

This letter discusses taxation of purchases of printing paper by Illinois printer customers. See 86 Ill. Adm. Code Sections 130.1405 and 130.2105. (This is a GIL.)

February 29, 2012

Dear Xxxxx:

This letter is in response to your letter dated February 5, 2012, 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:

Per discussion with the Illinois Department of Revenue customer service department it is my understanding that the legal office will provide guidance regarding sales tax issues as they relate to the current state law. Below are the facts of the situation.

Facts

We are a wholesale distributor of fine paper products. A prospective customer within Illinois informed us they were a printer of newspapers for various customers and were tax exempt under Section 130.325 Graphic Arts Machinery and Equipment Exemption. They also provided a statement declaring they are a sub-chapter S small business corporation formed solely for the purpose of printing newspaper and do not sell retail and do not have a resale number. Additionally they stated that in Illinois newsprint and ink used in the production of the newspaper is tax exempt. Upon investigation we confirmed they were not registered with the State of Illinois.

Review

Upon review of the statues [sic] it was clear to us that paper does not fall under the Graphic Arts Machinery and Equipment Exemption. The confusion on whether or not sales to this potential customer are taxable falls to the attached statues. [sic] 35 ILCS 105/2 specifically states 'The purchase, employment and transfer of such tangible

personal property as newsprint and ink for the primary purpose of conveying news (with or without other information) is not a purchase, use or sale of tangible personal property.’. However, Section 130.2105 ‘Sellers of Newspapers...and their Suppliers’ Part b 1) states ‘Persons who engage in selling equipment and supplies...incur Retailers’ Occupation Tax liability when making such sales’. Part b 2) goes on to say ‘However, suppliers of persons who sell newspapers,do not incur Retailers’ Occupation Tax liability when selling tangible personal property to such persons for **RESALE.**’. It then specifically states paper falls into this group. Based on the resale scenario and the fact they are not registered with the state it is our understanding under Section 130.1405 Seller’s Responsibility to Obtain Certificates of Resale....Part D that we must get proof that the item was resold including an invoice to their customer showing a resale event.

Based on the facts above we need to know if the newsprint paper we would sell to this customer automatically [sic] tax exempt or do we have to have proof of resale on every order? As stated the customer has provided us a letter stating they do not sell resale and they only print various local newspapers. The customer has declined to provide us with further documentation including invoices. At this time we are not selling to this customer as we want clarification on this issue.

DEPARTMENT’S RESPONSE:

Generally, items such as paper and ink that are purchased by a customer that is in the business of graphic arts production are being purchased for resale and would qualify for the resale exemption from sales tax.

When retailers buy tangible personal property from vendors that they will resell to purchasers, they may purchase such items tax-free by providing their vendors with properly executed Certificates of Resale. See the Department’s regulation at 86 Ill. Adm. Code 130.1405, which describes the requirements for Certificates of Resale. A sale may be made tax-free if the purchaser has an active registration number or resale number from the Department and furnishes that number to the seller in connection with certifying to the seller that any sale to such purchaser is nontaxable because of being a sale for resale. (35 ILCS 120/2c). Failure to present an active registration number or resale number and a certification to the seller that a sale is for resale creates a presumption that a sale is not for resale. This presumption may be rebutted by other evidence that all of the seller's sales are sales for resale, or that a particular sale is a sale for resale.

Another exemption from sales tax that may be available to purchasers of printing paper is the Newsprint and Ink exemption. When publishing companies purchase paper and ink for use in printing magazines or newspapers, these items may be purchased tax-free under the Newsprint and Ink exemption. See 86 Ill. Adm. Code 130.2105(b)(2). Purchasers of newsprint and ink must provide their suppliers with a certification that the purchases are exempt under the Newsprint and Ink exemption because they will be physically incorporated into newspapers or magazines.

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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