

Federal importation taxes are not deductible, in computing Retailers' Occupation Tax liability, from the gross receipts of persons who sell such tangible personal property at retail. See 86 Ill. Adm. Code 130.445. (This is a GIL).

June 17, 2025

NAME  
COMPANY  
EMAIL

Dear NAME:

This letter is in response to your email dated April 29, 2025, 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.

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

I'm inquiring further information on the attached letter regarding tariffs.

We handle the tax reporting for a manufacturer and distributor of non-alcoholic beverages within your state. We're inquiring as to how the attached specifically applies to our business. I'll give a few brief scenarios below to help give a sense of the types of transactions our company would engage in; our company will be Business A in each scenario.

Scenario 1: Business A purchases metals from Business B located in Canada; the purchase has a tariff charge separately stated on the invoice. The metals are used in the production of non-alcoholic beverages sold to Business C a retailer within the state. What would be the taxability of the tariff on this purchase?

Scenario 2: Business A purchases metals from Business B located in OH; the purchase has a tariff charge separately stated on the invoice. The metals are used in the production of non-alcoholic beverages sold to Business C a retailer within the state. What would be the taxability of the tariff on this purchase?

Scenario 3: Business A purchases batteries from Business B located in MO; the invoice from Business B includes a separately stated tariff fee. This purchase is used in our warehouse for walkie-talkies. The purchase of the batteries is subject to sales tax in IL. What would be the taxability of the tariff on this purchase?

Scenario 4: Business A purchases non-returnable pallets from Business B located in NY; the invoice from Business B includes a separately stated tariff fee. This purchase is used in our warehouse for storage of manufactured goods as well as ingredients. The purchase of non-returnable pallets is not subject to sales tax in the state of IL. What would be the taxability of the tariff on this purchase?

#### **DEPARTMENT'S RESPONSE:**

The Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property at retail to purchasers for use or consumption. 35 ILCS 120/2. The Use Tax which complements the Retailers' Occupation 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. 35 ILCS 105/3. These taxes comprise what is commonly known as "sales tax" in Illinois.

In computing Retailers' Occupation Tax liability, no deductions shall be made by a taxpayer 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 the seller, or any other expenses whatsoever. See 86 Ill. Adm. Code 130.410.

Tariffs are imposed by the United States government on certain products imported from foreign countries. The identity of the person legally responsible for paying the tariff under federal law is the critical factor in determining whether sales or use tax applies to the amount of the tariff. The consignee is the importer of record of the imported tangible personal property and is the person legally responsible for payment of the tariff. Federal importation taxes ("tariffs") are not deductible, in computing Retailers' Occupation Tax

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liability, from the gross receipts of persons who sell such tangible personal property at retail. See 86 Ill. Adm. Code 130.445. Therefore, if the seller is the consignee (importer) and passes the amount of the tariff on to the customer, it is a part of the selling price, and the amount of the tariff must be included in the gross receipts. In such case, tariffs are costs of doing business to the importer and are not deductible in computing Retailers' Occupation Tax liability on the subsequent retail sale, even if separately stated on the bill to the customer billed as a stand-alone item on a separate invoice. See 86 Ill. 130.401; 86 Ill. Adm. Code 130.445.

The Retailers' Occupation Tax is measured by the seller's gross receipts from the retail sale of tangible personal property made in the course of its business. See 86 Ill. Adm. Code 130.101. A tariff as part of the seller's gross receipts, is taxed in accordance with the tax treatment, including applicable tax rate or exemption status, of the tangible personal property to which it corresponds.

If the purchaser as the end-user is the consignee (importer), the tariff is not part of the selling price for purposes of computing the purchaser's Use Tax liability. See 86 Ill. Adm. Code 130.445.

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,

Thomas Grudichak  
Associate Counsel

TG:slc