

ST 11-0101-GIL 12/16/2011 CERTIFICATE OF REGISTRATION

This letter provides general information on certificates of registration and resale. See 86 Ill. Adm. Code 130.701 and 130.1405. (This is a GIL.)

December 16, 2011

Dear Xxxxx:

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

Our client ('Company X' or the 'Company') is a wholesaler doing business with customers within your state. In general, Company X's customers purchase its products for the purpose of reselling its goods. At this time, Company X is asking their customers whose physical location is in your state to completely fill out ABC's Uniform Sales and Use Tax Certificate ('Resale Certificate'). The Company is updating its resale procedures and manual and wants to be sure they are in compliance with your state's Resale Certificate requirements and directives.

Company X would appreciate if you would take a few minutes to answer the following questions so Company X's procedures follow your state's requirements. Feel free to add any additional information concerning your state's requirements or any other important information that will assist Company X in complying with your state's statute and rules concerning Resale Certificates.

1. In addition to obtaining a Resale Certificate, it is Company X's practice to request a copy of the customer's state Retailers' Occupation Tax and Use Tax license. The following will assist Company X in determining whether to request such a document and when the Company would be required to obtain a new license.

- a. Does your state require that the customer furnish Company X with an actual copy of your state Retailers' Occupation Tax and Use Tax license in addition to the signed resale form?
- b. If not, are you aware of any laws that would prevent Company X from requesting a copy of the license?
- c. When Company X requests a copy of the customer's Retailers' Occupation Tax and Use Tax license,
 1. Does the name on the certificate need to match the name:
 1. On the Resale Certificate?
 2. On the customer's account in Company X's invoicing system?
 3. If the answer to 1 or 2 is yes, please answer the questions under item 3 concerning trade/doing business as names [sic] below?
- d. Does the address Company X has showing on the customer's account need to match the address on their license?
- e. If the address on the license is a PO Box, is Company X required to verify the actual physical address of the customer? If so, is there a method provided by the state to do this?
- f. If a customer has multiple locations within your state, will each location have a separate Retailers' Occupation Tax and Use Tax license?
- g. If there are separate licenses for separate locations, does Company X need to have a copy of each location's license or will one of the licenses be sufficient?
- h. If a customer changes their company name, do you issue a new state Retailers' Occupation Tax and Use Tax license?
- i. If a customer moves within the state, are they required to get a new state Retailers' Occupation Tax and Use Tax license?
- j. If the business structure changes, are they required to get a new state Retailers' Occupation Tax and Use Tax license?
- k. If the business ownership changes, are they required to get a new state Retailers' Occupation Tax and Use Tax license?
- l. If a customer incurs a change that requires an update to its state's Retailers' Occupation Tax and Use Tax license, is it required to notify the Secretary of State and the Department of Revenue?

2. Do you require that Company X verify or validate the Retailers' Occupation Tax and Use Tax number a customer has provided to them?
 - a. If so, please provide information on the method to be used for verification.
 - b. How often must Company X verify/validate the number? Only when initially presented or when an updated certificate is supplied? Yearly? Bi-yearly?
3. Can a customer's account use a trade name or Doing Business As (DBA) name that is not listed on their state Retailers' Occupation Tax and Use Tax license?
 - a. If so, are both the legal name and the trade/DBA name required to be listed on the resale form?
 - b. Can abbreviations be used on the resale form in company names that are not used in the company's legal name or trade/DBA name?
 - c. In certain circumstances the customer's name on its account with Company X will indicate that it is a franchisee of a particular franchise. This franchise name may or may not be part of the legal or trade/DBA name of the company. Will there be an issue upon audit if the name on the account is Franchise/Company name when the name on the Resale Certificate is just Company Name?
4. How often does your state require that Company X update the resale form provided by the customer? Never, Yearly, Bi-yearly, Every 3 years, etc.?
5. What is the current sequence of your state Retailers' Occupation Tax and Use Tax number? When was this numbering sequence adopted? If you have an older number sequence, please provide it if it is still valid for use.

Please feel free to contact me if you should have any questions regarding the above. Thank you for your time.

DEPARTMENT'S RESPONSE:

The answers to your questions can be found in the Illinois Revised Statutes, Title 86 of the Illinois Administrative Code and general information letters issued by the Department. The following rules will provide a good place to start.

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. See 35 ILCS 120/; 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See 35 ILCS 105/3; 86 Ill. Adm. Code 150.101. These taxes comprise what is commonly known as "sales" tax in Illinois. If the purchases occur in Illinois, the purchasers must pay the Use Tax to the retailer at the time of purchase. The retailers are then allowed to retain the amount of Use Tax paid to reimburse themselves for their Retailers' Occupation Tax liability incurred on those sales. If the

retailer does not collect the Use Tax from the purchaser for remittance to the Department, the purchaser is responsible for remitting the Use Tax directly to the Department. See 86 Ill. Adm. Code 150.130.

The resale exemption is applicable when making sales to a purchaser who will in turn sell the tangible personal property. For general information regarding resale certificates, the Department's regulation for resale certificates, "Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale," is found at 86 Ill. Adm. Code 130.1405. See Subpart N: SALES FOR RESALE of Section 130 for all of the Department's regulation on resale of tangible personal property. Also see General Information Letter ST 10-0107.

The Department's regulations regarding registration under the Retailers' Occupation Tax Act can be found at Subpart G of 86 Ill. Adm. Code 130. The regulation regarding general registration requirements can be found at Section 130.701 "General Information on Obtaining a Certificate of Registration".

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,

Richard S. Wolters
Associate Counsel

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