

Every person engaged in the business of selling tangible personal property at retail must file a Form ST-1 on a monthly basis on or before the 20th day of each month. A taxpayer can be authorized by the Department to file a quarterly return. See 86 Ill. Adm. Code 130.501 and 86 Ill. Adm. Code 130.502. (This is a GIL.)

July 24, 2012

Dear:

This letter is in response to your letter dated June 11, 2012, 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:

My husband has a small auto repair store that sales [sic] tires. He was told by his accountant that he was a de minimus [sic] serviceperson and did not have to complete the ST-1 sales tax return for the tires that he sold. He does submit the ST-8 tire user fee. Is this correct? Is my husband exempt from completing the ST-1 sales tax return because he is a deminimus [sic] serviceperson? Should be submit the ST-8 only? He normally has sales of around 15 tires every 3 months.

DEPARTMENT'S RESPONSE:

Although we cannot give you a specific answer in the form of a General Information Letter, we hope you find the following helpful.

The Retailers' Occupation Tax Act imposes a tax upon persons engaged in the business of selling at retail tangible personal property. See 35 ILCS 120/2. The Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased at retail from a retailer. See 35 ILCS 105/3.

Retailers' Occupation Tax and Use Tax do not apply to receipts from sales of personal Services (e.g., automobile repairs). Personal services that do not involve the transfer of tangible personal property are not subject to sales tax. However, under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service. For your general information we refer you to the Department's regulation at 86 Ill. Adm. Code 140.101 regarding sales of service and Service Occupation Tax.

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The kinds of sales and services described in your letter are taxed under the Retailers' Occupation Tax Act or the Service Occupation Tax Act depending upon the nature of the transaction. The sale of tires would be a sale at retail and subject to the Retailers' Occupation Tax Act. The sale of automobile repair services would be a sale of services subject to the Service Occupation Tax Act on the transfer of any tangible personal property incident to the sale of services.

Note, every person engaged in the business of selling tangible personal property at retail must file a Form ST-1 on a monthly basis on or before the 20th day of each month as required by 86 Ill. Adm. Code 130.501. A taxpayer can be authorized by the Department to file a quarterly return if provisions for filing quarterly (average monthly liability does not exceed \$200) are fulfilled. The provisions are described in 86 Ill. Adm. Code 130.502. The decision to permit quarterly or annual filing will be based on the taxpayer's average monthly liability during the first year of registration and, unless authorized or required to file on a quarterly or annual basis, all taxpayers are required to file monthly returns.

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