

This letter responds to an annual survey. (This is a GIL.)

October 10, 2024

NAME
EMAIL1
EMAIL2

Re: Multistate Corporate Tax Guide Survey of State Tax Departments

Dear NAME:

This letter is in response to your email dated July 25, 2024, 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, COMPANY collects and disseminates information regarding the tax laws of each state. The results of the annual survey are published in the *PUBLICATION*, which has been one of the premier state tax reference books for over 40 years. Your assistance in the preparation of the 2025 edition is essential and greatly appreciated by the users of the Guide.

Please complete the attached corporate income tax and sales tax questionnaires and email the completed questionnaires to EMAIL2 by DATE. All new questions are highlighted in red font. To save time, please respond only to the new questions and to the prior year questions that require a change. All unanswered questions will be considered to have the same response as last year, unless otherwise noted. If your responses to last year’s questionnaire would be helpful, let us know and we will send you a copy.

Instructions

All new questions are highlighted in red font. **To save time, please respond only to the new questions and to the prior year questions that require a change.** All unanswered questions will be considered to have the same response as last year, unless otherwise noted.

Provide answers based on the state laws in effect on July 1, 2024.

Please list the state employee(s) to contact if we have a question regarding a response: information you have previously recorded in the comments section, please make those modifications in red font.

Please email the completed questionnaire to EMAIL2by **DATE**.

If you have any questions, contact NAME at EMAIL1

DEPARTMENT'S RESPONSE:

We are unable to respond to your survey in the format provided. However, we hope you find the following information regarding the updated questions helpful.

A. SALES AND USE TAX ADMINISTRATION

[4] TAX RETURNS AND PAYMENTS

- Does your state require high-volume taxpayers to make advance or accelerated prepayments of sales tax? Yes No
- If YES:
 - At what sales volume must prepayments be made?
 - What are the due dates for prepayment?

DEPARTMENT'S RESPONSE

If a taxpayer's average monthly tax liability to the Department under the Retailers' Occupation Tax Act, Use Tax Act, Service Occupation Tax Act, and Service Use Tax Act was \$20,000 or more during the preceding four complete calendar quarters, the taxpayer is

required to make payment to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is incurred. See 86 Ill. Adm. Code 130.535(b).

[8] REFUNDS

▪ Where does a taxpayer compute a sales/use tax refund (e.g., for returned merchandise)?	
<input type="checkbox"/> As an adjustment on the next timely filed sales tax return original sales tax return	<input type="checkbox"/> By amending the original sales tax return
<input type="checkbox"/> By filing a separate claim-for-refund form (Form _____) explain:	<input type="checkbox"/> Other,
▪ Is interest paid on sales tax refunds on amended returns?	<input type="checkbox"/> Yes <input type="checkbox"/> No
▪ Is interest paid on use tax refunds on amended returns?	<input type="checkbox"/> Yes <input type="checkbox"/> No
▪ If YES, at what rate is interest paid?	

DEPARTMENT'S RESPONSE

Unless an overpayment is refunded or a credit is approved within 90 days after the return due date, interest paid to the taxpayer, pursuant to the filing of an amended return or claim for refund, is determined from the later of the due date of the original return, the date a processable return is filed, or the date of overpayment. Interest continues to accrue until the overpayment is refunded, applied to a liability, or converted to a credit memorandum, whichever is the latest. See 86 Ill. Adm. Code 700.230. Interest paid by the Department to taxpayers is based on the underpayment rate established under Section 6621 of the Internal Revenue Code. See 86 Ill. Adm. Code 700.210. The current interest rate through December 31, 2024, is 8%.

[16] NEXUS. If a corporation's sole activity in your state is the activity identified below, does the activity create an obligation to collect and remit sales/use tax (check each activity that would, by itself, create sales/use tax nexus)?

<input type="checkbox"/> Inventory assignment and storage by a third party - Fulfillment by Amazon (FBA)
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DEPARTMENT'S RESPONSE

Beginning on January 1, 2021, a remote retailer's inventory at the location of a marketplace facilitator in Illinois does not create a physical presence nexus when used exclusively to fulfill orders made over a marketplace that meets a tax remittance threshold under 86 Ill. Adm. Code 131.135(a) because the marketplace facilitator is considered the retailer with respect to sales over the marketplace. See 86 Ill. Adm. Code 131.105.

[26] PAY-TO-PLAY APPEAL RIGHTS

- Does your state require the payment of tax or the posting of a bond for the tax before an assessment appeal can progress to an independent hearing body (e.g., circuit court or appeals board)?
 Yes No
- If YES, the taxpayer: Must pay tax Must post bond Must pay tax or post bond

DEPARTMENT'S RESPONSE

Taxpayers may appeal sales tax assessments over \$15,000, excluding interest and penalties, to the Independent Tax Tribunal, which may require the taxpayer to post a bond equal to 25% of the liability at issue upon motion of the Department and a finding by the Tax Tribunal that a posting of a bond is warranted under the facts presented. The Tax Tribunal may allow the filing of a lien in lieu of a bond. 35 ILCS 1010/1-45(c). Taxpayers may also appeal final administrative decisions to Circuit Courts, which may or may not require a bond. See 735 ILCS 5/3-111. Taxpayers may also choose to pay the full amount of the deficiency and file a notice of protest in Circuit Court pursuant to 30 ILCS 230/2a.1. The notice must express the taxpayer's intention to file a complaint in circuit court and obtain an injunction within 30 days of the date of the protested payment to preserve the taxpayer's right to a refund. 30 ILCS 230/2a.1.

