

ST 14-0039-GIL 08/07/14 GROSS RECEIPTS

Costs of doing business are an element of the retailer's gross receipts subject to tax even if separately stated on the bill to the customer. See 86 Ill. Adm. Code 130.410. (This is a GIL.)

August 7, 2014

Dear Xxxx:

This letter is in response to your letter received June 27, 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 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 NAME and I am the Senior Tax Analyst for COMPANY. We are a manufacturing company with facilities in CITY, STATE1, CITY, STATE1, and CITY, STATE2. Our corporate headquarters is in STATE2 at the plant facility.

We are in the process of incorporating a new charge for our customers. This new charge will be called a "Consolidated Freight Charge". Our definition of this charge is:

"Freight assessed on product transported from one COMPANY facility to the other for the purpose of consolidating a customer's order to ship from a single shipping point. The charge will be calculated as a % of the invoice price for the product (line items) that are produced in one plant and transferred to another for shipment consolidation. This charge will be shown as a single line item on the bottom of the customers invoice."

This letter is to determine the taxability of this charge in your state and request the statutes that will cover this transaction. Thank you in advance for your help!!

DEPARTMENT'S RESPONSE:

The Retailers' Occupation Tax is imposed upon persons engaged in this State in the business of selling tangible personal property for use or consumption. Retailers' Occupation Tax is based upon the "selling price" of the tangible personal property sold. Section 1 of the Retailers' Occupation Tax Act defines the term, "selling price," as the "consideration for a sale valued in money ... and shall be determined without any deduction on account of the cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever...." See 35 ILCS 120/1. As indicated by this definition, a retailer's cost of doing business is not deductible from his or her gross receipts. This

principle is articulated in Section 130.410 of the Department's rules. 86 Ill. Adm. Code 130.410. This rule states that in calculating Retailers' Occupation Tax liability, "labor or service costs" . . . "overhead costs" . . . "or any other expenses whatsoever" are not deductible from gross receipts. The rule provides that these costs of doing business are an element of the retailers' gross receipts subject to tax even if separately stated on the bill to the customer. Note, incoming freight is always a cost of doing business subject to Retailers' Occupation Tax. Thus, for deliveries made from one company's facilities to another of its facilities for the purpose of consolidating a customer's order and subsequently redelivered to the customer, tax liability will be measured on the cost of the delivery from the one facility to the other facility. This delivery is a transportation cost that is treated exclusively as a retailer's cost of doing business.

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

DMB:lkm