

Retailers must maintain all records that are necessary to determine the correct tax liability under the Retailers' Occupation Tax Act including documentation for exempt and other non-taxable receipts, and those records must be made available to the Department upon request. See 86 Ill. Adm. Code 130.805. (This is a GIL).

May 1, 2026

NAME  
COMPANY1  
ADDRESS

Dear NAME:

This letter is in response to your letter dated March 12, 2026, 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 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." 2 Ill. Adm. Code 1200.110(a)(4). Further, the Department's regulations regarding Private Letter Rulings provide that "[i]f there is case law or there are regulations dispositive of the subject of the request, the Department will decline to issue a letter ruling on the subject." 86 Ill. Adm. Code 1200.110(a)(3)(D). The Department recently met and determined that it would decline to issue a Private Letter Ruling in response to your request. We hope, however, the following General Information Letter will be helpful in addressing your questions. In your letter you have stated and made inquiry as follows:

**INQUIRY:**

May 1, 2026

On behalf of our client, COMPANY, ("the Company"), we respectfully request the Illinois Department of Revenue ("the Department") to issue a Private Letter Ruling with respect to the factual situation discussed below. Our request is pursuant to 2 Ill. Adm. Code 1200.110. We request a ruling that sales of PRODUCT to Amtrak are exempt from the Illinois Retailers' Occupation Tax ("ROT") and the Illinois Use Tax ("UT") for both the retailer and Amtrak, and also ask for guidance as to the documentation required to be maintained in the retailer's books and records in order to support the exemption claim in the event of an audit. The relevant facts are outlined below.

### **GENERAL INFORMATION**

1. Enclosed please find an original Form IL 2848, Power of Attorney, authorizing COMPANY1 to represent COMPANY before the Illinois Department of Revenue (the "Department").
2. This Private Letter Ruling ("PLR") is not requested with regard to hypothetical or alternative proposed transactions. This PLR is requested to determine the ROT consequences of the actual business practices of the Company.
3. The Company is not currently engaged in litigation with the Department in regard to this or any other tax matter.
4. The Company is not currently under audit by the Department in regard to this or any other tax matter.
5. The Department has not previously ruled regarding this matter for the Company. In addition, the Company has not submitted the same or similar issue to the Department.
6. The Company requests that certain information be redacted from the PLR prior to dissemination to others. The Company requests that its name, address, the names of its representatives, all references to Exhibits, and the Exhibits themselves be redacted.
7. The Company knows of no authority contrary to the authorities referred to and cited below.

### **STATEMENT OF MATERIAL FACTS**

COMPANY is a corporation qualified to do business in Illinois. It has been in business since XXXX. COMPANY is a privately held company recognized as an innovative leader in the distribution and marketing of PRODUCTS in many parts of the United States. COMPANY has recently contracted with Amtrak to supply PRODUCT to Amtrak [sic] in Illinois. Attached as Exhibits A is the current contract with Amtrak.

Prior to finalizing the contract, COMPANY asked Amtrak to provide an exemption letter from the Department and Amtrak has indicated that they do not have an exemption letter. Amtrak indicated that federal law prohibits the imposition of taxes on sales of tangible personal property to Amtrak pursuant to 40 U.S.C. §24301(1).

### **Ruling Requested**

On behalf of the Company, we respectfully request the Department to rule that COMPANY sales are appropriately exempt from both the Illinois ROT and UT for purposes of state and local taxation. We further request that the Department identify the documentation required to be maintained in the retailer's books and records in order to support the exemption claim in the event of an audit.

### **Relevant Authorities**

- 40 U.S.C. §24301(a)(3)
  - o Amtrak is not a department, agency, or instrumentality of the United States Government, and shall not be subject to title 31.
- 49 uses§ 24301(1)
  - o (1) In general. Amtrak, a rail carrier subsidiary of Amtrak, and any passenger or other customer of Amtrak or such subsidiary, are exempt from a tax, fee, head charge, or other charge, imposed or levied by a State, political subdivision, or local taxing authority on Amtrak, a rail carrier subsidiary of Amtrak, or on persons traveling in intercity rail passenger transportation or on mail or express transportation provided by Amtrak or such a subsidiary, or on the carriage of such persons, mail, or express, or on the sale of any such transportation, or on the gross receipts derived therefrom after.
- 35 ILCS 120/2-5

- o Gross receipts from proceeds from the sale, which, on and after January 1, 2025, includes the lease, of the following tangible personal property are exempt from the tax imposed by this Act: [ ... ] (16) Tangible personal property sold to a purchaser if the purchaser is exempt from use tax by operation of federal law.
- 35 ILCS 105/3-5
  - o Use, which, on and after January 1, 2025, includes use by a lessee, of the following tangible personal property is exempt from the tax imposed by this Act: [ ... ] (39) Tangible personal property purchased by a purchaser who is exempt from the tax imposed by this Act by operation of federal law.
- 86 Ill. Admin. Code 130.120
  - o The tax does not apply to gross receipts from sales, which, on and after January 1, 2025, includes leases: [ ... ] (s) of tangible personal property sold to a purchaser if the purchaser is exempt from use tax by operation of federal law. This subsection (s) is exempt from the sunset provisions of Section 2-70. [35 ILCS 120/2-5(16)]. (1) For example, federal law prohibits sellers from charging tax to Amtrak when it purchases tangible personal property. However, federal law does not relieve the seller of retailers' occupation tax liability in these transactions. For that reason, the exemption set out in this subsection is necessary to relieve the seller of retailers' occupation tax liability when making sales of tangible personal property to Amtrak. (2) The nontaxable transaction set out above is also applicable to local retailers' occupation tax imposed by municipalities, counties, the Regional Transportation Authority, and Metro East Mass Transit District.

