

If a transaction does not involve the transfer of any tangible personal property to the customer, then it generally would not be subject to Retailers' Occupation Tax, Use Tax, Service Occupation Tax, or Service Use Tax. 86 Ill. Adm. Code 130.101; 86 Ill. Adm. Code 140.101. (This is a PLR.)

April 12, 2022

Dear NAME,

This letter is in response to your letter dated February 2, 2022, 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.

Review of your request disclosed that all the information described in paragraphs 1 through 8 of Section 1200.110 appears to be contained in your request. This Private Letter Ruling will bind the Department only with respect to COMPANY, for the issue or issues presented in this ruling, and is subject to the provisions of subsection (e) of Section 1200.110 governing expiration of Private Letter Rulings. Issuance of this ruling is conditioned upon the understanding that neither COMPANY, nor a related taxpayer is currently under audit or involved in litigation concerning the issues that are the subject of this ruling request.

In your letter you have stated and made inquiry as follows:

RE: Request for a Private Letter Ruling

I have been reviewing tax information regarding sales taxes in Illinois and I am writing for clarification and a Private Letter Ruling on whether or not my business entity is required to pay/remit sales taxes in the State of Illinois.

I have an online website called COMPANY with a Nexus (office located here in Springfield, Illinois). It is registered as an LLC in the State of Illinois (File Number #####). It falls under the category of

miscellaneous publishing. Users publish classifieds [sic] ad listings in various categories on the website.

The site has both “free” and “paid” categories. The paid categories require electronic “credit pack” purchases which are made online and give “credits” to the user’s account. Payments go through a shopping cart as ecommerce and users pay with credit card. The users can then apply those credits to publish listings, highlight their listing, move them to the top, make an item a premium listing and auto-renew which deducts credits from their online “wallet” associated with their account. These are digital credit packs and the user does not end up with any physical product from these credit pack purchases. We have no inventory and we do not ship anything.

As a result of the digital electronic credit packs appearing to fall within the “intangible personal property” category, I wish to receive a ruling to confirm that no sales taxes are required to be collected from this website under the related tax acts.

According to Title 2 Part 1200 Section 1200.110: PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION part b) certain information for each request is needed; I have addressed these below:

- 1) statement of facts and identified parties (included herein)
- 2) there are no contracts or agreements (*only* exception is terms of service for using the website)
- 3) there is no audit or litigation pending and no related tax period as this is a start up
- 4) to our knowledge there is no previous ruling on this issue and no related submit or withdrawal
- 5) there are no statements of authorities supporting taxpayer’s views
- 6) there are no statements of authorities contrary to taxpayer’s views
- 7) there are no specific trade secrets
- 8) representative signature is included

**Please review and provide a Private Letter Ruling to the above address on this sales tax question**

**DEPARTMENT’S RESPONSE:**

Retailer’s Occupation Tax

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 35 ILCS 120/2; 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 35 ILCS 105/3; 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 the 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 their Retailers' Occupation Tax liability incurred on those sales. If the purchases occur outside Illinois, purchasers must self-assess their Use Tax liability and remit it directly to the Department.

### Service Occupation Tax

Retailers' Occupation Tax and Use Tax do not apply to sales of service. Under the Service Occupation Tax Act, businesses providing services (*i.e.*, servicemen) are taxed on tangible personal property transferred as an incident to sales of service. 86 Ill. Adm. Code 140.101. The transfer of tangible personal property to service customers may result in either Service Occupation Tax liability or Use Tax liability for servicemen, depending upon which tax base they choose to calculate their liability.

If a transaction does not involve the transfer of any tangible personal property to the customer, then it generally would not be subject to Retailers' Occupation Tax, Use Tax, Service Occupation Tax, or Service Use Tax. The tax does not apply to receipts from sales of intangible personal property, such as shares of stocks, bonds, evidence of interest in property, corporate or other franchises and evidence of debt. 86 Ill. Adm. Code 130.120(a). See also 86 Ill. Adm. Code 140.125(a).

In your letter you state that "free" and "paid" users of the website publish classified ad listings on the website. The Company does not have inventory and does not ship anything to users. Purchasers of digital credit packs do not end up with any physical product.

It is the Department's opinion that receipts from sales of digital credit packs are not subject Retailers' Occupation Tax, Use Tax, Service Occupation Tax, or Service Use Tax.

The factual representations upon which this ruling is based are subject to review by the Department during the course of any audit, investigation, or hearing and this ruling shall bind the Department only if the factual representations recited in this ruling are correct and complete. This Private Letter Ruling is revoked and will cease to bind the Department 10 years after the date of this letter under the provisions of 2 Ill. Adm. Code 1200.110(e) or earlier if there is a pertinent change in statutory law, case law, rules or in the factual representations recited in this ruling.

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I hope this information is helpful. If you have further questions related to the Illinois sales tax laws, 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,

Samuel J. Moore  
Chairman, Private Letter Ruling Committee

SJM:RSW:rkn