

A person who purchases tangible personal property for the purpose of giving it away makes a taxable use of the property and incurs Use Tax upon such purchase. See 86 Ill. Adm. Code 150.305(c). (This is a GIL.)

October 11, 2010

Dear Xxxxx:

This letter is in response to your letter dated September 28, 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](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 client is a restaurant that from time to time compliments meals and drinks to it's [sic] customers. We are asking for a letter ruling as to do we pay use tax on the full amount of the price of the meal or on the cost of the meal.

**DEPARTMENT'S RESPONSE:**

When retailers take an item from inventory and "use" the item, a Use Tax liability is incurred. This would be the case, for example, where a retailer takes an item from inventory and makes a gift of it to someone. In that instance, the retailer (donor of the gift) is deemed the end user of the property and is subject to the Use Tax on his cost price of the item, rather than the normal selling price of the item. The donee in a gift situation incurs no Use Tax liability. See 86 Ill. Adm. Code 150.305(c); see also 86 Ill. Adm. Code 130.2125(c) concerning "Gift Situations." The donor may satisfy this Use Tax obligation either by paying tax to his supplier or by self-assessing Use Tax and paying directly to the Department.

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.

Jerome I. Wright & Associates, Inc.

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Very truly yours,

Richard S. Wolters  
Associate Counsel

RSW:msk