

When a single charge is made for the admission to an attraction, food and soft drinks, the entire charge is subject to Retailers' Occupation Tax. In contrast, if the food and soft drinks are separately stated from the admission to an attraction (e.g., bowling, roller skating, laser tag), tax applies only to the food and soft drinks. See 86 Ill. Adm. Code 130.2145(c)(2)(B). (This is a GIL.)

October 2, 2017

Dear Xxxxx:

This letter is in response to your letter dated July 20, 2017, 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 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 recently sent a series of questions to your department to verify the proper way to impose sales tax for a BUSINESS in regards to Birthday Party Packages and other Specials that include an attraction, food (slice of pizza) and a soft drink.

Could you kindly read the email chain provided and offer advice?

The basic question is as a BUSINESS (whether it is bowling, roller skating, laser tag, etc.), how is sales tax imposed for Birthday Party Packages where the package includes general admission for the attraction, food, (such as pizza) and soft drinks and a reserved table?

And is there any difference if a special is offered at a particular time and day where there is a set price for 2 or 3 hours and it includes a slice of pizza and a soft drink?

I believe the only circumstance where the entire gross receipt would be taxed is if the true object was the food. In the case of a Birthday Party Package the attraction (bowling, roller skating, etc.) would be the main object correct? It is the majority of the cost of the package, and it is essence of what the establishment is in business for. Therefore sales tax would be imposed only on the food and drink, correct?

In the case of a 3-hour special where it includes general admission for the attraction (laser tag or roller skating, etc.) and a slice of pizza and drink, again, the true object would be the general admission and not the food, correct. Therefore sales tax would be imposed only on the food and drink, correct?

Is there a way to calculate when the food is the true object vs. the attraction? Because there is a reserved table for the birthday party does that change anything? Is it looked at as a room rental because there is a reserved table even though the customer is coming for the attraction and the majority of the cost is for the actual attraction and not the reserved table?

DEPARTMENT'S RESPONSE:

The Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property at retail to purchasers for use or consumption. See 86 Ill. Adm. Code 130.101. Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See 86 Ill. Adm. Code 150.101. These taxes comprise what is commonly known as "sales tax" in Illinois.

Food and Soft Drinks

If you are engaged in the sale of food (such as pizza) and soft drinks, you are engaged in the sale of tangible personal property (regardless of the time and day sold) and must collect Retailers' Occupation Tax and any applicable local taxes on such sales.

Parties

Based on the descriptions in your letter, it appears that you offer birthday party packages that include admission to an attraction (e.g., bowling, roller skating, laser tag), a slice of pizza and a soft drink. When a single charge is made for the admission to an attraction, food and soft drinks, the entire charge is subject to Retailers' Occupation Tax. In contrast, if the food and soft drinks are separately stated from the admission to an attraction (e.g., bowling, roller skating, laser tag), tax applies only to the food and soft drinks. See 86 Ill. Adm. Code 130.2145(c)(2)(B). We cannot determine the taxability of your birthday party packages without examining the invoices.

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,

Debra M. Boggess
Associate Counsel