[28] SHORT-TERM RENTALS

- Does your *state* impose sales tax on short-term rentals of real property? Yes No
- Do your *local jurisdictions* (county, city, etc.) impose sales tax on short-term rentals of real property? Yes No
- Does your *state* impose other taxes on short-term rentals of real property (check all that apply)?
 Hotel tax Lodging tax Accommodation tax Occupancy tax Transient tax
 Tourist tax
- Do your *local jurisdictions* (county, city, etc.) impose other taxes on short-term rentals of real property (check all that apply)?
 Hotel tax Lodging tax Accommodation tax Occupancy tax Transient tax
 Tourist tax

DEPARTMENT'S RESPONSE

The Hotel Operators' Occupation Tax Act is imposed upon hotel operators engaged in the business of renting, leasing, or letting rooms in a hotel. 35 ILCS 145/3. A hotel includes any building or buildings in which the public may, for a consideration, obtain living quarters, sleeping, or housekeeping accommodations. 35 ILCS 145/2. The definition of hotel covers short-term rentals; however, effective July 1, 2024, for the purposes of re-renters of hotel rooms only, "hotel" does not include a short-term rental. 35 ILCS 145/2. Further, effective July 1, 2024, the definition of a hotel operator subject to the tax has been expanded to include re-renters of hotel rooms, including remote re-renters meeting a threshold test under 35 ILCS 145/3(b-5). Specifically excluded from the tax are hosting platforms which facilitate the renting of owner-occupied, tenant-occupied, or non-owner-occupied dwellings where at least one room in the dwelling is rented to an occupant for a period of less than 30 consecutive days and all accommodations are reserved in advance. 35 ILCS 145/2(10).

The Department administers three local Chicago hotel taxes: the Metropolitan Pier and Exposition Authority Hotel Tax 70 ILCS 210/13(c), the Illinois Sports Facilities Authority's Hotel Tax 70 ILCS 3205/19, and the Chicago Municipal Hotel Tax 65 ILCS 5/8-3-13. Unlike the Chicago hotel taxes administered by the Department, all other local hotel taxes are administered by the local governments which imposed the tax, and do not necessarily follow the State Hotel Operators' Occupation Tax Act.

B. SALES AND USE TAX BASE

[b] ADMISSION SERVICES

- Does your state impose sales tax on "admission services"? Yes No
- If YES, which of the following admission services are taxable (check all that apply)?
 - Amusement parks and carnivals Concerts Theater Movies Trade shows
 - Museums, zoos, and aquariums Professional or college sporting events

DEPARTMENT'S RESPONSE

Illinois does not impose a sales tax on admission services.

DIGITAL ADVERTISING

- Does your state tax digital advertising under an excise tax separate from sales/use tax? Yes No

- If YES, what is the sales volume threshold that triggers a filing obligation?
- If YES, how is the purchase of digital advertising sourced?
 - User's IP address
 - Buyer's billing address
 - Apportionment formula
 - Other (explain)

DEPARTMENT'S RESPONSE

Illinois does not impose a State tax on digital advertising.

PERSONAL CARE (without a prescription). Which of the following purchases are taxable (check all that apply)?

- Alcohol wipes and swabs
- Burn ointments
- Eyedrops
- Ipecac
- Allergy relief products
- Calamine lotion
- Feminine hygiene products
- Lice treatments
- Asthma preparations
- Denture adhesive products
- First aid kits
- Nasal drops or sprays
- Band-aids and bandages
- Diapers
- Incontinence underpads
- Teething lotions
- Blood pressure monitors

DEPARTMENT'S RESPONSE

Products that qualify as drugs, medicines and medical appliances are taxed at a State rate of 1% plus any applicable local taxes. Products that do not qualify for the 1% rate of tax are taxed at the general merchandise rate of 6.25% plus applicable local taxes. [35 ILCS 120/2-10]. Qualifying products include prescription drugs or medicines and nonprescription drugs or medicines. A medicine or drug is any pill, powder, potion, salve, or other preparation for human use that purports on the label to have medicinal qualities. A written claim on the label that a product is intended to cure or treat disease, illness, injury, or pain, or to mitigate the symptoms of such disease, illness, injury, or pain constitutes a medicinal claim. See 86 Ill. Adm. 130.311 for information and examples on the type of products that qualify, and those that do not qualify for the 1% tax rate. The term "nonprescription medicines and drugs" does not include grooming and hygiene products. If an item is a nonprescription grooming and hygiene product, it will be taxed at the State 6.25% general merchandise rate regardless of any medicinal claims made on the product's label. Beginning January 1, 2017, through December 31, 2026, Retailers' Occupation Tax does not apply to sales of menstrual pads, tampons, and menstrual cups. 86 Ill. Adm. Code 130.120(vv).

[73] MISCELLANEOUS SERVICES. Which of the following services are taxable (check all that apply)?

<input type="checkbox"/> Printing	<input type="checkbox"/> Massage	<input type="checkbox"/> Tanning	<input type="checkbox"/> Tattooing
<input type="checkbox"/> Florist	<input type="checkbox"/> Taxidermy	<input type="checkbox"/> Catering	<input type="checkbox"/> Domestic residential cleaning
<input type="checkbox"/> Clothing alteration and/or repair		<input type="checkbox"/> Interior decorating and design	
<input type="checkbox"/> Commercial cleaning and janitorial			

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. The Retailers’ Occupation Tax does 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 incident to sales of service. See 86 Ill. Adm. Code 140.101. If no tangible personal property is transferred incident to sales of service, no tax is due. Note that Subpart S of 86 Ill. Adm. Code 130 addresses the taxation of specific types of businesses including printers, florists, and caterers.

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,

Thomas Grudichak

Thomas Grudichak
Associate Counsel

TG/slc