

ST 13-0055-GIL 09/19/2013 MUNICIPALITIES

This letter discusses the taxes a retailer must collect in municipalities that have created business districts. See 65 ILCS 5/11. (This is a GIL.)

September 19, 2013

Dear Xxxxx:

This letter is in response to your letter dated August 9, 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 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 CITY is in the process of creating its first Business District under the Business District Development and Redevelopment Law. The City Business District Plan and ordinances will establish a 1% Retailers' Occupation Tax.

One of the retailers who will be located in the new Business District has indicated they do not have any objections in paying the 1% tax; but they do not want to charge the 1% tax off to their customers. Instead the retailer has proposed to track the sales attributable to the new 1% tax and utilize their own money to cover the payment of the sales tax to the Illinois Department of Revenue.

I spoke to an IDOR employee in local taxes regarding this matter. After reviewing the Business District law, the individual indicated the law was not specific on this issue. He suggested I contact your office and request a ruling on this matter.

I would appreciate your assistance with this issue. Should you have any questions or need clarification, please contact me. I can be reached by telephone. I look forward to receiving your response.

DEPARTMENT'S RESPONSE:

When a retailer commences operations in a business district under the Business District Development and Redevelopment Act, it must pay the additional Retailers' Occupation Tax (up to one percent) to the Illinois Department of Revenue. The statute provides that retailers within the district may reimburse themselves for the additional tax that they owe by separately stating the tax as an additional charge, which may be stated in combination with the taxes that retailers are required to collect under the Use Tax Act. Though retailers in a business district are obligated to pay the additional Retailers' Occupation Tax, the Act does not require that they reimburse themselves for the additional tax. However, a retailer who chooses not to collect reimbursement will still be responsible for paying the additional local tax to the Department of Revenue, and the retailer will still owe tax on his/her gross receipts. *See* 65 ILCS 5/11-74.3-6(b). Please note that this response is limited to the application of the Retailers' Occupation Tax. The Illinois Department of Revenue does not collect or administer business district taxes for persons renting, leasing, or letting rooms in hotels within the district. *See* 65 ILCS 5/11-74.3-6(d).

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,

Cara Bishop
Associate Counsel

CB:msk