

ST 25-0016-GIL 03/18/2025 TRADE-INS

No trade-in credit may be taken for that portion of the purchase price of a new automobile representing a settlement which the purchaser has obtained from an automobile manufacturer pursuant to the New Vehicle Buyer Protection Act [815 ILCS 380]. See 86 Ill. Adm. Code 130.425(h). (This is a GIL).

March 18, 2025

NAME  
COMPANY  
ADDRESS  
EMAIL

Dear NAME:

This letter is in response to your letter dated December 18, 2024, which was submitted via email to the Department. 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 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.” See 2 Ill. Adm. Code 1200.110(a)(4). The Department declines to issue a Private Letter Ruling in this instance. A private letter ruling will not be issued if there are regulations dispositive of the subject of the request. See 2 Ill. Adm. Code 1200.110(a)(3)(D). We hope that the following general information will be of assistance.

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

From: COMPANY1

Taxable Location Number: NUMBER  
Taxable Location Name: LOCATION  
Dealer's License no.: NUMBER1

Re: **Request For Private Letter Ruling by Illinois Department of Revenue**  
Tax Return Type: ST-556- Sales Tax Transaction Return  
Tax Return No.: NUMBER2  
Confirmation Number: NUMBER3  
Date of Filing: DATE  
Purchaser's Name: NAME1  
Purchased Vehicle VIN: VIN  
Purchased Vehicle Description: MAKE/MODEL  
Trade-In Vehicle: None

Our firm represents COMPANY1 ("COMPANY1") of CITY, Illinois, and requests on behalf of COMPANY1 a private letter ruling from the Illinois Department of Revenue ("Department") relating to the above-described ST-556 State Sales Tax Transaction Return ("ST-556") of COMPANY1 customers, NAME1 ("NAME1"), involving the Replacement of a MAKE/MODEL1 ("Vehicle 1") with the above-described MAKE/MODEL ("Vehicle 2") by COMPANY2 ("COMPANY2"). Specifically, COMPANY1 requests that the Department provide a private letter ruling relating to the above described ST-556, more pertinently relating to the application of trade-in credit amounts associated with the purchase of Vehicle 2.

On two (2) separate occasions, one telephonically and one in-person, with representatives of the Department's Taxpayer Assistance Walk-up window (NAME2), and the Department's Central Registration Division, Sales Tax (NAME3), it was confirmed that COMPANY1 accurately completed the ST-556 and properly handled the transaction. NAME1 was fully compensated for all sales taxes to be collected on the Vehicle 2 purchase as part of their COMPANY2 repurchase package. COMPANY1 did not receive a trade-in as the NAME1 Vehicle 1 title was conveyed directly to COMPANY2 as expressly required by COMPANY2.

Below is a brief chronology of COMPANY1's transactions with the NAME1, and more specific information relating to COMPANY2's Replacement of NAME1's Vehicle 1 by COMPANY2 and NAME1's subsequent purchase of Vehicle 2 from COMPANY1.

The instant request relates to a question whether Vehicle 1 should have been utilized on the ST-556 as a trade-in associated with the purchase of Vehicle 2

reducing the tax obligation due with the return. COMPANY1 reasonably believes that the ST-556 was filed accurately.

Where documents are provided to Department in documenting the transaction, those documents are identified by an Exhibit Number, which are attached to this request.

**Brief Chronology of NAME1 Customer Transactions**

1. In August 2022, NAME1 purchased Vehicle 1, a new MAKE/MODEL1, from COMPANY1. See **Exhibit 1**.
2. During the first year of ownership NAME1 had mechanical issues with Vehicle 1 and discussed returning Vehicle 1 to COMPANY2 Company as a "lemon law" vehicle.
3. In September 2023, COMPANY2 made a "Repurchase" offer of Vehicle 1 which NAME1 rejected. See **Exhibit 2**.
4. In May 2024, COMPANY2 made a "Replacement" offer for Vehicle 1 which NAME1 accepted. See **Exhibit 3**.
5. COMPANY2's offer included the following:
  - a. Replacement Vehicle 2 Invoice .....\$\$\$
  - b. Add Documentary Fees .....\$\$\$
  - c. Add Sales Tax on Full Vehicle 2 Purchase .....\$\$\$
  - d. Add Registration License and Title Fees .....\$\$\$
  - e. Add Additional Fees.....\$\$\$
  - f. Total Due to Dealer ..... **\$\$\$**
  - g. Less Customer Responsibility (Mileage).....\$\$\$
  - h. Less Customer Responsibility-(Upgrade 2024 from 2022) \$\$\$
  - i. Net Amount COMPANY2 Due to Dealer..... **\$\$\$**
6. COMPANY2 refunded to NAME1 the full amount of Illinois sales tax due on Vehicle 2 purchase.
  - a. COMPANY2 Provided COMPANY1 with a check in the amount of \$\$\$ and COMPANY1 functioned as a "Repurchase Facilitator" in COMPANY2's resolution with NAME1.
7. COMPANY2 provided a Packet of Required Documents of NAME1 Including the following (See **Exhibit 4**).
  - a. Customer Power of Attorney indicating Vehicle 1 is being repurchased and returned to COMPANY2.
  - b. Title
    - i. Instructions indicated title must be reassigned to COMPANY2
    - ii. Current Registration

