

A person who purchases tangible personal property for the purpose of giving it away makes a taxable use of the property and incurs Use Tax upon such purchase. See 86 Ill. Adm. Code 150.305(c). (This is a GIL.)

March 31, 2010

Dear Xxxxx:

This letter is in response to your letter dated September 22, 2009, in which you request 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 [www.tax.illinois.gov](http://www.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:

This letter serves as a request for a ruling in regards to the following scenario.

COMPANY has several manufacturing facilities. Quite often these manufacturing facilities donate tangible personal property withdrawn from their inventory to charities. All of the products from the manufacturing facilities flow through ABC and is shipped to the charity. The flow of the products is as follows:

1. Manufacturing facility manufactures product (home improvement products, foam, roofing, siding, insulation, cultured stone, asphalt, etc).
2. ABC purchase the products for resale.
3. Product is removed from ABC's inventory and donated to various charities (both the manufacturing company and ABC are subsidiaries of COMPANY).
4. No compensation, advertisement, monetary value, etc is given to any of the COMPANY companies involved.

Q. Is ABC required to remit Use Tax when making donations to exempt entities?

Please note: I am aware that this scenario does not cover all details involving donation transactions. ABC makes several donations to many different charities. What I am

looking for is a statement involving the circumstances in which the donations to charities would qualify ABC to be exempt from remitting use tax to the state.

If you have any questions or require additional information in regards to this matter, please write or call me at the number below. Your expertise in this matter would be greatly appreciated.

**DEPARTMENT'S RESPONSE:**

When retailers take an item from inventory and "use" the item, a Use Tax liability is incurred. This would be the case, for example, where a retailer takes an item from inventory and makes a gift of it to someone. In that instance, the retailer (donor of the gift) is deemed the end user of the property and is subject to the Use Tax on his cost price of the item, rather than the donee. This is true regardless of the type of entity to whom it was donated (e.g., an exempt organization). See 86 Ill. Adm. Code 150.305(c); see also 86 Ill. Adm. Code 130.2125(c) concerning "Gift Situations." The donor may satisfy this Use Tax obligation either by paying tax to his supplier or by self-assessing Use Tax and paying directly to the Department.

I hope this information is helpful. If you require additional information, please visit our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

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