

ST 13-0030-GIL 06/11/2013 RETURNS

A manufacturer or wholesaler whose products are sold by numerous distributors in Illinois may assume the responsibility of collecting and remitting Retailers' Occupation Tax on behalf of all sales made by those distributors under the provisions of 86 Ill. Adm. Code 130.550. See 86 Ill. Adm. Code 130.550. (This is a GIL.)

June 11, 2013

Dear:

This letter is in response to your letter dated May 16, 2013, 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:

Our COMPANY registered to collect sales tax in Illinois. We are a Direct Sales Company, using Independent Consultants to sell our products. We offer a cash and carry system, but the Consultant also has a company sponsored website through which their customers can order.

When the Consultants orders, they buy at a discount but are taxed on the retail value of the item. They should collect the sales tax from the client at the time of purchase. If they have a home party, tax is collected from that location.

If the client buys on the Consultant's website, they pay full retail price and pay sales tax. They are taxed according to their zip code.

I filed for December 2012 and have been asked to amend three times. I was told to use line 4-A and 6-A. No one seems to know what line we need to file on. I was told there used to be a form we needed to sign, but no one knew where to find it. Is that form Reg/RR-80, which was found using Google?

Please advise on which line we are to file on.  
Please advise if we should file form Reg/RR-80.

**DEPARTMENT'S RESPONSE:**

The Retailers' Occupation Tax Act, 35 ILCS 120/1 *et seq.*, imposes a tax upon persons engaged in the business of selling tangible personal property at retail. The State tax rate is 6.25% of gross

receipts for most items, and a lower rate of 1% for qualifying food, drugs and medical appliances. Local occupation taxes may also be applicable.

Information concerning the "Filing of Returns for Retailers by Suppliers Under Certain Circumstances" may be found at 86 Ill. Adm. Code 130.550. This regulation explains that manufacturers, importers or wholesalers can enter into an "agency agreement" with the Department, whereby they register, file returns and remit Retailers' Occupation Tax on behalf of their local distributors. Please note that such arrangement must be accepted by the Department and is subject to any written objections of the retailers that would be affected.

The Agency Agreement (RR-80) may be used to obtain approval of such an arrangement with the Department. Under this type of agreement, the manufacturers, importers or wholesalers sell products to local distributors and collect tax from the distributors based upon the selling price to the ultimate consumers. The applicable tax is not based upon the sale to the local distributors. The appropriate tax must be collected for the sale to the distributors' ultimate customers, which includes State and any applicable local tax. In general, the determination of any local tax liability will depend on the location where the purchase order is accepted from the ultimate customer. See 86 Ill. Adm. Code 270.115.

When manufacturers, importers or wholesalers operate under this type of agency agreement, the local distributors need not register, file returns or remit taxes since the manufacturers, importers or wholesalers have agreed to this responsibility. The local distributors should, however, retain a copy of the agreement. If they fail to provide such documentation upon demand by the Department, they will be required to register, file returns, and remit the appropriate amount of tax directly to the Department. Distributors who prefer to register and remit their own taxes may opt out of the agency agreement.

Taxpayers may acquire form RR-80 (Agency Agreement) by contacting the Department's Central Registration Unit, attention Manager, located at Illinois Department of Revenue, 101 West Jefferson, Springfield, Illinois 62702.

When sales are made in Illinois, for example, at a home party, State Retailers' Occupation Tax, and any applicable local tax, is due and should be reported on Line 4a. If a sale is made on a web site and the product is shipped to the customer from a warehouse located within Illinois, the sale should be reported on Line 4a and State Retailers' Occupation Tax, and any applicable local tax, paid based on the location of the warehouse. If a sale is made on a web site and the product is shipped from outside of Illinois to a customer in Illinois, the sale should be reported on Line 6a.

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.

Very truly yours,

Richard S. Wolters  
Associate Counsel