

A provider of software as a service is acting as a serviceman. If the provider does not transfer 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. If the provider transfers to the customer an API, applet, desktop agent, or a remote access agent to enable the customer to access the provider's network and services, it appears the subscriber is receiving computer software that is subject to tax. See 86 Ill. Adm. Code Parts 130 and 140. (This is a PLR.)

August 14, 2017

Dear Xxxxx:

This letter is in response to your letter dated February 3, 2017, 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 to review regulations, letter rulings and other types of information relevant to your inquiry.

Review of your request disclosed that all the information described in paragraphs 1 through 8 of Section 1200.110 appears to be contained in your request. This Private Letter Ruling will bind the Department only with respect to COMPANY for the issue or issues presented in this ruling, and is subject to the provisions of subsection (e) of Section 1200.110 governing expiration of Private Letter Rulings. Issuance of this ruling is conditioned upon the understanding that neither COMPANY nor a related taxpayer is currently under audit or involved in litigation concerning the issues that are the subject of this ruling request. In your letter you have stated and made inquiry as follows:

COMPANY ("Company") received correspondence, dated August XX, XXXX, from your office regarding the COMPANY's collection of Illinois Retailer's Occupation Tax and Use Tax ("S/U Tax") on computer software provided through a cloud-based service, often referred as Software as a Service or "SaaS". We have attached, as **Exhibit A**, a copy of such letter for your reference.

On behalf of COMPANY and pursuant to Ill. Admin. Code tit. 2, §1200.110, we respectfully submit this request for formal written and binding guidance from the Illinois Department of Revenue ("DOR") on the proper application of Illinois S/U Tax pertaining to COMPANY's cloud-based products and services as described below.

FACTS

COMPANY develops and sells a variety of software solutions to customers located in Illinois that are each available in several differing formats including physical delivery via CD; electronic download of software programs; and cloud based (SaaS) offerings wherein the customer merely accesses programming via the internet. This letter only seeks clarification with respect of COMPANY's products that are provided as a SaaS offering and does not involve the similar software titles that may be purchased through various retail channels and/or electronic download. In those situations involving a delivery of software programs, the company has and will continue to apply Illinois S/U tax on all product delivered to customers in Illinois.

COMPANY's various SaaS offerings generally are categorized into one of the following major SaaS product groups and are described in greater detail below:

1. SOFTWARE PRODUCT 1
2. SOFTWARE PRODUCT 2
3. SOFTWARE PRODUCT 3
4. SOFTWARE PRODUCT 4
5. SOFTWARE PRODUCT 5

For each of the SaaS offerings described herein, the customer ("User") is provided access to the software offering via the internet. The actual software program is not downloaded onto the User's computer. Rather, COMPANY's data centers, located in STATE 1 and STATE 2, house the systems, networks and databases required to operate and deliver each of COMPANY's SaaS offerings described herein. The User simply accesses such software, via an internet connection, using their computer, laptop, tablet, smartphone or any other internet capable device. There are limited situations wherein certain information, forms, executable files or other programming language is downloaded by a subset of the Users. We believe each of these situations are relatively minor and not the true object of the SaaS offering purchased by the User. We have identified and included below a discussion of these situations wherein something may be downloaded with respect to each of the SaaS offerings.

We have also included copies of the current User license agreement (ULA) which provides a more exhaustive description of the SaaS offerings and contractual relationship between COMPANY and its customers.

1. SOFTWARE PRODUCT 1

We have attached, as **Exhibit B**, the current ULA for SOFTWARE PRODUCT 1 Online. SOFTWARE PRODUCT 1 Online is a software offering that allows Users an online/cloud access to COMPANY's SOFTWARE PRODUCT 1 software for purposes of preparing and filing their federal and state personal income tax returns. The SOFTWARE PRODUCT 1 Online software cannot be downloaded by the User. If a User prefers to obtain a downloaded copy of the software product, they must purchase a desktop version of the SOFTWARE PRODUCT 1 software. Those various desktop

versions of the software are separate SKUs and all applicable tax is collected and remitted.

With respect to SOFTWARE PRODUCT 1 Online, the User simply accesses the software and inputs their tax data into the system via an internet connection. Users can also choose to import certain financial data from other financial software products, third party financial institutions, and/or employers to alleviate the need to enter such data manually. In each of these situations, the User provides SOFTWARE PRODUCT 1 Online with direct access to the third party systems (i.e., by inputting User credentials and passwords). Thereafter, SOFTWARE PRODUCT 1 Online connects directly to the other systems and pulls the requisite information (e.g., W-2 data, 1099's, etc.). In these data transfer situations, nothing is downloaded to the User's computer to facilitate the data connection or transfer of data.

COMPANY's Terms of Service for SOFTWARE PRODUCT 1 Online grants the User the right to use and provide the User services in order "to prepare valid federal and/or state tax return(s) for which the User has paid the applicable fee(s), and after proper registration and payment of any applicable fees, to file electronically and/or print such federal and/or state tax return."¹ Services "include [] any state version of SOFTWARE PRODUCT 1 Online Software made available through" the SOFTWARE PRODUCT 1 website.² The product cannot be used to prepare tax returns or related schedules on a commercial or professional basis.³

SOFTWARE PRODUCT 1 Online provides four distinct versions of the SaaS offering, including:

- SOFTWARE PRODUCT 1A – for the simplest returns;
- SOFTWARE PRODUCT 1B– for taxpayers who itemize deductions;
- SOFTWARE PRODUCT 1C– for taxpayers who own investments or rental property; and
- SOFTWARE PRODUCT 1D – for small business owners.

