

If lessee, under a true lease, agrees to reimburse the lessor for its Use Tax liability and lessee subsequently buys the leased vehicle, the lessee owes sales tax on his purchase price of the car. See 86 Ill. Adm. Code 130.2010(b) and 86 Ill. Adm. Code 130.2013(h).

November 2, 2016

Dear Xxxxx:

This letter is in response to your letter dated August 29, 2016 in which you requested 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:

Please clarify part of the tax code for me. I am a consumer that leased a car in MONTH of 20XX (copy of the 556 for enclosed). At the time, I paid almost \$2,000 in taxes according to the way the law was previous to the 2015 changes. Now, I'd like to purchase the car using the buyout provision of the lease.

The dealer is telling me that I would need to pay taxes on the purchase, but I don't agree. According to the instructions for form ST-556 on section 6, row 10, they should be allowed to take a credit based on the previous tax paid. And it seems to me that they should pass this credit to me since I paid the original tax. This same scenario occurred the last time I purchased a leased vehicle: the dealer had me fill out a form and they credited back most of the taxes based on the fact that I had paid them when I took the lease. This was in Illinois also and I've attached the 556 for that transaction as well.

#### **DEPARTMENT'S RESPONSE:**

In Illinois, persons who rent or lease the use of tangible personal property under true leases owe Use Tax "up-front" on the cost price of the equipment which is rented. See 86 Ill. Adm. Code 130.2010(b). True leases are those leases in which persons may "walk away" from the lease at the end of the lease term, or purchase the leased item at fair market value. As a result, the leasing company owed Use Tax up-front on the cost price of the car. It cannot

charge you a "tax", but many times lessors will require, in the lease agreement, that the lessee "reimburse" the lessor for the taxes which the lessor will incur on the leased vehicle.

Your letter mentions that you paid the original tax on the car that you leased. We cannot determine the exact nature of your transaction without reviewing the contracts. However, it is likely that you agreed to reimburse the lessor for his Use Tax cost. Illinois tax laws do not require a lessee, under a true lease, to pay any Use Taxes to a lessor. If your agreement contained such a provision, it is likely that you paid these costs, rather, as reimbursement pursuant to the terms of a private contract between yourself and the leasing company.

When the company sells a lessee a car at the end of the lease period, it incurs Retailers' Occupation Tax on the sale. This tax is based upon the seller's gross receipts from sale and a corresponding amount of Use Tax must be collected from the purchaser. The tax which is required to be collected from you when you purchase the car is properly due and owed by you.

In your letter, you have described two distinct sales transactions. Each is treated separately for sales tax purposes. In the first, you have likely entered into a private agreement to pay the leasing company a reimbursement for its Use Tax liability. Since this is a private agreement between you and the leasing company, and involved no liability which you are obligated to pay under the Illinois tax statutes, the Department cannot refund any of these monies to you. This is a matter of negotiation between you and the leasing company. The second part of the transaction occurred when you bought the car from the dealership. As in any other sales transaction, you owe Use Tax based on the selling price of the item purchased.

You are correct that the lessor may take a credit on the ST-556 return for taxes previously paid on the tangible personal property at the time the lessor sells such property. See 86 Ill. Adm. Code 130.2013(h)(2). However, the choice of whether to pass on this credit to the purchaser is a business decision on the seller's part.

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,

Cara Bishop  
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