

ST 25-0036-GIL 07/01/2025 RETAILERS' OCCUPATION TAX

Membership fees are generally considered intangibles and are not subject to Retailers' Occupation Tax or Use Tax. If a membership charge entitles the customer to receive an item of tangible personal property or to receive a service and tangible personal property is transferred incident to the service, the charge may result in Retailers' Occupation Tax liability, Service Occupation Tax liability, or Use Tax liability. See 86 Ill. Adm. Code 130.401(d) and 86 Ill. Adm. Code 140.101. (This is a GIL.)

July 1, 2025

NAME
COMPANY
ADDRESS
EMAIL

Dear NAME:

This letter is in response to your letter dated June 4, 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.

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:

Statement of Request

Pursuant to the guidance provided by the Illinois Department of Revenue regarding Legal Letter Rulings and General Information Letters, we respectfully request a General Information Letter (GIL) to obtain informal, non-binding guidance regarding the application of Illinois sales and use tax laws to the sale of certain membership products.

Statement of Facts

The petitioner (hereinafter referred to as “the Company”) operates a membership-based business model. The salient features of the membership offering are:

- **Membership Sales:** Customers pay a recurring or one-time fee to become members.

- **Nature of Membership:**

- No tangible personal property is transferred as part of the membership.

- Membership provides the opportunity to purchase tickets to exclusive, curated dining events hosted by the Company.

- Membership includes third-party perks at partner restaurants, such as:

- Complimentary desserts or cocktails,

- Discounts on meals,

- Priority access to reservations.

- **Third-Party Perks:** These perks are provided by third-party restaurants and are not guaranteed by the Company.

- **Tickets:** Tickets to dining events are sold separately; the membership fee itself does not include admission to any event or entertainment.

Issue or Question

Is the sale of a membership, as described above, subject to Illinois sales tax?

Relevant Illinois Statutes, Rules, and Agency Decisions

The following legal authorities are believed to be relevant to this matter:

1. 35 ILCS 120/2 – Definition of "Sale at Retail"

○ Illinois sales tax is imposed on the sale of tangible personal property at retail. The statute defines "sale at retail" as the transfer of tangible personal property for consideration.

○ Citation: 35 ILCS 120/2

2. 35 ILCS 120/1 – Retailers' Occupation Tax Act (ROTA) Scope

○ The Retailers' Occupation Tax Act imposes tax on businesses engaged in the business of selling tangible personal property at retail.

○ Citation: 35 ILCS 120/1

3. 86 Ill. Adm. Code 130.101 – General Principles of Retailers' Occupation Tax

○ Illinois Administrative Code confirms that services are not subject to Retailers' Occupation Tax unless they are an incident of a transfer of tangible personal property.

○ Citation: 86 Ill. Adm. Code 130.101 (See Section 130.101 and general rules)

Statement of Petitioner's Understanding

It is the petitioner's position that:

- The membership in question does not involve the sale of tangible personal property.
- The right to purchase event tickets and receive discretionary third-party perks constitutes an intangible benefit.
- Based on 35 ILCS 120/2 and 86 Ill. Adm. Code 130.101, Illinois imposes sales tax only on tangible personal property unless explicitly extended to enumerated services.
- Therefore, the sale of the membership, in and of itself, should not be subject to Illinois sales tax.

COMPANY/NAME

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Closing

We respectfully request a General Information Letter confirming whether Illinois sales tax applies to the membership product as described above.

We understand that General Information Letters are not binding on the Illinois Department of Revenue and are issued solely for informational purposes.

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. 86 Ill. Adm. Code 130.101. The Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased at retail from a retailer. 86 Ill. Adm. Code 150.101. If no tangible personal property is being transferred to the customers, then neither Illinois Retailers' Occupation Tax nor Use Tax would apply. Likewise, the Service Occupation Tax and Service Use Tax are imposed on the transfer of tangible personal property incident to sales of service. 86 Ill. Adm. Code 140.101 and 160.101. If no tangible personal property is being transferred to customers incident to the services being provided, then no Illinois Service Occupation Tax nor Service Use Tax would apply.

Generally, the Department does not consider receipts from the sale of membership fees to be gross receipts from the sale of tangible personal property. Rather, a membership fee is considered an intangible, which is not subject to Retailers' Occupation Tax or Use Tax liability. 86 Ill. Adm. Code 130.401(d). This is the case when the sale of membership rights does not include the transfer of tangible personal property. However, if the membership charge entitles the customer to receive an item of tangible personal property or to receive a service and tangible personal property is transferred incident to that service, then that charge may result in either Retailers' Occupation Tax liability, Service Occupation Tax liability, or Use Tax liability, depending upon the serviceman's activities. See 86 Ill. Adm. Code 140.101.

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,

Kimberly Rossini
Associate Counsel

KAR:slc