

ST 13-0067-GIL 11/27/2013 RETURNS

This letter discusses the rules regarding when a retailer must file a monthly return. *See* 86 Ill. Adm. Code 130.501. (This is a GIL.)

November 27, 2013

Dear Xxxxx:

This letter is in response to your letter dated October 9, 2013, 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:

In reviewing our file I noticed that our company has been filing Zero Sales Tax Liability returns for some time. I would appreciate it very much, if you would assist us in the following:

COMPANY B purchases *PRODUCT 1, PRODUCT 2, PRODUCT 3 and PRODUCT 4* from our parent company, COMPANY A. 50% of the time, these products are shipped direct to our customers internationally. The other 50% of the time these products are received by us here in STATE and then are shipped to our customer also internationally.

Therefore I believe that there is no requirement for us to complete a monthly ST-1 Sales and Use Tax return in the future. Kindly advise us.

DEPARTMENT’S RESPONSE:

We cannot determine the exact nature of the transactions you engage in from the limited information contained in your letter. Based on the information provided in your letter, it seems that you make only international sales. Sales of property originating in Illinois are generally not taxable when the property is delivered out of state, and the property never returns to Illinois. *See* 86 Ill. Adm. Code 130.605(d). I hope you will find the following general information regarding registration and the filing of returns helpful.

It is unlawful for any person to engage in the business of selling tangible personal property at retail in this State without a certificate of registration from the Department. *See* 86 Ill. Adm. Code 130.701. A registration must be obtained prior to making retail sales. If a person is not making retail sales, no registration is necessary. It is unclear from the limited information provided in your letter whether you are making any taxable retail sales in Illinois.

There is no dollar threshold that must be met before a retailer is required to register and remit Use Tax to the State. 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. Furthermore, if a retailer's average monthly tax liability to the Department does not exceed \$50, the Department may determine that returns should be filed on an annual basis. The provisions are described in 86 Ill. Adm. Code 130.502 and 86 Ill. Adm. Code 130.510. The decision to permit quarterly or annual filing will be based on information collected by the Department such as registration and audit information regarding the retailer's average monthly liability. In the event that you are not making any taxable retail sales in Illinois, you may still be required to file an ST-1 if you have use tax liability that is not satisfied by paying use tax directly to your suppliers. Again, we do not have enough information about the sales that you make in Illinois to determine whether you should continue filing 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,

Cara Bishop
Associate Counsel

