

This letter responds to a survey concerning taxation of vehicles. (This is a GIL.)

November 19, 2018

Dear Xxxxx:

This letter is in response to your email dated October 2, 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:

Each year the STATE Department of Revenue publishes information regarding the taxability of the sale or transfer of motor vehicles that are:

- sold in STATE to residents of another state; and
- purchased in another state and brought into STATE.

This information is beneficial to our Department as well as to motor vehicle dealers within STATE who sell vehicles to residents of your state.

So that our Department may continue to use and distribute accurate information, we are requesting that your agency review the specific information related to your state and let us know if any changes that occurred in the past year or will occur for 2019.

A copy of the document Motor Vehicle Sales Tax Rate by State is attached.

For ease of editing, we have attached a Microsoft Word chart (State Motor Vehicle Tax Rate Chart) of the tax rate information used last year.

Thank you for your assistance. We would appreciate a return email with your edits and comments.

DEPARTMENT'S RESPONSE:

The Department cannot approve publications other than those issued by the Department of Revenue. We advise you to consult Illinois statutes and administrative rules, as well as Department publications on these matters. However, the information in the chart generally appears to be correct. In the interest of limiting the dissemination of incomplete information, we offer the following additional guidance and suggestions.

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. See 86 Ill. Adm. Code 130.101. In Illinois, 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. If the purchases occur in Illinois, the purchasers must pay Use Tax to the retailer at the time of purchase. The retailers are then allowed to retain the amount of Use Tax paid to reimburse themselves for the Retailers' Occupation Tax liability incurred on those sales.

With respect to trade-in credits, for the sale of a motor vehicle subject to Retailers' Occupation Tax, the retailer is allowed to accept a trade-in to reduce the taxable selling price in accordance with 86 Ill. Adm. Code 130.425. If, however, the motor vehicle is sold for the purpose of simultaneously leasing it for a defined period that is longer than one year, and the transaction otherwise qualifies to use the "selling price" as defined in P.A. 98-628 (see discussion below), then no trade-in credit is allowed. For a sale of a motor vehicle between private parties (referred to as "occasional or isolated sale" in the chart provided) subject to tax under 625 ILCS 5/3-1001 et seq. (i.e., a non-retail transaction), a trade-in credit is not allowed. See 86 Ill. Adm. Code 151.101 et seq.

With respect to "Occasional or Isolated Sales," the State of Illinois imposes a vehicle use tax on private party (non-retail) transactions involving motor vehicles (commonly referred to as the "Private Party Vehicle Use Tax" or "Private Vehicle Use Tax"). See 625 ILCS 5/3-1001 et seq. However, persons engaged in the business of leasing or renting passenger cars are considered retailers subject to the Retailers' Occupation Tax when they sell those motor vehicles. See 35 ILCS 120/1c.

With respect to the "Comments" section in the chart, it is important to note that the first sentence in this column relates to "Retail Sales" while the remaining information in this column relates to private party transactions (i.e., occasional or isolated sales). Adding captions that note this would make this information more clear.

With respect to the purchase of a motor vehicle from a motor vehicle dealer by a leasing company in order to simultaneously lease the motor vehicle for a period of more than one year, there is no exemption from Retailers' Occupation Tax or Use Tax in Illinois. Please note, however, that Public Acts 98-628 and 98-1080 changed the definition of "selling price" for sales of motor vehicles of the first division and certain motor vehicles of the second division that are sold on or after January 1, 2015 for the purpose of simultaneously leasing the vehicle for a defined period of more than one year. Under these provisions "selling price" equals the amount paid under the lease contract, rather than the amount the leasing company pays to the motor vehicle dealer to purchase the vehicle. While it does not appear that this change would alter the information in the publication, it is worth noting.

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,

Samuel J. Moore
Associate Counsel

SJM:bkl