

ST 15-0078-GIL 12/16/15 MISCELLANEOUS

An adult tricycle powered by an electric motor does not fall within the definition of “motor vehicle” found in the Illinois Vehicle Code. Accordingly, neither the adult tricycle nor any modifications purchased for it qualify for the 1% rate of tax. See 86 Ill. Adm. Code 130.311(f). (This is a GIL.)

December 16, 2015

Dear Xxxxx:

This letter is in response to your letter dated October 23, 2015, 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 understand that a 1% Sales or Use Tax is available for Medical Appliances that enable a handicapped person to use a piece of equipment that he normally would not be able to use without the addition of the modification of the appliance.

I am 90 years old, cannot drive due to peripheral neuropathy, lack of balance due to 29 days of vancomycin infusions which destroyed my inner ear balance system. I have to be driven places by taxi or driver. I have the handicap placard that permits my driver and myself to park almost anywhere.

I would like to use an adult tricycle powered by an electric motor, an add on system to the tricycle that provides power when the pedals are moving. It is fail safe in that if the rider is not moving the pedals, the motor senses the lack of movement and cuts out the power. This keeps the bike from running away if the rider is not moving the pedals or is off the trike. You can see the PRODUCT system on their website.

A tricycle equipped in this way would permit me to ride to the supermarket, drugstore, bank, or library, giving me an independence in which I would not have to rely incessantly on other persons. A walker would be on the bike, available for me to get off the trike at any destination for errands.

Would appreciate your authorization to use the 1% tax relief on the purchase of the items that I need. Minimally, the add on of the PRODUCT electric bike system onto the tricycle, and if possible, on the purchase of the adult tricycle itself.

Please feel free to call me if you have any additional questions.

DEPARTMENT'S RESPONSE:

Section 2-10 of the Retailers' Occupation Tax Act provides, in relevant part, that "[w]ith respect to . . . modifications to a motor vehicle for the purpose of rendering it usable by a disabled person . . . the tax shall be imposed at the rate of 1%. 35 ILCS 120/2-10. Section 130.311(f) of the Illinois Department of Revenue's administrative rules further explains the application of this statutory language. It states, in part, "modifications made to a motor vehicle, as defined in Section 1-146 of the Illinois Vehicle Code, for the purpose of rendering it usable by a disabled person, qualify for the reduced rate of tax. 86 Ill. Adm. Code 130.311(f).

The Illinois Vehicle Code defines "motor vehicle", in relevant part, as "[e]very vehicle which is self-propelled . . . , except for vehicles moved solely by human power, motorized wheelchairs, low-speed electric bicycles, and low-speed gas bicycles. See 625 ILCS 5/1-146 (emphasis added). An adult tricycle powered by an electric motor does not fall within the definition of "motor vehicle" found in the Illinois Vehicle Code. Accordingly, neither the adult tricycle nor any modifications purchased for it qualify for the 1% rate of tax.

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.

Sincerely,

Debra M. Boggess
Associate Counsel