

This letter discusses sales for resale. See 86 Ill. Adm. Code 130.1405. (This is a GIL.)

August 12, 2011

Dear Xxxxx:

This letter is in response to your letter dated May 26, 2011, 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:

I have a small business and I have a paper mill in the OUT-OF-STATE CITY area produce a specialty paperboard product exclusively for my company by a written agreement. The product’s only use is in the production of pull-tab tickets used primarily for charitable fund raising [sic]. This product is sold and invoiced to me by the mill and is shipped by the mill to my customer’s manufacturing plants in other states and Canada. I invoice my customers. This product is sold in very large size sheets packed on skids or large rolls of a high opaque paperboard and has no retail application in its raw form. This product is only sold to government licensed pull-tab manufacturers. Practically, its only use is as a component of a pull-tab ticket.

In talking with your Tax Assistance person on the phone today, she concurred with me, that since everything that I sell in the State of Illinois is a component of a product that is remanufactured into a ticket by the manufacturer; I am not required to have a Reseller’s Permit. I would like get a written letter from you stating that no Sales Tax Exemption Form is required, which is the reason for this letter. I have absolutely no retail sales whatsoever—everything I sell is specifically wholesale and is remanufactured into another product.

The mill is demanding a Sales Tax-Exemption Form from my customers to which they ship my product. Although I don’t believe they are required, I have copies of the Sales Tax Exemption Forms in my files for the customers to whom they ship in my behalf, but since the product is sold to my company and invoiced by my company, I feel that is sufficient and the mill is not entitled to said certificate.

Since the mill is threatening to charge sales tax on the aforesaid business, I would ask that you respond to this as expeditiously as possible. Thank you for your attention to this matter.

DEPARTMENT'S RESPONSE:

In Illinois, when a person purchases items of tangible personal property with the intention of reselling them to purchasers for use or consumption, that person engages in making retail sales of tangible personal property. This makes the initial purchase a purchase for resale, and the subsequent sale is a taxable sale at retail subject to Illinois Retailers' Occupation and Use Tax liabilities. See the Department's regulations which can be found on its website, specifically 86 Ill. Adm. Code Sections 130.201 and 130.210.

However, persons who exclusively make wholesale sales are not required to register and remit Retailers' Occupation Tax. The tax applies only to sales of tangible personal property for use and consumption, and not for resale. Consequently, if all of your sales are for resale, you will not be required to register, file returns and remit tax. You may, however, obtain a resale number from the Department so that you have the ability to provide your suppliers with valid Certificates of Resale. See 86 Ill. Adm. Code 130.1405. So long as you do not make taxable retail sales, and engage exclusively in wholesale transactions, registration for a resale number will not expose you to reporting and tax remittance requirements.

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
Associate Counsel

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