

Under the rolling stock exemption, the Retailers' Occupation Tax does not apply to sales to owners, lessors, or shippers of tangible personal property that is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce. See 35 ILCS 120/2-5(13). (This is a GIL.)

July 11, 2019

Dear Xxxx:

This letter is in response to your letter dated March 16, 2019, 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:

RE: Official Ruling on Rolling Stock Sales Tax Exemption

I own the trucking company COMPANY. My company owns the semi-truck BRAND, MODEL. My company operates over 50% interstate. My company doesn't have own DOT/MC numbers, but is a lessor to interstate carrier CARRIER (USDOT # ## MC###). We have the signed lease agreement active.

Recently my company bought a semi-trailer, which is intended to be used as a set with the above BRAND. The combined gross vehicle weight is 80,000lbs. Both, the tractor and the trailer, will be used more than 50% on interstate trucking for hire for more than 1 year.

Does the purchase of the trailer qualify for sales tax exemption based on Rolling Stock?

Please provide the written answer on this matter.

DEPARTMENT'S RESPONSE:

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.

Under the rolling stock exemption, the Retailers' Occupation Tax does not apply to sales to owners, lessors, or shippers of tangible personal property that is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce. See 35 ILCS 120/2-5(13). For purposes of this exemption, subsection (d-5) of Section 2-51 of the Retailers' Occupation Tax Act (35 ILCS 120/2-51(d-5)) provides that "use as rolling stock moving in interstate commerce" means that:

- (1) the motor vehicle or trailer is used to transport persons or property for hire;
- (2) [. . .] the purchaser who is an owner, lessor, or shipper claiming the exemption certifies that the motor vehicle or trailer will be utilized, from the time of purchase and continuing through the statute of limitations for issuing a notice of tax liability under this Act, by an interstate carrier or carriers for hire who hold, and are required by Federal Motor Carrier Safety Administration regulations to hold, an active USDOT Number with the Carrier Operation listed as "Interstate" and the Operation Classification listed as "authorized for hire", "exempt for hire", or both "authorized for hire" and "exempt for hire" [. . .]; and
- (3) for motor vehicles, the gross vehicle weight rating exceeds 16,000 pounds.

If an item ceases to meet requirements (1) through (3) under this subsection (d-5), then the tax is imposed on the selling price, allowing for a reasonable depreciation for the period during which the item qualified for the exemption." See 35 ILCS 120/2-51(d-5).

When a person purchases a trailer that he or she will use as rolling stock moving in interstate commerce, to document the exemption he or she must have an active USDOT Number with the Carrier Operation listed as "Interstate" and the Operation Classification listed as "authorized for hire", "exempt for hire", or both "authorized for hire" and "exempt for hire". If the purchaser will, instead, lease the trailer to another carrier for use as rolling stock moving in interstate commerce, the purchaser may provide the lessee's USDOT Number that meets these same criteria. In addition, the purchaser must identify the lessee and provide a copy of the lease. A retailer who accepts a properly completed "Form RUT-7 Rolling Stock Certification for Motor Vehicles and Trailers" in good faith that contains either the purchaser's or the purchaser's lessee's active USDOT Number meeting these criteria satisfies the exemption requirements.

A retailer who has paid Retailers' Occupation Tax on the sale of a trailer that is eligible for the rolling stock exemption may file a claim for credit or refund of the tax paid in error. Refunds and claims for credit are governed by the procedure explained at 86 Ill. Adm. 130.1501. In order to obtain a credit, the retailer must first demonstrate that he unconditionally refunded the tax to the party from whom he collected it (the purchaser). The retailer will be considered to have satisfied the unconditional repayment requirement where it provides its purchaser with an instrument upon which the purchaser can make a demand upon the retailer/claimant for payment of the tax recovered if the claim is allowed. The retailer's provision of unconditional promissory notes or irrevocable credit memoranda to its purchasers who paid tax in error would satisfy this requirement. Consequently, you will have to approach the retailer about seeking a claim for credit. The retailer is not required by law to seek a credit; this is a matter of business between you and him. If the retailer agrees to file a claim for

credit, you will be required to provide him with the necessary documentation for the Rolling Stock Exemption as described above.

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:rkn