There is a fee for each of these SaaS offering with the exception of the "SOFTWARE PRODUCT 1A" and certain other special editions made available to members of the Armed Forces. While the capabilities and functionality of each SaaS offering may differ somewhat, the User interface with each version is the same. Specifically, none of these differing versions results in the transfer of any programs or executable files to the user's device. As such, for purposes of this request, we will discuss each of these collectively as SOFTWARE PRODUCT 1 Online.

¹ COMPANY Terms of Service for SOFTWARE PRODUCT 1 Online Tax Preparation Services – Tax Year 2015; Additional Terms and Conditions for the SOFTWARE PRODUCT 1 Online Tax Preparation Services (January 2016) § (B)(1.1). Available at [WEBSITE](#) (Accessed Nov. 5, 2016).

² *Id.* at § (B)(2.1).

³ *Id.* at § (B)(1.3).

Once a User chooses the appropriate online product, they must create an online account with COMPANY to sign into any SOFTWARE PRODUCT 1 software offering within their account. As part of account set up, Users will receive a text/email message with a security code to secure and confirm the account setup process. Upon completion of the account set up, in order to determine which product is most appropriate for the User, SOFTWARE PRODUCT 1 Online prompts the User with various questions regarding their personal tax situations.

Thereafter, SOFTWARE PRODUCT 1 Online prompts the User with more detailed questions relating to income and deductions for purposes of computing a complete and accurate tax return. Users input their personal tax return data on various entry screens and, based on the data inputs and the User's response to various questions, SOFTWARE PRODUCT 1 Online will calculate [sic] the appropriate tax refund or additional tax payment due. The User is responsible for the accuracy and completeness of all information entered into SOFTWARE PRODUCT 1 Online. It should also be noted that the User can complete all data entry processes relating to their return, including all tax calculations performed by the software, without ever purchasing the SaaS offering. However, a User cannot print or electronically file the tax return without first completing the payment process for SOFTWARE PRODUCT 1 Online.

Once the User pays for the SaaS offering, the User may then file the return(s) electronically or, in some cases, may choose to print the return and file the printed return by mailing it to the IRS or other state taxing agency. If the User chooses to file the return(s) electronically, the tax return will be forwarded to COMPANY's Electronic Filing Center, where it will be converted to and stored in a standardized format, and then transmitted to the applicable federal and/or state taxing authority.

Upon completion of the return, whether filed electronically or through mail, the User can download a Portable Document Format, ("PDF") copy of his or her return. The "soft" copy of the final returns, related data entry worksheets and any underlying data imports are stored by SOFTWARE PRODUCT 1 Online for at least seven years, as required by the IRS.

While the User can download a PDF version of their final return or choose to print such return, we believe these objects merely represent the output of the SaaS offering. The true object of this SaaS offering is access to the proprietary SOFTWARE PRODUCT 1 Software engine to accurately compile, compute and prepare the required tax returns.

While Users typically do not receive any executable files or program code with the purchase SOFTWARE PRODUCT 1 Online services, there are two specific situations wherein a "program" is downloaded by Users. These two situations are as follows:

- **Amended Returns.** In situations wherein a SOFTWARE PRODUCT 1 Online User needs to amend a return filed using SOFTWARE PRODUCT 1 Online, they must use the same SOFTWARE PRODUCT 1 Online software to amend such returns. If such online software has already been rolled forward to the

subsequent tax year, however, the User will be provided a link to download a desktop version of the applicable prior years' SOFTWARE PRODUCT 1 software for no additional charge. If the User, however, is amending a return prepared in the current year, the User only has access to the SOFTWARE PRODUCT 1 Online software. As such, these situations wherein a User is provided a link to a downloadable version of the software will only occur once the calendar year has advanced (and the online software has also advanced to a later tax year).

The number of Users who obtain a desktop version of SOFTWARE PRODUCT 1 software to amend a prior year return filed through SOFTWARE PRODUCT 1 Online is very minimal and, as such, it is not commercially viable for the Company to make such software available via the online platform beyond the current tax filing season.

- **Mobile Apps.** There is a noteworthy “free” optional feature that individuals can access whether or not they are a SOFTWARE PRODUCT 1 Online User. This free feature is a mobile application that can be downloaded through certain “App Stores” (e.g., iTunes) that provide Users with a more appealing interface to the SOFTWARE PRODUCT 1 Online software when accessed on a mobile device. The Mobile app is downloaded for no charge and provides connectivity to SOFTWARE PRODUCT 1 Online. Anybody, whether or not a SOFTWARE PRODUCT 1 Online User, can download and use the mobile app for free.

SOFTWARE PRODUCT 1 Online can be used with or without the Mobile App on a smart phone (i.e., a User can access their SOFTWARE PRODUCT 1 Online account through an internet browser on their mobile device). The Mobile App, however provides a customized interface that improves the experience on these smaller devices. As noted in the ULA, “[Users] will need to check the Services website to ensure your mobile device and telecommunications provider is compatible with SOFTWARE PRODUCT 1 Online. COMPANY is not obligated to provide a compatible version of the Services for all mobile devices or telecommunication providers, which are subject to change by COMPANY at any time with reasonable notice...”⁴

When available for the specific device, the Mobile App can be downloaded to a phone or tablet for free. However, the User must still have a SOFTWARE PRODUCT 1 Online account to use the SOFTWARE PRODUCT 1 Online software. This account is the same as the account they can access through a computer. Users can have a SOFTWARE PRODUCT 1 Online account without ever downloading the Mobile app or, if they prefer, they can set up such account and prepare/file their tax returns using SOFTWARE PRODUCT 1 Online wholly through the Mobile App. There is no difference in the underlying software utilized to process and ultimately file the return with the taxing authorities.

