

Tangible personal property may only be purchased tax free when the sale is made directly to an exempt organization, which possesses a valid and active exemption identification number (E-number). See 35 ILCS 120/2-5(11).

May 2, 2016

Dear Xxxxx:

This letter is in response to your letter dated March 8, 2016, 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:

Is there a chapter or section of the Illinois Statutes governing your department which give it authority to issue administrative law decisions and/regulations regarding sales, use and excise taxes for an entity such as ours?

Specifically, I own this house and will have paid off its mortgage in 20XX, but I hold it in a permanent, contingently [sic] suspendable [sic] living trust to provide a family-small-group type of housing for free (if they’ve no income whatsoever) or for XX% of their monthly income up to \$XXX a month, to homeless Veterans and Others.

Since our opening in March X, 20XX, we’ve helped 4 Veterans get back on their feet, and currently have 2 de facto veterans living here.

However, we share this house and office and household equipment and supplies both with me and with our affiliated, for-profit (tho’ it has yet to show a profit), XX% Employee-Owned and Managed Company: ABC.

Accordingly, the use-value of nearly all our purchases accrues not only to our not- for-profit activities and entity, but also to me and to our company.

We have been assessing ourselves sales tax of one half of the amount due on any given purchase, with me and the company paying the house for half of what we (or I) purchase, in effect buying half of our supplies from the House, and paying the House half of the sales tax which otherwise would be due; and the House than [sic] paying that am't to Illinois (c/o your dep't).

We have approached our State Senator: NAME; and State Rep.: NAME, asking them to introduce either a bill or an amendment to the State codes that would authorize half or a third or a quarter of the sales tax rate to be added to the bills of purchase for multi-use or multi-entity purposes where at least one such entity is an NFP; and one or more of the other sharing entities is for profit or for the benefit of some other natural or juridical person.

Do the existing statutes already give your department such authority? Or would your governing statutes require to be amended accordingly by the State Legislature and Governor?

DEPARTMENT'S RESPONSE:

Sales to exempt organizations (e.g., organizations that qualify as exclusively religious, charitable, or educational, or a not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older) or governmental entities are subject to tax unless the exempt organization or governmental entity has obtained an active exemption identification number (E-number) from the Department. See 86 Ill. Adm. Code 130.120(h)-(i). See also 86 Ill. Adm. Code 130.2007 and 130.2080. Persons or businesses selling tangible personal property to these organizations or governmental entities must be provided with an E-number for the sales to be tax exempt.

It is important to note that only sales to the organization or governmental entity holding the E-number are exempt, not sales to individual members of the organization. It is highly improper for an individual to use the E-number of an organization or governmental entity for his or her own benefit. See 86 Ill. Adm. Code 130.2005(k). Generally, individual members of exempt organizations who purchase items of tangible personal property with their own funds and are then reimbursed by the exempt organization, cannot purchase the items tax-free. The sale must be made to the exempt organization. Please note that the E-number can only be utilized by the exempt organization in making purchases in furtherance of its organizational purpose. Purchases of tangible personal property made with an E-number that are not purchased in furtherance of its organizational purpose are taxable.

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:bkl