

Article X of Chapter 3 of the Illinois Vehicle Code imposes a tax on the privilege of using a motor vehicle in this State that is acquired by gift, transfer, or purchase. 625 ILCS 5/3-1001. (This is a GIL)

November 5, 2019

Dear XXX:

This letter is in response to your letter dated October 15, 2018, 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 am requesting a private letter ruling regarding applicability of the Vehicle Use Tax when a nominee trust is terminated and ownership of the vehicle in the trust changes to the sole Beneficiary.

Per Illinois Code, a tax is imposed on the privilege of using any motor vehicle “acquired by gift, transfer, or purchase...”¹ Similar language is used for the Aircraft and Watercraft Use Tax.^{2 3}

In 2014, I purchased and garaged a vehicle out-of-state in the name of Trust. It is now my intention to bring the car to Illinois and terminate the Trust at which time ownership of the vehicle will change to the Beneficiary.

Illinois Department of Revenue (IDOR) has previously ruled in two letters regarding the Aircraft Use Tax that transfers from one legal entity to another legal entity incur a tax even if the tax identification number is the same because the “transfer does not change the outcome...”^{4 5}

¹ 625 ILCS 5/3-1001

² 35 ILCS 157/10-15

³ 35 ILCS 158/15-10

⁴ ST 07-0138-GIL

⁵ ST 12-0040-GIL

IDOR has separately opined in three other letters regarding the Aircraft and Watercraft Use Tax that when two legal entities merge or consolidate, then no tax is due.^{6 7 8} IDOR argued “there is not a ‘transfer’ between two separate legal entities, rather, one entity becomes another entity...while the original entity ceases to exist” In justifying this decision, IDOR cited a section of the Business Corporation Act that states all property of the surviving entity in a merger “...shall be taken and deemed to be transferred...”⁹ This part of the Act explicitly endorsing a transfer seems to undermine IDOR’s position that no transfer occurs.

However, if IDOR continues to hold that change of watercraft ownership from one legal entity to another legal entity by means of a merger does not incur a Watercraft Use Tax when the first legal entity ceases to exist then a similar argument should be applied to the Vehicle Use Tax when this Trust is terminated. The termination of this trust triggers an analogous merger of liabilities and assets with the surviving entity (Beneficiary) while the original entity (Trust) also ceases to exist precluding any transfer between the two extant entities.

Your guidance on this specific question is appreciated. Please feel free to contact me with any questions.

DEPARTMENT’S RESPONSE:

The Department’s regulation “Public Information, Rulemaking and Organization” provides that “[w]hether to issue a private letter ruling in response to a letter ruling request is within the discretion of the Department. The Department will respond to all requests for private letter rulings either by issuance of a ruling or by a letter explaining that the request for ruling will not be honored.” 2 Ill. Adm. Code 1200.110(a)(4). The Department met and determined that it would decline to issue a Private Letter Ruling in response to your request. We hope however, the following General Information Letter will be helpful in addressing your questions based on the limited information provided.

USE TAX:

In general, if a nominee trust moves a vehicle into Illinois that was purchased at retail in another state, the trust is subject to Use Tax on the selling price of the vehicle, with credit for tax paid to the other state and allowance for depreciation. See 35 ILCS 105/3-10 and 35 ILCS 105/3-55(d).

PRIVATE VEHICLE USE TAX:

⁶ ST 10-0007-PLR

⁷ ST 15-0020-PLR

⁸ ST 18-0002-PLR

⁹ 805 ILCS 5/11.50(4)

ST 19-0036-GIL
November 5, 2019

In general, if a nominee trust transfers a motor vehicle from the trust to the beneficiary of the trust in Illinois, the beneficiary is subject to tax under Article X of Chapter 3 of the Illinois Vehicle Code. 625 ILCS 5/3-1001 et seq. Article X of Chapter 3 of the Illinois Vehicle Code imposes a tax on the privilege of using a motor vehicle in this State that is acquired by gift, transfer, or purchase. 625 ILCS 5/3-1001. This tax is commonly referred to as the Private Vehicle Use Tax. With certain exceptions, the amount of tax assessed is based on the model year of the car unless the purchase price is \$15,000 or greater, in which case the tax is based on the purchase price of the car. There is no exception in the Private Vehicle Use Tax law for the transfer of a motor vehicle title from one legal entity (a trust) to another legal entity (the beneficiary of the trust). In addition, such a transfer does not qualify as a merger or consolidation, under which, in certain circumstances, no Private Vehicle Use Tax is due. While placing a motor vehicle in a trust allows the benefit of certain legal protections, transferring the motor vehicle out of the trust also carries certain legal burdens, including the incurrence of the Private Vehicle Use Tax.

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:bk1