

ST 24-0042-GIL 12/11/2024 RETAILERS' OCCUPATION TAX

Costs of doing business are an element of the retailer's gross receipts subject to Retailers' Occupation Tax even if separately stated on the bill to the customer. 86 Ill. Adm. Code 130.410. (This is a GIL.)

December 11, 2024

NAME
EMAIL

Dear NAME:

This letter is in response to your letter dated November 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 <https://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:

We have contacted the sales tax department for the below query. They have informed us to contact you in case the reply they gave doesn't fit. Since the reply given by the Sales tax department does not satisfy our query we want to seek your help on the below query. (Attaching the email conversation between the sales tax department.)

We are writing to seek clarification regarding the taxability of our fees as a payment processing business under sales tax. Specifically, we are interested in understanding whether the fees we charge for our payment processing services are subject to state sales tax.

To provide some context, our payment processing fees are similar to those charged by companies like COMPANY. These fees are levied for processing

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online transactions, which includes the secure transfer of funds from the customer to the merchant account securely.

Given the nature of our services, we want to ensure that we are in full compliance with state tax regulations. Could you please provide guidance on whether these payment processing fees are subject to state sales tax?

For better clarification, Please [sic] note that we are not the entity that charges a processing fee directly to the end customer along with the item sold i.e. tangible property. Instead, we act as a payment processing aggregator.

We enable a payment processor that allows our customers (who are merchants) to collect payments from their customers through various methods such as credit cards. For facilitating this payment process -- transferring funds from the end customer's bank account to our customer's bank account -- we charge our customers a processing fee.

We would like to understand the taxability of the fee we charge from customers. It is purely service not clubbed with any other tangible products.

Thank you for your time and assistance. We look forward to your prompt response.

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 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 no tangible personal property is being transferred to customers, then neither Illinois Retailers' Occupation Tax nor Use Tax would apply.

When computing Retailers' Occupation Tax liability, the retailer may not deduct from gross receipts or selling prices on account of the cost of property sold, the cost of materials used, labor or service costs, idle time charges, incoming freight or transportation costs, overhead costs, processing charges, clerk hire or salesmen's commissions, interest paid by

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the seller, or any other expenses. Costs of doing business are an element of the retailer's gross receipts subject to tax even if separately stated on the bill to the customer.

A good example is credit card fees or charges. A retailer may choose to accept payment from a customer using a credit or debit card, and the retailer may not receive the full amount of payment due to the service charges or fees charged by the credit or debit card company. These charges or fees are part of the retailer's cost of doing business and are not deductible from the gross receipts subject to tax. 86 Ill. Adm. Code 130.410

Your letter states that you process payments on behalf of merchants. You collect payments from their customers through various methods such as credit cards and forward the payments, minus your processing fee, to the merchants. Section 130.410 includes processing charges in the retailer's cost of doing business. Based on the simple facts in your letter, merchants must include your processing fee in their gross receipts when determining their Retailers' Occupation Tax liability.

Your letter does not provide sufficient facts to determine what, if any, sales tax liability you may have on the processing fee you receive from merchants.

I hope this information is helpful. If you require additional information, please visit our website at <https://tax.illinois.gov/> or contact the Department's Taxpayer Information Division at 800-732-8866.

Very truly yours,

Richard S. Wolters
Associate Counsel

RSW:slc