⁴ *Id.* at (B)(8).

In each of the situations noted above, a User receives certain program code. In the case of the Mobile App, it is not SOFTWARE PRODUCT 1 Online code but rather a free app that allows for a more appealing interface for use of the SOFTWARE PRODUCT 1 Online software.

In the case of Users amending old returns, they will receive a fully functioning copy of the SOFTWARE PRODUCT 1 software they used online in the earlier year(s). These situations are rare and such program is never provided to the User until after that tax year's program has been removed from the online platform. In such situations, the older year's software program no longer holds any commercial value to the Company. As such, the Company has concluded it is more cost effective to simply provide a working copy of the software as opposed to maintaining a fully functioning system online for the small number of Users who may require the service. It should also be noted that this software program would never be provided to a User in the same calendar year in which they purchase the SOFTWARE PRODUCT 1 Online software service (as that software would always be available online in the same calendar year). Rather, these unique situations will usually occur 1-3 years later when a User discovers a need to amend a tax return.

In either situation, we do not believe the transfer of such programming is the true object of the SOFTWARE PRODUCT 1 Online transaction. Rather, they are situations wherein a User receives a specific program, in a separate transaction, for no additional charge.

2. SOFTWARE PRODUCT 2

SOFTWARE PRODUCT 2 is a software offering that allows Users to maintain books and records for small businesses through an online/cloud access to COMPANY's SOFTWARE PRODUCT 2 software.

SOFTWARE PRODUCT 2 can be purchased in several versions including:

- SOFTWARE PRODUCT 2A – provides online access of the software to Users;
- SOFTWARE PRODUCT 2B – is a downloaded version of the software that a customer installs onto their own local machine, and
- SOFTWARE PRODUCT 2C – an SOFTWARE PRODUCT 2C version of the software that is downloaded and installed onto a company's internal servers and can be accessed by up to thirty Users.

The SOFTWARE PRODUCT 2A software cannot be downloaded in whole or in part by the User. If a User prefers to obtain a desktop version of the software product (or any component offering), they must separately purchase one of the desktop version of SOFTWARE PRODUCT 2. The various desktop versions of the software are separate SKUs and all applicable Illinois tax is collected and remitted.

While the facts in this ruling request will focus on SOFTWARE PRODUCT 2A, the overall functionality of the SOFTWARE PRODUCT 2A, SOFTWARE PRODUCT 2B ,

and SOFTWARE PRODUCT 2C versions of the software are generally the same, though the SOFTWARE PRODUCT 2B and SOFTWARE PRODUCT 2C versions currently offer greater breadth and, in some cases, depth of features compared to the Online version.

SOFTWARE PRODUCT 2A is “an online solution for businesses to perform accounting and business tasks through an online account (a “SOFTWARE PRODUCT 2A Account”). Each SOFTWARE PRODUCT 2A Account may only be used to support one business.”⁵ SOFTWARE PRODUCT 2A allows Users to:

- track income and expenses for tax and business management purposes;
- create invoices and estimates for customers;
- manage vendors and record bills payable; and
- review a variety of reports.

Because small businesses vary greatly in the complexity of their accounting needs, SOFTWARE PRODUCT 2A has three different versions of the SaaS offering currently available:

- SOFTWARE PRODUCT 2Ab – a software service designed for smaller, less complex businesses;
- SOFTWARE PRODUCT 2Ac – a software service for more complex businesses that want to manage and pay bills and prepare reports through SOFTWARE PRODUCT 2; and
- SOFTWARE PRODUCT 2Ad – a software service for users that also want more advanced functionality through SOFTWARE PRODUCT 2A, such as tracking inventory, tracking time and costs to specific customers, and planning through budgets.

Each of the versions of SOFTWARE PRODUCT 2A operate completely within a web browser and do not require any “plug-in” or “executable” file to be installed on the user’s computer. In addition, SOFTWARE PRODUCT 2A has no offline capability to allow users to utilize the software when offline. The SOFTWARE PRODUCT 2A software does not install any security software or other modules on the user’s computer. While the company offers three distinct versions of the SaaS offering, the underlying interface with the User is comparable. As such, for purposes of this letter, we will simply discuss them collectively herein as SOFTWARE PRODUCT 2A.

Users must accept PRODUCT SOFTWARE 2s’ current year licensing agreement for SOFTWARE PRODUCT 2A upon subscription. Users also agree to license terms for the use of COMPANY 1 (“Third Party Code”). We have attached for your reference, as **Exhibit C**, the current ULA for SOFTWARE PRODUCT 2A.

⁵ COMPANY Terms of Service for SOFTWARE PRODUCT 2A, SOFTWARE PRODUCT 2Aa, SOFTWARE PRODUCT 3 and SOFTWARE PRODUCT 5 in the United States (March 2016) § (B)(1.1). Available at WEBSITE (Accessed Nov. 7, 2016).

