

Please be advised retail sales made directly to Medicare and Medicaid are exempt from tax as sales to a government body so long as the exemption is properly documented. See 86 Ill. Adm. Code 130.2080(a). (This is a GIL.)

September 13, 2011

Dear Xxxxx:

This letter is in response to your letter dated August 24, 2011, 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:

The purpose of this letter is to request information regarding the application of Illinois sales tax to sales of medical supplies made to Medicare patients. Specifically, we are requesting a **General Information Letter** regarding the application of Illinois sales tax on sales of medical supplies to patients covered under Medicare Part A and Medicare Part B.

Based on previous GILs issued by the Department specifically addressing Medicaid and Medicare patients (ST 10-0098-GIL, ST 09-0141 GIL, and ST 99-0147-GIL), we understand that sales made to the federal government are exempt from tax as sales made to a government body. Such exempt sales must be documented through the use of an active exemption identification number.

Under the traditional Medicare and Medicaid plan, sales made to Medicare and Medicaid are exempt from tax as sales to a government body. No tax is due on payments made directly to vendors by Medicare or Medicaid. However, tax is due upon any portion of the bills paid by individuals not covered by Medicare or Medicaid. (See ST 09-0141 GIL) While the statement extracted from the GIL may be read in one of two ways, it appears that the Department means to associate 'not covered by Medicare or Medicaid' to the 'portion of the bills paid' and not to the 'individuals'.

Under Medicare Part A, all payments are made by the federal government directly to the provider/vendor. However, under Medicare Part B, payments are made by the federal government either to the patient or directly to the provider/vendor. Medicare Part B patients are covered by Medicare, irrespective of whether payments under Medicare Part B are paid to the provider/vendor or the patient.

For example, Patient X is covered under Medicare Part B where Medicare pays the vendor directly. Patient Y is covered under Medicare Part B where Medicare pays the patient. Both patients 'purchase' \$100 of medical supplies. Medicare will pay 80% of the charge or \$80 – either directly to the vendor for Patient X or to the patient for Patient Y.

We look forward to your clarification of the treatment of sales made to Medicare patients. If you require any additional information, please call me.

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. Please note that medicines and medical appliances are not taxed at the normal rate of 6.25%. These items are taxed at a lower rate of 1%. See the Department's regulation at 86 Ill. Adm. Code 130.310 which can be found on the Department's website.

Under the traditional Medicare and Medicaid plan, sales made directly to Medicare and Medicaid are exempt from tax as sales to a government body so long as the exemption is properly documented through provision of an active exemption identification number. See 86 Ill. Adm. Code 130.2080(a). While no tax may be due on payments made directly to vendors by Medicare, Medicaid, or the Illinois Department of Healthcare and Family Services, tax is due upon any portions of bills paid by individuals or private insurance companies not covered by Medicare, Medicaid, or the Illinois Department of Healthcare and Family Services. This means, for example, when Medicare directly pays 80% of the medical bill and the remaining 20% is billed to the patient or his insurance company, assuming proper documentation of the exemption, the 80% is tax exempt as a governmental payment while the 20% is taxable. 86 Ill. Adm. Code 130.2005 and 130.2007.

It is important to note that payments will only be exempt from tax when they are paid directly to the provider/vendor by the government agency that has been issued an active exemption identification number by the Department. It is not enough that a payment to the provider/vendor is made by a patient or insurance company and then the patient or insurance company is reimbursed by the government agency.

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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