

ST 24-0047-GIL 12/27/2024 CONSTRUCTION CONTRACTORS

Retailers of manufactured (mobile) homes sell those items either with installation (e.g., the retailer installs the manufactured home or incorporate the manufactured home into real estate) or without installation (e.g., the retailer does not install or incorporate the manufactured home into real estate). The manner in which the sale of a manufactured home is taxed depends upon which of these two situations applies. (This is a GIL.)

December 27, 2024

NAME  
COMPANY  
EMAIL

Dear NAME:

This letter is in response to your letter dated November 18, 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:

Attached is correspondence relating to clarification requested on sales/use tax in the state of Illinois. I've copied my questions below:

I want to recap and put into writing for our sales tax file a phone conversation I had with NAME1 about sales and use tax liability for us as a manufactured home dealer.

Both of the below scenarios are related to installed manufactured homes.

New Homes:

We, as the dealer, purchase a new manufactured home from a manufacturer. We then install the home onto a lot within our mobile home community by skirting, removing the hitch and axles, anchoring, and hooking up utilities. When the installation is complete, we are subject to reporting and remitting use tax on the ST1 at our purchase price of the manufactured home. When we sell this home in our community to our first tenant, we do NOT charge sales tax and report the sale on the ST556. This transaction is then considered complete.

Used Homes:

Assume the tenant from the above new home sale example moves out of the home we sold them. We buy the home back from them as it sits to resell (there is no transportation of the home). When we resell the home, we charge the new buyer sales tax and report the sale on the ST556.

Please confirm the above is accurate for record-keeping purposes.

Is this something you can help with?

**DEPARTMENT'S RESPONSE:**

Retailers of manufactured (mobile) homes sell those items either with installation (e.g., the retailer installs the manufactured home or incorporate the manufactured home into real estate) or without installation (e.g., the retailer does not install or incorporate the manufactured home into real estate). The manner in which the sale of a manufactured home is taxed depends upon which of these two situations applies. For purposes of the Retailers' Occupation Tax, a manufactured home is considered to be installed or incorporated into real estate when it is placed on a permanent foundation with its wheels, tongue, and hitch removed. Setting a manufactured home up on blocks and anchoring and skirting it, without removing its wheels, tongue, and hitch does not constitute installing or incorporating it into real estate.

If you are a manufactured home dealer who sells manufactured homes both with and without installation, then you may certify to your supplier that you are buying the manufactured homes for resale and thereafter account to the Department of Revenue for the tax when you sell them either with or without installation.

When you sell a manufactured home without installation, you must report the sale and remit the tax collected using Form ST-556, Sales Tax Transaction Return. Sales without

installation include sales in which your delivery and set up do not constitute incorporating the manufactured home into real estate as described above (e.g., the wheels, tongue, and hitch are not removed), sales to someone who will subsequently install or incorporate the manufactured home into real estate (e.g., a contractor), and sales to a purchaser who will subcontract the installation or incorporation of the manufactured home into real estate. These transactions are taxable unless they qualify for one of the following specific exemptions: (i) a sale for resale (Step 5, Box B of Form ST-556); or (ii) a sale to an exempt organization with an active Illinois sales tax exemption "E" number (Step 5, Box C of Form ST-556); or (iii) a sale in which you deliver the manufactured home or cause it to be delivered outside Illinois (Step 5, Box F of Form ST-556). Note that manufactured homes do not qualify for the exemption for a sale to a nonresident purchaser (Section 5, Box A, of Form ST-556). You must collect tax if you sell a manufactured home to a person who is not a resident of Illinois and who will take possession of the manufactured home in Illinois, before removing it to another state. The sale is taxable because the customer took possession of the manufactured home in Illinois.

When you sell a manufactured home with installation by incorporating it into real estate, you are acting as a construction contractor and must pay the tax based on your cost price of the manufactured home and other items that become part of the real estate. Report these sales and pay the tax using Form ST-1, Sales and Use Tax and E911 Surcharge Return. The tax amount is based on your cost price, rather than the retail selling price, of the manufactured home because, in Illinois, construction contractors are considered the end user of an item, rather than the person for whom the construction is being performed. The reporting period for reporting your use tax liability on Form ST-1 is established by the date you install the manufactured home. If you purchased the manufactured home from an Illinois supplier, you must include your cost price of the manufactured home on Line 4a of Form ST-1 along with your taxable receipts and pay tax at the rate on line 4b. If you purchased the manufactured home from an out-of-State supplier who does not incur Retailers' Occupation Tax liability, you must report and pay Use Tax directly to the Department using Step 5 (Tax on Purchases) of Form ST-1. For more information on what taxes are due, see 86 Ill. Adm. Code Sections 130.1940, "Construction Contractors and Real Estate Developers," and 130.2075, "Sales to Construction Contractors, Real Estate Developers and Speculative Builders."

If you are a manufactured home dealer who purchases manufactured homes and installs them in your own manufactured home community before you sell them, then you are the user of the manufactured home and you cannot purchase the manufactured home tax-free for resale. Instead, you owe tax to your supplier when you purchase the manufactured home if your supplier is registered for Retailers' Occupation Tax. If you purchased the manufactured home from an out-of-State supplier who does not incur Retailers' Occupation Tax liability, you must report and pay Use Tax directly to the Department using Step 5 (Tax on Purchases) of Form ST-1.

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For purposes of the Retailers' Occupation Tax and Use Tax, if you sell a manufactured home that is installed or incorporated into real estate (i.e., that is placed on a permanent foundation with its wheels, tongue, and hitch removed) no tax is due, because, for purposes of these tax Acts, this is not considered a sale of tangible personal property.

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,

Samuel J. Moore  
Associate Counsel

SLM:slc