

Stamped or unstamped cigarette packages may be sold or transferred between licensed cigarette distributors. See FY 2012-09. (This is a GIL.)

June 15, 2012

Dear:

This letter is in response to your letter dated December 20, 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:

COMPANY1 Inc. is an Illinois corporation, which operated as a cigarette sub-jobber in the CITY1 area from 19XX through 19XX. In 19XX, we achieved direct distributor status, and continued as such for the following XX years. Then, in 20XX, COMPANY2 implemented a new pricing structure, based on each distributor's share of market, which resulted in a substantial increase in our cost of their products; leaving us unable to compete in our market. At that time, our choices were either to stop selling COMPANY2 (40% of our business) or to find another source. Subsequently, we negotiated with another Illinois distributor to purchase our COMPANY2 products from them at a considerably lower price, allowing us to remain somewhat competitive. Since that time, we have continued this practice with various Illinois distributors.

After we became a direct distributor, we applied for and received a STATE cigarette license, since our CITY2 location was only TIME from the STATE border. We believe it's noteworthy that we made a conscious decision to conduct our business solely in Illinois, hoping it would simplify both our pricing and all of our reporting requirements. Accordingly, for the past twenty years, we have complied with all of the rules and regulations, required by the state. All of our returns and reports have been filed accurately and in a timely fashion. And we have always been co-operative [sic] with all State agencies at all times.

In 2008, as far as we understand, the State decided to re-interpret the law, which would ban us from purchasing any cigarettes from another licensed Illinois distributor. Enforcement of such a ban would bring us back to our 20XX situation, virtually assuring our demise, since all of our sales are made to retailers in Illinois. Therefore, we hereby request a Private letter ruling which would allow COMPANY1., Inc. (a licensed Illinois distributor) to continue to purchase Illinois stamped cigarettes from other licensed Illinois distributors, providing we continue to accurately report such transactions, and

comply with all other rules and regulations, governing such transactions. To the best of our knowledge, this ruling would be of benefit to us, with absolutely no adverse effect on any other party.

DEPARTMENT'S RESPONSE:

The Department recently posted Informational Bulletin FY 2012-09 on its website. It supersedes, in part, Informational Bulletin FY 2009-03 regarding distributor-to-distributor sales of packages of cigarettes. Informational Bulletin FY 2012-09, in part, states:

“May cigarette packages be sold or transferred between distributors?”

Yes. Stamped or unstamped cigarette packages may be sold or transferred between licensed cigarette distributors. The sale or transfer must be accounted for on the cigarette distributor's monthly tax returns and schedules.”

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