

ST 15-0005-GIL 01/09/2015 TOBACCO PRODUCTS TAX: This letter discusses sales of tobacco products other than little cigars for delivery outside of Illinois. 35 ILCS 143. (This is a GIL.)

January 9, 2015

Dear XXXX:

This letter is in response to your letter dated September 9, 2014, 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:

I have OTP license for State of IL #####. According to State of IL law if some one from out of state comes to my location and bring they tobacco license and buy any tobacco products, I have to charge them 36% State of IL OTP tax no matter either he or she is a retailer or wholesaler, but the law I read online which I attached with this letter. According to that I don’t have to charge them any tax long as they bring a resale license and signature a invoice. When I talked to IL Department of Revenue. They said write a letter to legal Department and they will issue you a letter, so kindly please help me to resolve this situation.

DEPARTMENT’S RESPONSE:

A tax is imposed on any person engaged in business as a distributor of tobacco products, at the rate of 36% of the wholesale price of tobacco products sold or otherwise disposed of to retailers or consumers located in this State; except that, beginning on January 1, 2013, the tax on moist snuff shall be imposed at a rate of \$0.30 per ounce, and a proportionate tax at the like rate on all fractional parts of an ounce,

sold or otherwise disposed of to retailers or consumers located in this State. Beginning July 1, 2013, the tax on little cigars shall be imposed at the same rate, and the proceeds shall be distributed in the same manner, as the tax imposed on cigarettes under the Cigarette Tax Act. The tax for little cigars is currently \$1.98 for a package containing 20 little cigars. The tax is not imposed upon any activity in that business in interstate commerce or otherwise, to the extent to which that activity may not, under the Constitution and Statutes of the United States, be made the subject of taxation by this State. The tax is also not imposed on sales made to the United States or any entity thereof. 35 ILCS 143/10-10.

Purchases of tobacco products other than little cigars by wholesalers who will not sell the product at retail are exempt from the tax imposed by this Act. Purchases of tobacco products other than little cigars by wholesalers and retailers for delivery of the product outside Illinois are exempt from the tax imposed by this Act. A person making an exempt sale of tobacco products other than little cigars to a wholesaler or a retailer must document the exemption by obtaining a certification from the purchaser containing the seller's name and address, the purchaser's name and address, the date of purchase, the purchaser's signature, the purchaser's tobacco products tax license number, if applicable, and a statement that the purchaser is purchasing for resale other than for sale to consumers or is purchasing for delivery outside of Illinois. 35 ILCS 143/10-15.

If you have any questions regarding tax-exempt sales of little cigars, you will need to send us another request for information.

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

RSW:ikm