

Sales by exclusively charitable, religious or educational organizations are not subject to the Retailers' Occupation Tax when it can be said that such selling is noncompetitive with business establishments. 86 Ill. Adm. Code 130.2005(a)(3). (This is a GIL.)

July 27, 2012

Dear:

This letter is in response to your letter dated May 25, 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](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:

This is a request for a General Information Letter pursuant to the provisions of 2 Ill. Admin. Code 1200.

I am requesting information from the Illinois Department of Revenue regarding the amount subject to retailers' occupation tax when a product is provided in conjunction with a charitable contribution and the retailers' occupation tax receipt requirements.

The organization is a tax-exempt entity that receives charitable contributions.

The organization often holds fundraisers where donors give donations and the organization provides the donor with tangible personal property.

1. The organization solicits contributions. As an incentive to contribute, the organization provides donors with a \$10 t-shirt in return for a \$100 contribution. What amount, if any, is subject to sales tax?
2. The organization conducts a 'sale' of t-shirts, where the donor receives a t-shirt for a payment of any amount equal to or greater than the cost of the t-shirt. For example, the organization sells t-shirts with a cost of \$10. The donor receives a t-shirt for a payment of \$10 or more, and chooses to give \$100. The organization provides the donor with an acknowledgement of a \$90 contribution. What amount is subject to sales tax?
3. The organization sells t-shirts for \$30 as a fundraiser. \$10 is the cost of the t-shirt. \$20 is a charitable contribution. The organization provides the

donor with an acknowledgement of a \$20 contribution. What amount is subject to sales tax?

4. What are the detailed receipt requirements for sales where retailers' occupation tax is required to be collected?
5. Is the organization required to provide the donor with a receipt indicating the value of the t-shirt?
6. Is the organization required to provide the donor with a statement that \$ X amount of sales tax was collected?
7. If required to separately state retailers' occupation tax on the receipt, does the organization satisfy receipt requirements if the donor is provided with a statement indicating that X% of sales tax is included in the \$10 t-shirt? For example, \$10 (tax is included). Or does the organization need to provide information such as: \$9 t-shirt + \$1 sales tax = \$10.

Please contact me at X or XX if you have any questions or require additional information.

Thank you for your assistance in this matter.

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

The Illinois Retailers' Occupation Tax is imposed upon the total gross receipts received by retailers who make sales of tangible personal property to Illinois end users. Unless the sales are specifically exempted, such retailers must collect and remit the sales tax. See 86 Ill. Adm. Code 130.101.

Organizations that are recognized as non-profit under Internal Revenue Code Section 501(c)(3), are not necessarily exempt organizations pursuant to Illinois tax law. Such organizations must obtain an exemption identification number (an "E number") to qualify. See 86 Ill. Adm. Code 130.2007.

Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, or charitable, receive an E number. The E number evidences that the Department recognizes the organizations as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of their organizational purposes. If an organization does not have an E number, then its purchases are subject to tax. Please be aware that currently only sales to organizations holding the E number are exempt, not sales to individual members of the organization.

While organizations that have received an E number are, as a general matter, subject to Retailers' Occupation Tax upon their own sales of tangible personal property, there are three limited exceptions where such organizations are authorized to engage in a restricted amount of retail selling activity without incurring Retailers' Occupation Tax liability. The limited exceptions available to not-for-profit organizations described in 86 Ill. Adm. Code 130.2005 include: (1) Sales to Members (see 86 Ill. Adm. Code 130.2005(a)(2)); (2) Noncompetitive Sales (see 86 Ill. Adm. Code 130.2005(a)(3)); and (3) Occasional Dinners and Similar Activities (see 86 Ill. Adm. Code 130.2005(a)(4)).

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Sales of clothing items by exempt organizations may qualify as exempt noncompetitive sales if they meet all of the requirements of 86 Ill. Adm. Code 130.2005(a)(3) and if the dominant motive of the purchase is the making of a donation to the charitable or religious organization which conducts the sale, rather than the acquisition of property.

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.

Very truly yours,

Debra M. Boggess  
Associate Counsel