

If no tangible personal property is transferred to the customer, then no Illinois Retailers' Occupation Tax or Service Occupation Tax would apply. See 86 Ill. Adm. Code Parts 130 and 140. (This is a GIL.)

January 13, 2016

Dear Xxxxx:

This letter is in response to your letter November 25 2015, in which you requested 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:

Our Illinois hotel has an outside vendor who provides banquet audio visual equipment and internet access services for our clients. We are billed directly for these services by the vendor, less a commission. Our clients are charged the full amount plus a 24% service charge for each service and/or equipment provided.

We typically tax any service charges at the same rate as the revenue it is associated with. See example below. The question is - although charges for internet access are not taxable, is the service charge associated with the internet access charges taxable?

**Example**

<b>Food</b>	
Lunch Buffet	\$ 385.00
<b>Beverage</b>	
Domestic Beer	\$ 156.00

**Audio Visual**

See ABC Rental proposal for internet  
 24% service charge plus tax to be added to proposal \$ 135.00

**High Speed Internet Access**

See ABC Rental proposal for internet access \$ 30.00  
 24% service charge to be added to proposal

**Room Rental**

Room #2 \$ 150.00

14.25% Banquet Gratuity	\$ 77.09
9.75% Banquet Administrative Fee	\$ 52.75
24 % HSIA Service Charge	\$ 7.20
24% AV Service Charge	\$ 32.40
24% Room Facility Fee	\$ 36.00
9.25% State Sales Tax	\$ 62.05
13.75% Room Rental Tax	\$ 25.58
9% AV & HSIA Service Charge Vendor Tax	\$ 3.56
.25% City of Chicago Restaurant Tax	\$ 1.35

Grand Total \$ 1,153.98

Is the \$7.20 service charge associated with the high speed internet fee taxable?

Any assistance you can provide in clarifying the taxes would be much appreciated. I look forward to hearing from you.

**DEPARTMENT'S RESPONSE:**

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. See 35 ILCS 120/2; 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See 35 ILCS 105/3; 86 Ill. Adm. Code 150.101. These taxes comprise what is commonly known as "sales" tax in Illinois. If the purchases occur in Illinois, the purchasers must pay the Use Tax to the retailer at the time of purchase. The retailers are then allowed to retain the amount of Use Tax paid to reimburse themselves for their Retailers' Occupation Tax liability incurred on those sales. If the purchases occur outside Illinois, purchasers must self assess their Use Tax liability and remit it directly to the Department.

Retailers' Occupation and Use Taxes do not apply to sales of service. Under the Service Occupation Tax Act, businesses providing services are taxed on tangible personal property transferred as an incident to sales of service. See 86 Ill. Adm. Code 140.101. If the transaction you are inquiring about does not involve the transfer of any tangible personal property to the customer, then the transaction generally would not be subject to Retailers' Occupation Tax, Use Tax, Service Occupation Tax, or Service Use 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,

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