. After the documentation has been received and verified, the third party providing the rebate will then submit a check directly to the qualifying customer.

However, in an attempt to expedite the rebate process, retailers, such as COMPANY, have agreed to provide customers with instant point of sale rebates. Thereby, customers are no longer required to submit rebate forms and purchase documentation to third parties that are providing the rebate. Instead, the retailer will be responsible for submitting the necessary sales documentation to the third party and upon approval of

the documentation, the third party will reimburse the retailer for the instant point of sale rebate the retailer provided to the customer.

For example, COMPANY's retail selling price for a certain qualifying energy efficient appliance is \$1,000. Upon purchasing the qualifying appliance, a customer will receive a \$100 instant point of sale rebate. The amount of the applicable rebate will be identified and separately itemized on the customer's receipt. After submitting the appropriate sales documentation to the participating third party (either the appliance manufacturer or utility company), COMPANY will be reimbursed by the third party for the \$100 point of sale rebate COMPANY provided to the customer.

Issue(s)

- (1) If COMPANY is reimbursed by an appliance manufacturer for the point of sale rebate COMPANY provided to a customer who purchased a qualifying energy efficient appliance, should COMPANY charge sales tax on the \$1,000 retail selling price or on the \$900 net selling price (\$1,000 retail selling price less \$100 rebate)?
- (2) If COMPANY is reimbursed by a utility company for the point of sale rebate COMPANY provided to a customer who purchased a qualifying energy efficient appliance, should COMPANY charge sales tax on the \$1,000 retail selling price or on the \$900 net selling price (\$1,000 retail selling price less \$100 rebate)?
- (3) Would the application of the sales tax in issue number 2 above be treated any differently if the money used by the utility company for the rebate program was funded by a state or local government agency? For example, the utility company would reimburse COMPANY through special funding obtained from the State's Public Utility Commission?
- (4) If COMPANY is reimbursed directly from a state or local government agency for the point of sale rebate COMPANY provided to a customer who purchased a qualifying energy efficient appliance, should COMPANY charge sales tax on the \$1,000 retail selling price or on the \$900 net selling price (\$1,000 retail selling price less \$100 rebate)?

Thank you for your time and consideration with respect to this issue. Please contact me if you have any questions or need any additional information.

DEPARTMENT'S RESPONSE:

Gross receipts subject to Retailers' Occupation Tax are defined as all the consideration actually received by the seller, except traded-in tangible personal property. See 86 Ill. Adm. Code 130.401. If a seller receives a reimbursement or rebate for a discount, the amount of that reimbursement or rebate is considered part of the gross receipts received by the seller. This amount is fully taxable. See 86 Ill. Adm. Code 130.2125. If a seller provides a discount to a purchaser and does not receive a reimbursement or rebate for that discount, only the (discounted) amount received by the seller is taxable. See 86 Ill. Adm. Code 130.2125.

Rebates received by a retailer from a manufacturer or a utility company, whether or not the utility obtained the funds from the State, would generally be considered part of gross receipts and fully taxable.

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,

Richard S. Wolters
Associate Counsel

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