

ST 15-0103 (GIL) October 15, 2015 CONSTRUCTION CONTRACTORS

Persons who act as construction contractors by permanently affixing tangible personal property to real estate owe Illinois Use Tax on the cost price of that tangible personal property. See 86 Ill. Adm. Code 1940 and 2075. (This is a GIL.)

October 15, 2015

Dear Xxxxx:

This letter is in response to your letter dated August 26, 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](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:

We are doing our annual update of our tax files to be sure that we are aware of any new sales/use tax issues in your state that would affect our company. Our company, COMPANY sells custom made signage into your state where we are currently registered. The signage is either attached to a building or a pole that is concreted into the ground. We contract with an independent contractor to install the signs. The installation charges are separately stated on the billing and include charges for surveys, permits, engineering and repairs. We also contract with an independent freight carrier to deliver the sign to the site for installation. All freight charges are separately stated on the billing. Both the installation and the freight are charged to the customer at a rate higher than our companies [sic] cost.

Our questions based on the above circumstances are as follows.

- At the point of sale should we as the seller be charging the customer sales tax or is this a case where we would pay use tax?
- If this is a case of use tax, how is the use tax calculated?
- Should tax be charged on the freight?
- Should tax be charged on all components of the installation?
- If tax is charged on the freight and installation, do we charge on the selling price or only on the element of profit?
- Are we obligated to collect local taxes in your state?
- If we are obligated to collect the local tax should those taxes be remitted to the state or the locality?
- Do you have any special rules or exemptions that apply to your state relating to our situation?
- Are there any special circumstances for new construction or remodeling that would cause our customers to be exempt in this situation?
- Please provide any applicable code sections that would apply to signage, installation and freight for our future reference.
- Does your state have a mass mailing list to provide us with updates when they become available? If so, will you please add us to your list or provide us with information to register for this.

We look forward to your response to our inquiries on or before October 15, 2015. Please direct your response to the address above. Thank you for your time.

#### **DEPARTMENT'S RESPONSE:**

Generally, the Retailers' Occupation Tax rate and Use Tax rate imposed by the State of Illinois is 6.25%. See 86 Ill. Adm. Code 130.310. Unlike the State tax rate noted above, local tax rates vary depending on the tax rate imposed by the local government in a particular jurisdiction. For local tax rates, see the Department's Tax Rate Database and the Tax Rate Finder on the Department's website at [www.tax.illinois.gov](http://www.tax.illinois.gov). Once on the website, you will see on the left hand side a box entitled "Quick Links". At the bottom of that box is a link entitled "Tax Rate Database". Click on that link which will take you to a screen entitled "Tax Rate Database". In the middle of the screen click on the link entitled "Sales Tax". Toward the bottom of the middle of that screen you will see a link entitled "Tax Rate Finder". Click on that link which will take you to another screen. At the bottom of that screen click the "Start" button on the bottom right of the screen. At the bottom of the next screen, click on the "Continue" button. On the next screen, click on the "Accept" button, which takes you to the "Search" screen. This screen permits you to find the particular area you are interested in searching to find out the tax rates in that area for specific months.

Persons who sell signs may incur a Retailers' Occupation Tax, Service Occupation Tax or Use Tax liability, depending upon the circumstances of the particular sale. See 86 Ill. Adm. Code 130.2155 (Tax Liability of Sign Vendors); 86 Ill. Adm. Code 130.450 (Installation, Alteration and Special Service Charges); 86 Ill. Adm. Code 140.101 (Basis and Rate of the

Service Occupation Tax); 86 Ill. Adm. Code 130.1940 (Construction Contractors and Real Estate Developers) and 86 Ill. Adm. Code 130.2075 (Sales To Construction Contractors, Real Estate Developers and Speculative Builders).

For information on handling and delivery charges, see 86 Ill. Adm. Code 130.410 (Cost of doing Business Not Deductible) and 86 Ill. Adm. Code 130.415 (Transportation and Delivery Charges). Please be advised, however, the Department is currently in the process of amending these regulations. You can go to our website to follow these regulations as they proceed through the rulemaking process.

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,

Debra M. Boggess  
Associate Counsel

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