- iii. Customer POA
  - iv. Dealer POA
  - v. Odometer Disclosure Statement
  - vi. Repurchase Vehicle Property Control Form
  - vii. Owners Driver's License
  - viii. Completed Vehicle Inspection Form
8. NAME1 executed title documents specifically transferring Vehicle 1 title to COMPANY2.
9. NAME1 purchased Vehicle 2 from COMPANY1. See **Exhibit 5**.
10. COMPANY1 completed the ST-556 for Vehicle 2 indicating there was no trade in and no trade in credit. See **Exhibit 6**.
11. NAME1 paid State of IL sale tax on the Vehicle 2 purchase (\$\$\$). See **Exhibit 6**.
12. NAME1 asserts that ST-556 was completed incorrectly and that NAME1 is entitled to "additional" tax monies, claiming that Vehicle 1, transferred and returned to COMPANY2, was a "trade-in."

COMPANY2 respectfully seeks written clarification from the Illinois Department of Revenue in the form of a private letter ruling that the above-described transaction representing the purchase of Vehicle 2 and the accompanying ST-556 was completed accurately.

Kindly direct your response to the undersigned on behalf of COMPANY2. Your assistance is greatly appreciated.

**DEPARTMENT'S RESPONSE:**

For the purpose of the Department's response the named designated parties will hereinafter be referred to as follows: COMPANY2 ("Manufacturer"), COMPANY1 ("Dealer") and NAME1 ("Purchaser").

The New Vehicle Buyer Protection Act ("Lemon Law") is set forth at 815 ILCS 380/1 et seq. Section 3(a) provides that, "[i]f after a reasonable number of attempts the seller is unable to conform the new vehicle to any of its applicable express warranties, the manufacturer shall either provide the consumer with a new vehicle of like model line, if available, or otherwise a comparable motor vehicle as a replacement, or accept the return of the vehicle from the consumer and refund to the consumer the full purchase price or lease cost of the new vehicle, including all collateral charges, less a reasonable allowance for consumer use of the vehicle...."

COMPANY/NAME

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The Retailers' Occupation Tax Act ("the Act") imposes a tax on persons engaged in the business of "selling at retail" tangible personal property. See 35 ILCS 120/2; 86 Ill. Adm. Code 130.101. "Sale at retail" means any transfer of the ownership of or title to tangible personal property to a purchaser, for the purpose of use or consumption, and not for the purpose of resale. 35 ILCS 120/1. The sales tax is measured by the seller's gross receipts from its sales made in the course of such business. See 35 ILCS 120/2-10; 86 Ill. Adm. Code 130.101. "Gross receipts" means all the consideration actually received by the seller, except the value of traded-in tangible personal property where the item that is traded-in is of like kind and character as that which is being sold. See 86 Ill. Adm. Code 130.425(a). The phrase "like kind and character" includes, but is not limited to, the trading of any kind of motor vehicle on the purchase of any kind of motor vehicle. See 86 Ill. Adm. Code 130.425(b). Although the phrase "like kind and character" is liberally construed, no trade-in credit may be taken for that portion of the purchase price of a new automobile representing a settlement which the purchaser has obtained from an automobile manufacturer pursuant to the New Vehicle Buyer Protection Act. See 86 Ill. Adm. Code 130.425(h).

In the situation that you have described the Purchaser accepted the Manufacturer's replacement offer for the defective Vehicle 1. Pursuant to the terms of the replacement agreement for Vehicle 1, the Manufacturer paid an agreed amount to the Dealer to be applied towards the purchase of the replacement vehicle i.e., Vehicle 2. The Purchaser executed documents reassigning title to Vehicle 1 to the Manufacturer. The Dealer completed the ST-556 for Vehicle 2 indicating there was no trade in and no trade in credit.

The Illinois sales tax laws contain no exemption for that portion of the purchase price of a new car which represents a cash repurchase settlement from a manufacturer made under provisions of the Illinois New Vehicle Buyer Protection Act or similar legislation. Gross receipts include all of the receipts that a dealer receives from whatever source. This includes both receipts that are provided by the customer and also any receipts provided by a manufacturer as part of a rebate or allowance program. See *Keystone Chevrolet v. Kirk*, 69 Ill. 2d 483 (1978). The trade-in exception only applies where the property being traded-in is of like kind and character. Proceeds of a cash repurchase settlement paid by a manufacturer to a retailer under provisions of the Illinois New Vehicle Buyer Protection Act are not considered of like kind and character to qualify as a trade-in for a vehicle. See 86 Ill. Adm. Code 130.425(h).

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 (217) 782-3336.

Very truly yours,

COMPANY/NAME

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Thomas Grudichak  
Associate Counsel

TG:slc