

The State of Illinois or any local governments in Illinois, or any agency or instrumentality of any such government body, incurs Retailers' Occupation Tax liability when it engages in the selling of tangible personal property at retail to the public other than in the performance of a governmental function." See 86 Ill. Adm. Code 130.2055. (This is a GIL.)

December 2, 2014

Dear Xxxx:

This letter is in response to your letter dated September 24, 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:

The ASSOCIATION is a governmental unit within the State of Illinois. In the course of our governmental business, we sponsor several community events each year, including FESTIVAL 1, FESTIVAL 2 and a FESTIVAL 3 event. Usually we resell pop, water, and food. This past year, the Festival 3 event was restructured and the ASSOCIATION became responsible for beer sales in the beer tent.

As a reseller of items, we have been collecting sales tax and submitting to the Illinois Department of Revenue on a quarterly basis (pursuant to IDOR direction). It has now come to our attention that Section 130.2005 does allow for sales tax exemption for two events for our type of agency. . We would like to apply for said exemption for our FESTIVAL 3 and FESTIVAL 2 events. As a governmental unit, all sales go toward expenses to sponsor the community events.

We would greatly appreciate your direction as to the steps/procedures to apply for this exemption, or if appropriate, that this letter be considered our

request for exemption of the collection of sales tax on sales beginning with our 2014 FESTIVAL 3 which was held [DATES] and our upcoming and FESTIVAL 2 event on [DATE]. We fully understand, as indicated in Section 130.2005, that once we choose the two events, tax exemption may not be altered.

Please contact me in our Finance Department with the exemption information. Thank you for your consideration.

## **DEPARTMENT'S RESPONSE:**

Organizations that qualify as exclusively religious, charitable, or educational organizations can apply to the Illinois Department of Revenue to obtain a tax exemption identification number ("e-number"). Please see 86 Ill. Adm. Code 130.2007 for the requirements for making application for an e-number. E-numbers establish that the Department recognizes said organizations as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of their organizational purposes. While organizations and institutions that are both operated and organized exclusively for charitable, religious, or educational purposes are as a general matter subject to Retailers' Occupation Tax upon their own sales of tangible personal property, there are limited exceptions where such organizations are authorized to engage in a restricted amount of retail selling activity without incurring Retailers Occupation Tax liability. Exclusively charitable, religious and educational organizations that hold exemption numbers may engage in sales to members, noncompetitive sales, and certain occasional dinners and similar activities without incurring Retailers' Occupation Tax liability. 86 Ill. Adm. Code 130.2005(a)(2)-(4). Please note that Section 130.2005 does not apply to sales by governmental bodies.

Section 130.2055(a) of the Administrative Code, in contrast, governs sales by governmental bodies. Section 130.2055(a) provides that "the State of Illinois or any local governments in Illinois, or any agency or instrumentality of any such government body, incurs Retailers' Occupation Tax liability when it engages in the selling of tangible personal property at retail to the public other than in the performance of a governmental function." The object of this rule is to ensure that governmental bodies do not have a competitive advantage when selling items that are also sold by Illinois retailers. The Illinois General Assembly did not intend to give government a competitive selling advantage over Illinois citizens.

An example of sales that may be made by a governmental body to the public that involves the performance of a governmental function is the sale of motor vehicle license plates by the State of Illinois. Where a governmental unit makes sales that are not in the direct performance of its governmental function, the sales are taxable. Examples of taxable sales by governmental units include the operation of concession stands by park districts, sales of smoke detectors by fire protection districts, sales of leaf bags by municipalities, sales of T-shirts, caps and mugs by State agencies, and sales of books by libraries.

It is the Department's position that sales of alcohol by a governmental body are not in the direct performance of its governmental function. Sales of tangible personal property, including alcohol, by a governmental body at a festival are subject to Retailers' Occupation Tax.

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,

Cara Bishop  
Associate Counsel

CB:lkm