All User data is maintained on the SOFTWARE PRODUCT 2A servers while the subscriber maintains an active account. The SOFTWARE PRODUCT 2A data retention policy allows for one year of “read-only” access to Users data from the date of cancellation of a subscribed account. If the User’s credit card is declined (a “passive cancellation [sic]), the User has a 14-day grace period to update the billing information, while still retaining full access to their data. After the grace period, the account is considered cancelled and User will have read-only access to the data for a one year period. Within the read-only period, the User can export their data in a variety of formats including:

- spreadsheet files (such as excel);
- SOFTWARE PRODUCT 2 data format – for uploading into a separately purchased desktop version of the SOFTWARE PRODUCT 2 software; or
- Other competing products – if capable of connecting to SOFTWARE PRODUCT 2A and pulling the data via the SOFTWARE PRODUCT 2A APIs. SOFTWARE PRODUCT 2A does not provide a “push” feature to move data to other software offerings.

SOFTWARE PRODUCT 2A provides its User the ability to import and/or export data to and from SOFTWARE PRODUCT 2A (with assistance from SUPPORT). Upon initial set up, the User is able to convert data from other accounting systems into SOFTWARE PRODUCT 2A. If the data is being transferred from a desktop version of SOFTWARE PRODUCT 2, such transfer can occur by allowing SOFTWARE PRODUCT 2A to access the User’s desktop version of SOFTWARE PRODUCT 2 software. The data will then be pulled from the desktop software and directly imported into SOFTWARE PRODUCT 2A. In order to transfer data from another, non-COMPANY accounting program, the User must contact COMPANY’s SUPPORT to get assistance with the data import process.

It must be noted that SOFTWARE PRODUCT 2A offers a free mobile application (“Mobile App”) that allows a User to access their SOFTWARE PRODUCT 2A services on a mobile phone or other device. These Mobile Apps are downloaded from either the STORE 1 or STORE 2 for free. The User will not be able to access SOFTWARE PRODUCT 2A in the app without first logging-into their SOFTWARE PRODUCT 2A account using their User Credentials. Users who have already created accounts in the web application and have an active SOFTWARE PRODUCT 2A Account subscription can login to the mobile apps with their same credentials. Users who are new to SOFTWARE PRODUCT 2A can create new User Credentials for a new SOFTWARE PRODUCT 2A Account from within the Mobile App (after downloading it for free from STORE 1 or STORE 2). Note that, as of today, new accounts created from within the mobile application are limited to the SOFTWARE PRODUCT 2Ab version.

SOFTWARE PRODUCT 2A also offers a “free” connected desktop application that allows a User to access the SOFTWARE PRODUCT 2A services through a native application on their PRODUCT 1 or PRODUCT 2 computer. This experience is similar to other offerings that have both web based and desktop apps, such as SOFTWARE APPLICATION 1 and SOFTWARE APPLICATION 2. The SOFTWARE PRODUCT 2A

PRODUCT 2 and PRODUCT applications can be downloaded directly from COMPANY's website. Additionally, Users on PRODUCT 1 can download the SOFTWARE APPLICATION 3 from STORE 3.

3. SOFTWARE PRODUCT 3

SOFTWARE PRODUCT 3 is a separate "online solution for the self-employed to manage and categorize their personal and business finances through an online account (each a "SOFTWARE PRODUCT 3 Account"). Each SOFTWARE PRODUCT 3 Account may only be used to support one self-employed individual."⁶ SOFTWARE PRODUCT 3 includes categorization of business and personal expenses; identification and classification of tax deductible expenses; mileage tracking; calculation of estimated quarterly taxes; home office deduction tracking; and healthcare deduction tracking. SOFTWARE PRODUCT 3 can also be combined with another separately purchased offering, SOFTWARE PRODUCT 1 Online (discussed above), in order to file taxes most effectively. We have attached, as **Exhibit C**, a copy of the current ULA for SOFTWARE PRODUCT 3.

SOFTWARE PRODUCT 3 Users agree to additional terms related to services offered exclusively to the unique nature of self-employed businesses, such as filing and paying quarterly estimated income tax payments to taxing authorities. Users may

...select to have COMPANY submit your request to pay your estimated quarterly taxes electronically and your request will be transmitted to the applicable federal and/or state taxing authority (the "Electronic Filing Services"). You are responsible for verifying the status of your estimated tax payment, to confirm that your estimated tax payment has been received and accepted by the applicable taxing authority, and if necessary, for filing and paying it manually in the event that the taxing authority rejects your payment (e.g., incorrect bank account number, invalid pin, duplicate payment).⁷

SOFTWARE PRODUCT 3 Users may also be provided a variety of other service offerings (such as insurance information and other products / services targeted to the self-employed). None of these services / offerings involve the transfer or download of any software.

It must also be noted that SOFTWARE PRODUCT 3 offers a free mobile application ("Mobile App") that allows a User to access their SOFTWARE PRODUCT 3 services on a mobile phone or other device. These Mobile Apps are downloaded from either STORE 1 or STORE 2 for free. The User will not be able to access SOFTWARE PRODUCT 3 in the app without first logging-into their SOFTWARE PRODUCT 3 account using their User credentials. Users who have already created accounts in the web application and have an active SOFTWARE PRODUCT 3 Account subscription can login to the mobile apps with their same credentials. Users who are new to

⁶ *Id.* at (B)(1.3).

⁷ *Id.* at (B)(4).

SOFTWARE PRODUCT 3 can create new User Credentials for a new SOFTWARE PRODUCT 3 Account from within the Mobile App (after downloading it for free from STORE 1 or STORE 2).

