

The Aircraft Use Tax Law applies to non-retail transactions, gifts, or transfers of aircraft. See 86 Ill. Adm. Code 152.101. (This is a GIL.)

April 30, 2014

Dear Xxxx:

This letter is in response to your letter dated April 21, 2014, 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:

I am hoping I can possibly get some clarification in writing of concern that I need to get addressed.

I was told by an apparently unreliable source that if in fact you do change your “N” number that the “Use Tax” will applicable again on the same aircraft.

After speaking to one of your agents, I was informed that this is not correct and the info I was given was in fact incorrect. I would like two items addressed to make sure that I will not be liable to another tax use charge.

1. Change of “N” number
2. If I decide to change from Corporation that it is now registered in to a new LLC to get out of the Corporation.

Please respond to the above two issues at your convenience.

If you have any issued [sic] that need to addressed, pleaswe [sic] feel free to contact myself.

#### **DEPARTMENT’S RESPONSE:**

Under the Aircraft Use Tax Law, a tax is imposed on the privilege of using, in this State, any aircraft as defined in Section 3 of the Illinois Aeronautics Act acquired by gift, transfer, or purchase after June 30, 2003. This tax does not apply if the use of the aircraft is otherwise taxed as a retail transaction under the Use Tax Act. 35 ILCS 157/10-15. The tax is imposed on the use of aircraft in this State regardless of whether the aircraft is actually registered under the Illinois Aeronautics Act. See 86 Ill. Adm. Code 152.101(a).

There is no exemption under the Aircraft Use Tax Law for aircraft transferred between related parties. Any transfer of an aircraft between separate legal entities, even related entities, that is not otherwise exempt under the Law, is subject to Aircraft Use Tax. 86 Ill. Adm. Code 152.101(a)(3). A transfer from a corporation to an LLC generally would be taxable.

Please note that the Department has issued a Private Letter Ruling relating to a transfer between corporations as part of a merger. ST-10-0007-PLR.

“When corporations are merged or consolidated, as a matter of law, the new corporation takes over the prior corporation’s liabilities and benefits as if it were the prior corporation. The assumption of the assets and liabilities by the surviving corporation or new company takes place as a matter of law. There is not a “transfer” between two separate legal entities, rather, one entity becomes another entity, or is consolidated into a separate entity, while the original entity ceases to exist. A transfer that is taxable under the Aircraft Use Tax does not occur in these instances.”

See 805 ILCS 5/11.30. The Department stated that this reasoning applies to a merger between a corporation and a limited liability company. 805 ILCS 5/11.39(f). However, your letter does not explain the nature of the transfer, and we cannot advise whether or not the transfer you are contemplating is subject to Aircraft Use Tax.

A person that changes the “N” number on an aircraft is not subject to Aircraft Use Tax if no transfer, gift or purchase of the aircraft occurs.

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,

Richard S. Wolters  
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