

The Department's regulation on the treatment of transportation and delivery charges under the Retailers' Occupation Tax Act may be found at 86 Ill. Adm. Code 130.415. (This is a GIL.)

April 1, 2010

Dear Xxxxx:

This letter is in response to your letter dated November 21, 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 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:

COMPANY is a distributor of industrial parts with 450 locations across the United States. The inventory that we purchase from our suppliers is resold through our network of regional distribution centers, shops and sales branches. COMPANY pays incoming freight charges to suppliers for product shipped via common carrier to our branches or directly to our customers. COMPANY also pays outbound freight charges to deliver merchandise via common carrier to our customers. We separately state Inbound Freight and Outbound Freight charges on our invoices to our customers. We define Outbound Freight as any freight charges from a COMPANY facility or vendor directly to our customer's plant. The taxability of Outbound Freight is not in question.

Questions come up periodically from our customers regarding the taxability of Inbound Freight. We define Inbound Freight as any freight charges from any vendor or COMPANY branch to the local selling COMPANY branch prior to the actual sale of the goods. We bill our customers for the Inbound Freight charges as a separate item on our invoices, and it has been our experience that nearly every state views these charges as a taxable transaction. The Inbound Freight charges happened prior to the passage of title to our customer. Most states view Inbound Freight as a cost of the acquisition of the inventory, and require us to charge tax on Inbound Freight.

We currently charge tax on Inbound Freight, and we are requesting clarification on this issue. Please reply in writing confirming whether Inbound Freight is taxable under the

laws of your state. If the tax code in your state specifically addresses Inbound Freight, a copy of the code would be appreciated. If this issue has been addressed in any publications or newsletters, copies of those publications or newsletters would be appreciated. We want to handle this issue correctly under the laws of each state, and we need to have supporting documentation to give to our customers when questions arise regarding this issue. Your assistance is appreciated.

If I can be of any further assistance, please feel free to contact me.

DEPARTMENT'S RESPONSE:

The Department's regulation "Cost of Doing Business Not Deductible" 86 Ill. Adm. Code 130.410, provides that "[i]n 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. Costs of doing business are an element of the retailer's gross receipts subject to tax even if separately stated on the bill to the customer.

This principle is further explained in the Department's regulation, "Transportation and Delivery Charges" 86 Ill. Adm. Code 130.415 which provides in subsection (e) that transportation or delivery charges paid by a seller in acquiring property for sale are merely costs of doing business to the seller and may not be deducted by such seller in computing his Retailers' Occupation Tax liability, even though he passes such costs on to his customers by quoting and billing such costs separately from the selling price of tangible personal property which he sells. The same is true of transportation or delivery charges paid by the seller in moving property to some point from which the property (when subsequently sold) will be delivered or shipped to the purchaser.

I hope this information is helpful. If you require additional information or want to view any of the administrative rules mentioned in this letter, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Debra M. Boggess
Associate Counsel

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