It should also be noted that the SOFTWARE PRODUCT 3 Mobile App provides a functionality that is not available solely through the online service. Specifically, a User can track business mileage by accessing the GPS feature of the mobile device. This information is synced with the online software to provide tracking and documentation of eligible business expenses. Without this free Mobile App, Users must track and enter this data manually.

4. SOFTWARE PRODUCT 4

SOFTWARE PRODUCT 4 is an online tax preparation software service that is very similar in many regards to the SOFTWARE PRODUCT 1 Online service described above. This SaaS offering, however, is targeted to professional tax preparers such as small accountants, CPAs, Enrolled Agents and other tax preparation businesses. SOFTWARE PRODUCT 4 allows its Users to prepare and file individual, partnership, corporation, and exempt organization tax returns for their respective clients. SOFTWARE PRODUCT 4 provides online/cloud access to Users to prepare income tax returns and manage accounting data. **SOFTWARE PRODUCT 4 is not available in a desktop version for download by the User, and instead is accessed solely via the internet and used exclusively through an online account.**

COMPANY's Terms of Service for SOFTWARE PRODUCT 4 grants the User the right to use and provides the User services in order to "prepare valid federal and supported state tax return(s) for which [the User has] paid applicable fee(s) and after proper registration and any applicable payment, to file electronically and/or print such tax returns(s) [sic].⁸ We have attached, as **Exhibit D**, a copy of the current ULA for SOFTWARE PRODUCT 4.

In order to use SOFTWARE PRODUCT 4, Users create an online account providing basic information such as name, email, and firm name. After registering with SOFTWARE PRODUCT 4, Users may begin preparing various federal and state tax returns by either manually entering client data online or importing data from sources such as a SOFTWARE PRODUCT 4 Account and/or third-party payroll providers. Users may also use the "SOFTWARE PRODUCT 4C" software service (described below) which allows Users to request and gather data from their clients and directly import such data into SOFTWARE PRODUCT 4. Thereafter, SOFTWARE PRODUCT 4 calculates the estimated tax liability or refund based on the financial information entered for [sic] each specific client. Users are responsible for all content posted on SOFTWARE PRODUCT 4.⁹

⁸ COMPANY Terms of Service for SOFTWARE PRODUCT 4 – Tax Year 2015 (April 2016) § (B)(1.1). available at WEBSITE (Accessed Nov. 7, 2016)

⁹ *Id.* at (A)(6.1).

Upon completion of forms, the User pays for the services and thereafter the User may file the return(s) electronically or by printing and mailing them to the IRS or other state taxing agency. Users pay a set fee to COMPANY depending on the number of returns that are printed or electronically filed. If the User chooses to file the return(s) electronically, the tax return will be forwarded to COMPANY's "Electronic Filing Center," where it will be transmitted to the applicable federal and/or state taxing authority.

If the User decides to file the return(s) electronically, the tax returns

...will be transmitted electronically to the COMPANY Electronic Filing Center, where they will be transmitted to the applicable federal or state authority. COMPANY will retain any records required by law. COMPANY cannot guarantee that the taxing authority will accept a return due to circumstances beyond COMPANY's control (e.g., incorrect User information, malfunction of the tax authority's system, etc.). You are responsible for verifying the status of returns that you file electronically to confirm that it has been received and accepted by the applicable taxing authority and, if necessary, for filing them manually.¹⁰

The User can download a portable document format ("PDF") copy of their client's tax return(s) to be used outside the SOFTWARE PRODUCT 4 platform. The electronic copy of the filed returns and related worksheets / data are stored by SOFTWARE PRODUCT 4 for at least seven years, as required by the IRS. Users may also use the software service to file amended returns at no additional cost.

SOFTWARE PRODUCT 4 provides a comprehensive conversion service to convert data from other professional tax software products. There is no separate charge for the conversion services. The User launches SOFTWARE PRODUCT 4 and chooses the option for converting data. The User must download an executable file from SOFTWARE PRODUCT 4 and run such executable file on their computer to gather the requisite data from the old service provider's software. The data is then uploaded into an COMPANY tool called "**COMPANY for Conversion.**" The data conversion is not automatic. Rather, an COMPANY [sic] employee will take the file and perform whatever conversion processes are necessary to make it available in the User's SOFTWARE PRODUCT 4 Account. The Users are notified via email when their files have been converted. The next time the customer logs into their SOFTWARE PRODUCT 4 Account, the User can see their converted clients and tax returns.

Additional Services and Features: Additional services and features can be added to SOFTWARE PRODUCT 4. Some of these features are provided free of charge whereas other services require and additional, add-on-subscription. These services include SOFTWARE PRODUCT 4A, SOFTWARE PRODUCT 4B, and SOFTWARE PRODUCT 4C described in greater detail below:

SOFTWARE PRODUCT 4A: The IRS and some states allow electronic signatures of tax returns. COMPANY's optional "eSignature" feature is

¹⁰ *Id.* at (B)(3)(A).

integrated into SOFTWARE PRODUCT 4 and allows Users to send an electronic signature request through a secure email link to their clients. The User's customer signs electronically and approves the return on their device. Users may pay for a package of electronic signatures or a set fee per signature. This feature does not require any download or transfer of COMPANY proprietary code or software to the Users' device.

SOFTWARE PRODUCT 4B: For Users with both SOFTWARE PRODUCT 2Aa and SOFTWARE PRODUCT 4 accounts, the data is stored in a single repository of client data ("Customer Profile") so that the data is available in both programs. This service is free and available within SOFTWARE PRODUCT 4. No programs or files are transferred to the User's computer.