### **Discussion and Analysis**

The tax commonly known as the Illinois "sales tax" is composed of the Retailers' Occupation Tax ("ROT"), the service occupation tax ("SOT"), the use tax ("UT"), and the service use tax ("SUT"). The Illinois ROT Act imposes a tax on persons engaged in the business of making retail sales of tangible personal property. 35 Illinois Compiled Statutes 120/2 (hereinafter "ILCS"); 86 Ill. Adm. Code § 130.10 [sic] (hereinafter "Ill. Admin. Code"). In accordance with Section 2-10 of the Act, this tax is measured by the seller's gross receipts. 35 ILCS 120/2-10; 86 Ill. Admin. Code 130.101. The legal incidence of the ROT

falls on the seller, who effects reimbursement by collecting UT from its customer. 86 Ill. Admin. Code 130.101(d).

Generally speaking, all sales of tangible personal property, including PRODUCT, are presumed subject to the ROT unless it can be established that the transfer of property is incident to a service or an exemption applies. The seller has the burden of proving that a transaction is not taxable or otherwise not subject to the ROT. 86 Ill. Admin. Code 130.801(f) [sic] The ROT authorizes municipalities to impose corresponding local ROT. 65 ILCS 5/8-11-1.

Federal law provides that Amtrak is not a department, agency, or instrumentality of the United States Government, and shall not be subject to title 31. 40 U.S.C. §24301(a)(3). The significance of this provision is that Amtrak cannot avail itself the exemption granted to purchases by a governmental body as provided for in 35 ILCS 105/3-5(4) and therefore is unable to secure an exemption letter from the Illinois Department of Revenue. Likewise, the Company cannot avail itself of the exemption granted to sales to a governmental body as provided for in 35 ILCS 120/2-5(11). Significantly, this means that the exemption for sales to the federal government pursuant to the ROT and UT does not apply to sales of PRODUCT to Amtrak.

Because federal law does provide an exemption from state and local tax on property of Amtrak, sales of PRODUCT to Amtrak are exempt from the Illinois Use Tax pursuant to federal law 49 USCS § 24301(l). Illinois recognizes this exemption in 35 ILCS 105/3-5(39). The exemption is further extended to the Retailer of PRODUCT to Amtrak pursuant to 35 ILCS 120/2-5(16) and 86 Ill. Admin. Code 130.120(s). Unfortunately, it does not appear as though there is a process for Amtrak to secure an exemption certificate and corresponding E-Number from the Illinois Department of Revenue (see Form ST AX-1 attached as Exhibit B). As a result, the Company respectfully requests guidance as to what documentation will be required to prove the exemptions listed above in the event of an audit by the Illinois Department of Revenue.

## **CONCLUSION**

We respectfully request that the Department issue a ruling stating that sales of PRODUCT to Amtrak are exempt from the Illinois and local ROT and UT for both the retailer and Amtrak, and provide guidance as to the documentation required to be maintained in the retailer's books and records in order to support the exemption claim in the event of an audit.

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If the Department cannot conclude that the sales to Amtrak are exempt from both the ROT and UT at the state and local level for the reasons outlined above, we respectfully request that the Department contact the undersigned at PHONE to determine what additional information is required or to allow the taxpayer to rescind this ruling request.

Thank-you in advance for your prompt consideration of this matter.

**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 Act, 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.

Federal law prohibits taxing sales of tangible personal property to Amtrak. 40 U.S.C. §24301(l). The Retailers' Occupation Tax does not apply to gross receipts from sales of tangible personal property to a purchaser if that purchaser is exempt from Use Tax by operation of federal law. 35 ILCS 120/2-5(16). Moreover, 86 Ill. Adm. Code 130.120(s) provides that retail sales of tangible personal property to Amtrak are an example illustrating the application of the exemption. The exemption also applies to local retailers' occupation taxes imposed by municipalities, counties, the Regional Transportation Authority, and the Metro East Mass Transit District. See 86 Ill. Adm. Code 130.120(s)(2). See 35 ILCS 105/3-5(39) for the exemption under the Use Tax Act.

Retailers must maintain all records that are necessary to determine the correct tax liability under the Retailers' Occupation Tax Act, and those records must be made available to the Department upon request. See 86 Ill. Adm. Code 130.805. Such records must include documentation for exempt and other non-taxable receipts, such as the name of the exempt entity, Illinois Account ID number, resale certificate, or records relating to sales in interstate commerce. See *Id.* at (a)(9). To support deductions made on the tax return form, as authorized under the Act, such records that will clearly indicate the information required for filing returns must be kept. See 86 Ill. Adm. Code 130.810(a). Additionally, subsection (b) requires that books, records, or other pertinent papers or documents of the taxpayer in relation to those deductions shall be in detail sufficient to show:

- 1) the name and address of the taxpayer's customer in each such transaction;

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- 2) the character of every such transaction (e.g., whether it is a sale for resale, a sale made within the protection of the Commerce Clause of the Constitution of the United States, an isolated or occasional sale, etc.);
- 3) the date of every such transaction;
- 4) the amount of receipts realized from every such transaction; and
- 5) such other information as may be necessary to establish the nontaxable character of such transaction under the Act.

86 Ill. Adm. Code 130.810(b).

For sales made to Amtrak, information the Department would require to clearly support the exemption would include access to the information required under the terms of the contract with Amtrak detailing sales to and payments from Amtrak. This documentation must be made available to the Department upon request.

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