

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. (This is a GIL.)

May 10, 2011

Dear Xxxxx:

This letter is in response to your letter dated January 27, 2011, in which you request a Private Letter Ruling. 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:

I am writing to get the answer to a specific question about Use Tax. I tried calling the toll-free telephone number for tax assistance at the Illinois Department of Revenue in Springfield. However, the agent was not confident that he could give me the correct answer, and neither he nor I could seem to find any information on the tax.illinois.gov website that specifically addressed my situation. He recommended that I ask the Legal Services Department for a Private Letter Ruling on the issue.

I was notified that I was the winner of a contest by MAGAZINE, which is part of CORPORATION in CITY/STATE. The prizes, which are to be awarded this year, 2011, will include items such as outdoor furniture and lighting, rather than any cash award. I know that I will be issued a 1099-misc, and I will need to pay both Federal and State Income Tax on the value of any prizes I accept. My question is, am I also subject to Illinois Use Tax on the prizes? I did not purchase anything. I don't even subscribe to the magazine. I entered the contest online at their website. I would greatly appreciate your assistance with this question as soon as possible, since I need the information to help me determine how much of the prize package I can afford to accept.

DEPARTMENT'S RESPONSE:

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). The Department declines to issue a Private Letter Ruling and has decided to respond with a General Information Letter.

In a gift situation the donor who purchases the tangible personal property and gives it away makes a taxable use of the property when making the gift. See subsection (c) of the Department's regulation at 86 Ill. Adm. Code 150.305, which can be found on the Department's website. When such a gift is made, the donee incurs no Use Tax liability as a result of the gift.

In a lawful raffle, the donor of the tangible personal property (raffle provider) incurs Use Tax liability on the purchase price of the tangible personal property that is won in a raffle. The donee (raffle winner) incurs no Use Tax liability as a result of winning the raffle.

In a situation involving a lawful raffle occurring in this State, the raffle provider incurs Use Tax liability on the purchase price of the tangible personal property that is provided as a prize in a raffle, unless the raffle provider is otherwise exempt from Illinois Use Tax liability. The raffle winner incurs no Use Tax liability as a result of winning the raffle. Similarly, donors of tangible personal property (prizes) pursuant to a contest incur Use Tax liability on the purchase price of the tangible personal property that is won in a contest, and the donee (contest winner) incurs no Use Tax liability as a result of winning the contest.

I hope this information is helpful. If you require additional information, 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
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