SOFTWARE PRODUCT 4C: As discussed above, Users can use this online service to send data requests and information/documentation back and forth with their respective clients. This online service also provides the User with real-time status updates on any outstanding requests. This service is free and available within SOFTWARE PRODUCT 4.¹¹ The service does not involve the downloading of any files or programs onto the User's computer. Rather, all services are handled exclusively through the User's online account.

SOFTWARE SUPPORT: SOFTWARE PRODUCT 4 also provides optional, free SOFTWARE SUPPORT where Users can ask advice from SOFTWARE PRODUCT 4 employees, contractors, or other Users on how to properly use the software given a specific client's facts. SOFTWARE PRODUCT 4 SOFTWARE SUPPORT do not provide tax technical advices or answers to common tax question. Users may also access an online portal with hundreds of answers to tax and product related questions. Again, none of these services require the User to download any programs, modules, executable files or other software to receive the available services.

Mobile Access: SOFTWARE PRODUCT 4 may also be accessed through a User's mobile device or any other device with internet access. The product is built for mobile responsiveness, which means the application will change its layout based on the type of device being used to access the services. A mobile app or additional software is not required. Instead, use of SOFTWARE PRODUCT 4:

...may be available through a compatible mobile device, Internet access, and may require software. You agree that you are solely responsible for these requirements, including applicable charges, updates and fees as well as the terms of your agreement with your mobile device and telecommunications providers.¹²

¹¹ *Id.* at (B)(9).

¹² *Id.* at (A)(4).

5. SOFTWARE PRODUCTS 5

COMPANY provides online SOFTWARE PRODUCT 5 that can be purchased through SOFTWARE PRODUCT 2 or can be purchased as a standalone service offering. These online SOFTWARE PRODUCT 5 are offered in various versions, including:

- Basic
- Enhanced
- Full Service

Each of these versions of the SaaS offering provide differing levels of functionality and benefit to the user, however, the underlying software element is similar. As such, we will discuss these various SaaS offering collectively herein as “SOFTWARE PRODUCT 5” We have attached, as **Exhibit C**, a copy of the current ULA for Payment Services.

The SOFTWARE PRODUCT 5 are completely an online SaaS offering as there is no desktop version of this software available. As such, Users must access the software services through an internet connection and may, or may not, choose to link such services to other existing financial or bookkeeping software (such as SOFTWARE PRODUCT 2A). In addition to SaaS offerings, certain versions (e.g., Full Service) will also include certain human services to perform various payroll related tasks for the customer. These incremental services, performed by COMPANY employees and/or contractors, are not discussed herein.

Once the User has established their account, depending on the version of the SaaS offering they obtained, they can perform some or all of the following:

- enter and maintain employee information;
- process paychecks,
- direct deposits of employee payments,
- payroll reports,
- electronic payment of federal and state payroll taxes,
- filing of related tax forms, and
- issue annual tax forms (e.g., W-2).

Then online software takes the User inputs and performs all computations, tax calculations, withholding requirements, etc. When linked to the User’s bookkeeping software, much of the information needed to complete the routine payroll functions may be uploaded directly from the other software (such as SOFTWARE PRODUCT 2A). With the higher levels of the SaaS offering, Users can also download reports and files directly to their accountants or other tax service providers. These reports would have the details necessary to file any applicable payroll tax returns.

Similar to SOFTWARE PRODUCT 2A, the use of SOFTWARE PRODUCT 5 does not involve the download of any program, module, executable file or other application onto

the User's computer to utilize the software services. Many government agencies require an online account be created in order to remit appropriate payroll taxes. The User agrees that, upon the User's consent, SOFTWARE PRODUCT 5 may create an account on behalf of the User.¹³ In addition, the User agrees that payments of related payroll taxes will be initiated through the Automatic Clearing House ("ACH") process. User

...authorize[s] us to initiate electronic withdrawals from [its] bank account to fund Direct Deposits and/or Payroll Tax Payments, as applicable, (each term defined separately below and referred to collectively as "Payroll Service Payments"), although under certain circumstances we may use wire drawdown requests or other funding methods ("Debits"). Debits will also be initiated to pay fees for Payroll Services, special processing any sales, use or other taxes payable on Payroll Services, and for adjustments to these various amounts.¹⁴

User agrees to a variety of services that are required in order to properly file payroll tax returns. These services include providing electronic signatures that may be required by taxing authorities, permission to file tax returns, and direct deposition authorization.¹⁵ The Users of SOFTWARE PRODUCT 5 may also access other features, including:

SOFTWARE PRODUCT 5A: SOFTWARE PRODUCT 5 provides an ancillary service available under certain subscriptions referred to as SOFTWARE PRODUCT 5A Services. Through SOFTWARE PRODUCT 5A,

...employees may have access to an online employee website and may be able to provide [User] their information, including information relating to their W-4's and payroll payment preferences (i.e. direct deposit, paycheck). Depending on [User's] SOFTWARE PRODUCT 5 subscription, you may have the option to furnish your employee(s) with their W-2 in an electronic format in lieu of a paper format, and/or you may have the option of turning off SOFTWARE PRODUCT 5A. If [User] elect[s] to furnish electronic W-2s, [User] must notify your employee(s) of the option to receive electronic W-2s in a manner that allows the employee(s) to link to an electronic consent that demonstrates that the employee(s) can access the W-2s electronically.¹⁶

