

If an organization does not have an active E number, then its purchases are subject to tax. See 86 Ill. Adm. Code 130.2007(a). (This is a GIL.)

September 19, 2011

Dear Xxxxx:

This letter is in response to your letter dated February 16, 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](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:

We represent an Illinois not-for-profit corporation that has been determined by the Illinois Department of Revenue to be 'organized and operated exclusively for educational purposes.' Accordingly, the corporation possesses a tax exemption 'E' number issued by the Illinois Department of Revenue. This not-for-profit corporation is also exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code.

This corporation is the sole member of a limited liability company ('LLC') organized under the laws of the State of Illinois. The sole member LLC is also not for profit and is exempt from federal tax under Section 501(c)(3) of the Internal Revenue Code. The income and expenses of the sole member LLC are reported to the IRS by the sole member not for profit corporation as part of its annual Form 990 filing.

We note in your 'Taxpayer Answer Center' on the Department of Revenue website that if an

LLC is treated as a sole proprietorship for federal income tax purposes and its income is reported on its owner's U.S. Form 1040, U.S. Individual Income Tax Return, for Illinois purposes the LLC's income will be reported on its owner's Form IL-1040, Illinois Individual Income Tax Return.

In addition, Illinois regulation (Title 86, Part 150, Section 130.2007(g) relating to the Retailers' Occupation Tax states,

The Department, in its sole discretion, may issue to a tax-exempt organization with more than 50 subsidiaries operating in Illinois, one exemption identification number for the use of the parent organization and each of its subsidiary organizations. (Section 1g of the Act.) The Department will consider the size, uniformity, structure, and purposes of the organization as well as administrative burdens of the Department and of the applicants.

Based on the above, it would seem logical that the Illinois tax exempt status afforded to the not for profit corporation would apply to that corporation's sole member LLC with no separate filing required by the LLC. Thus, the LLC would assume and use the E number of its sole member not for profit corporation.

Please advise if this is the position of the Department of Revenue.

#### **DEPARTMENT'S RESPONSE:**

An organization that makes application to the Department of Revenue and is determined to be exclusively religious, educational, or charitable, receives an exemption identification number (an "E" number). See 86 Ill. Adm. Code 130.2007. This number evidences that the Department recognizes the organization as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of its organizational purposes. If an organization does not have an active E number, then its purchases are subject to tax. This would generally be the case even if the organization that does not have an E number is related to an organization that does have an E number.

Section 1g of the Retailers' Occupation Tax Act provides, in part, that in the case of a corporation, society, association, foundation, or institution organized and operated exclusively for charitable purposes and that has more than 50 subsidiary organizations in Illinois, the Department, in its sole discretion, may issue one exemption identification number to be used by the parent organization and each subsidiary organization. 35 ILCS 120/1g The provision requiring more than 50 subsidiary organizations is a statutory provision. The Department is unable to either narrow or enlarge the scope of the statute. This provision would not apply to the relationship between a limited liability company and a corporation that is the sole member of that limited liability company.

However, a limited liability company may apply for an exemption in its own right if the limited liability company is organized and operated exclusively for educational purposes. See 35 ILCS 120/2-5(11).

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.

Sincerely,

Samuel J. Moore  
Associate Counsel

SJM:msk