

This letter discusses the State tax rates applicable to sales of food. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

September 4, 2012

Dear:

This letter is in response to your letter dated July 5, 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:

Our Company, COMPANY, enjoys a wide product line made up of both food replacement and dietary supplements. Upon conducting a review of your Sales Tax Laws & Publications, our sales tax consultants have determined that two of our food products may qualify for sales tax exemption. This exemption is currently extended to food products in your State.

Prior to taking any action in exempting these two products, we would like written confirmation from your department that our PRODUCT1 and PRODUCT2 are, indeed, sales tax exempt. Please utilize the supporting information below in conducting your review.

We ask that you be specific in your ruling to include exemption detail like percentage of exemption, as well as treatment of bundles & kits (i.e. a bundle/kit contains both food and dietary supplements).

1. PRODUCT1 (Nutrition Facts Label, Meal Replacement)
Product Description:
 - meant to replace a meal, not supplement a meal
 - for home consumption, must be prepared with other liquids, mixers, flavors, etc.
 - may be bought with any card, including food stamps.
 - powdered food drink mix
 - dietary food/health food item
2. PRODUCT2 (Nutrition Facts Label, Meal Replacement)
Product Description:

- meant to replace a meal; not supplement a meal
- for home consumption
- can also be a snack, where a meal is not available for hours at a time
- may be bought with any card, including food stamps.
- dietary food/health food item

We appreciate your time on this matter.

We ask that you submit your final determination at your earliest convenience. Should you have any questions or concerns, please feel free to reach out to us by calling X, or email us at X.

DEPARTMENT'S RESPONSE:

Food sold at retail in Illinois is subject to Retailers' Occupation Tax and Use Tax. Items that qualify as food, drugs and medical appliances are taxed at the low State rate of 1%. The Department's regulation regarding the appropriate tax rates for food can be found at 86 Ill. Adm. Code 130.310. Food that is to be consumed off the premises where it is sold (other than alcoholic beverages, candy, soft drinks, and food that has been prepared for immediate consumption) is taxed at the rate of 1% plus applicable local taxes. Food is defined as any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed, including foods such as condiments, spices, seasonings, vitamins, bottled water and ice. As you can see in the regulation, "soft drinks" mean non-alcoholic beverages that contain natural or artificial sweeteners; but "soft drinks" do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.

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