Users of SOFTWARE PRODUCT 5 agree that its employee's [sic] W-2 information may be sent to SOFTWARE PRODUCT 1 Online, another COMPANY software offering, for the benefit of User's employees. W-2 data is "transmitted via an encrypted, secure connection to the SOFTWARE PRODUCT 1 Servers for automatic download into SOFTWARE PRODUCT 1 if your employees elect to use the tax filing software or

¹³ *Id.* at (B)(3.2)(b),

¹⁴ *Id.* at (B)(3.2)(c)

¹⁵ *Id.* at (B)(3.2)-(B)(3.4)

¹⁶ *Id.* at (B)(3.5)

services and choose to import their W-2 data automatically. Users do have the option of turning off this functionality through SOFTWARE PRODUCT 5.”¹⁷

SOFTWARE PRODUCT 5B: Finally, depending on the state, SOFTWARE PRODUCT 5’ Users may be offered a Workers’ Compensation SOFTWARE PRODUCT 5B Service. This service is wholly optional and limited information, such as FEIN information, is shared with participating insurance carriers. This information will not be shared until User registers for and authorizes this add-on-service.

None of these software services require or involve the download of any application, module, executable file or other program to access the SaaS offering. It should be noted, however, that Users of the SOFTWARE PRODUCT 5 may also sign-up for an optional service to receive updated labor law posters that are required by federal and/or state labor laws. In such situations, the User periodically receives, via US mail, updated labor law posters for display in their business locations.

RULING REQUEST

We specifically request the Department’s written and binding confirmation that the Illinois Retailer’s [sic] Occupation Tax and Use Tax does not apply to the following SaaS offerings:

1. SOFTWARE PRODUCT 1 Online – including situations wherein a User may download a free mobile app to access such software service and/or situations wherein a User may receive, in a subsequent year, a downloaded version of the old SOFTWARE PRODUCT 1 software needed to amend a return prepared online.
2. SOFTWARE PRODUCT 2A – including situations wherein a User may receive an executable file in order to convert data on their personal machine into a format that can be later uploaded into a new SOFTWARE PRODUCT 2A account;
3. SOFTWARE PRODUCT 3 – including situations wherein a User may download a free mobile app to access such software service;
4. SOFTWARE PRODUCT 4 – specifically including those situations wherein Users may be provided with a downloaded, executable file that is used by SOFTWARE PRODUCT 4 employees to convert new Users prior year client data into formats that can be uploaded into the SOFTWARE PRODUCT 4 software; and including situations wherein a User may download a free mobile app to access such software service;
5. SOFTWARE PRODUCTS 5

¹⁷ *Id* at (B)(3.7)

We respectfully request your prompt attention to this request. Please do not hesitate to contact me.

DEPARTMENT'S RESPONSE:

Sales Tax

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 reduce the amount of Use Tax they must remit by the amount of Retailers' Occupation Tax liability which they are required to and do pay to the Department with respect to the same sales. See 86 Ill. Adm. Code 150.130.

Service Transactions

Retailers' Occupation Tax and Use Tax do not apply to sales of service. Under the Service Occupation Tax Act, businesses providing services (*i.e.*, servicemen) are taxed on tangible personal property transferred as an incident to sales of service. See 86 Ill. Adm. Code 140.101. The purchase of tangible personal property that is transferred to the service customer may result in either Service Occupation Tax liability or Use Tax liability for the servicemen depending upon his activities. The serviceman's liability may be calculated in one of four ways:

- (1) separately-stated selling price of tangible personal property transferred incident to service;
- (2) 50% of the serviceman's entire bill;
- (3) Service Occupation Tax on the serviceman's cost price if the serviceman is a registered de minimis serviceman; or
- (4) Use Tax on the serviceman's cost price if the serviceman is de minimis and is not otherwise required to be registered under Section 2a of the Retailers' Occupation Tax Act.

The Department does not consider the viewing, downloading or electronically transmitting of video, text and other data over the internet to be the transfer of tangible personal property. However, if a company provides services that are accompanied with the transfer of tangible personal property, including computer software, such service transactions are generally subject to tax liability under one of the four methods set forth above.

If a transaction does not involve the transfer of any tangible personal property to the customer, then it generally would not be subject to Retailers' Occupation Tax, Use Tax, Service Occupation Tax, or Service Use Tax.

Computer Software

“Computer software’ means a set of statements, data, or instructions to be used directly or indirectly in a computer in order to bring about a certain result in any form in which those statements, data, or instructions may be embodied, transmitted, or fixed, by any method now known or hereafter developed, regardless of whether the statements, data, or instructions are capable of being perceived by or communicated to humans, and includes prewritten or canned software.” 35 ILCS 120/2-25. Generally, sales of “canned” computer software are taxable retail sales in Illinois. Canned computer software is considered to be tangible personal property regardless of the form in which it is transferred or transmitted, including tape, disc, card, electronic means, or other media. 86 Ill. Adm. Code 130.1935. However, if the computer software consists of custom computer programs, then the sales of such software may not be taxable retail sales. Custom computer programs or software are prepared to the special order of the customer. The selection of pre-written or canned programs assembled by vendors into software packages does not constitute custom software unless real and substantial changes are made to the programs or creation of program interfacing logic. See 86 Ill. Adm. Code 130.1935(c)(3). Computer software that is not custom software is considered to be canned computer software.

If transactions for the licensing of computer software meet all of the criteria provided in subsection (a)(1) of Section 130.1935, neither the transfer of the software nor the subsequent software updates will be subject to Retailers' Occupation Tax. A license of software is not a taxable retail sale if:

- A) It is evidenced by a written agreement signed by the licensor and the customer;
- B) It restricts the customer’s duplication and use of the software;
- C) It prohibits the customer from licensing, sublicensing or transferring the software to a third party (except to a related party) without the permission and continued control of the licensor;
- D) The licensor has a policy of providing another copy at minimal or no charge if the customer loses or damages the software, or permitting the licensee to make and keep an archival copy, and such policy is either stated in the license agreement, supported by the licensor’s books and records, or supported by a notarized statement made under penalties of perjury by the licensor; and
- E) The customer must destroy or return all copies of the software to the licensor at the end of the license period. This provision is deemed to be met, in the case of a perpetual license, without being set forth in the license agreement.

If a license of canned computer software does not meet all the criteria the software is taxable.

Please note that the license agreements in which the customer electronically accepts the terms by clicking “I agree” does not comply with the requirement of a written agreement signed by the

licensor and customer. In order to comply with the requirements as set out in (a)(1) of Section 130.1935 you must have a written “signed” agreement.

Computer software is defined broadly in the Retailers’ Occupation Tax Act. If a provider of a service provides to the subscriber an API, applet, desktop agent, or a remote access agent to enable the subscriber to access the provider’s network and services, the subscriber is receiving computer software. Although there may not be a separate charge to the subscriber for the computer software, it is nonetheless subject to tax, unless the transfer qualifies as a non-taxable license of computer software.

The Company is making sales of service and is a serviceman. As a serviceman, the Company does not incur Retailers’ Occupation Tax. Service Occupation Tax is imposed upon all persons engaged in the business of making sales of service on all tangible personal property transferred incident to a sale of service, including computer software (35 ILCS 115/3), and is calculated as explained above. Currently, computer software provided through a cloud-based delivery system – a system in which computer software is never downloaded onto a client’s computer and is only accessed remotely – is not subject to tax.

SOFTWARE PRODUCT 1

In your letter you state that SOFTWARE PRODUCT 1 Online is a “software offering that allows users an online/cloud access to COMPANY’s SOFTWARE PRODUCT 1 software for purposes of preparing their federal and state personal income tax returns.” SOFTWARE PRODUCT 1 Online is comprised of four distinct offerings: SOFTWARE PRODUCT 1A, SOFTWARE PRODUCT 1B, SOFTWARE PRODUCT 1C, and SOFTWARE PRODUCT 1D. There is a fee for each offering except the SOFTWARE PRODUCT 1A. SOFTWARE PRODUCT 1 Online software cannot be downloaded by a User, and no programs or executable files are transferred to the User’s device. The User can download a PDF copy of a return or print a copy of the return. A User may also use the same SOFTWARE PRODUCT 1 Online software to file an amended return. If the online software has been “rolled forward” to a subsequent year, the Company will provide a link to the User to download a desktop version of the software for the applicable year for no additional charge. The Company also provides a free mobile app that anyone can download to a mobile device. The User must have a SOFTWARE PRODUCT 1 Online account to use the SOFTWARE PRODUCT 1 Online software.

SOFTWARE PRODUCT 1 Online is not subject to Retailers’ Occupation Tax or Service Occupation Tax because computer software provided through a cloud-based delivery system – a system in which computer software is never downloaded onto a client’s computer and is only accessed remotely – is not subject to tax. It is our understanding the ability to download a PDF or print a return on a User’s device does not involve the transfer of any computer software to the User, and the Company does not incur any tax liability on these options. In two situations the User does download computer software: when it is necessary to enable a User to file an amended return and in the case of mobile apps. Computer software is defined broadly in the Retailers’ Occupation Tax Act. Although there may not be a separate charge to the Users for the downloaded computer software and mobile app, they are nonetheless subject to tax under one of the four methods discussed above, unless the transfer of the software qualifies as a non-taxable license of computer software.

The Terms of Agreement for SOFTWARE PRODUCT 1 Online (Exhibit B) state that the User agrees to the terms of the Agreement by clicking “I Agree” or by installing, accessing or using the service. As noted above, a license agreement in which the customer electronically accepts the terms of the license by clicking “I agree” does not comply with the requirement of a written agreement signed by the licensor and customer set out in (a)(1) of Section 130.1935.

SOFTWARE PRODUCT 2

According to your letter, “SOFTWARE PRODUCT 2 is a software offering that allows users to maintain books and records for small businesses through an online/cloud access to COMPANY’s SOFTWARE PRODUCT 2 software” and has three versions: SOFTWARE PRODUCT 2Ab, SOFTWARE PRODUCT 2Ac and SOFTWARE PRODUCT 2Ad. SOFTWARE PRODUCT 2A software has no offline capability and cannot be downloaded by a User, and no “plug-ins or executable files are transferred to the User’s device. All User data is maintained on SOFTWARE PRODUCT 2A servers and the User has the ability to import and/or export data to and from SOFTWARE PRODUCT 2A. The Company also provides a free mobile app that allows a User to access SOFTWARE PRODUCT 2A services from a mobile phone or other device. SOFTWARE PRODUCT 2A also offers a free connected desktop application that allows Users to access SOFTWARE PRODUCT 2A from a computer.

SOFTWARE PRODUCT 2A is not subject to Retailers’ Occupation Tax or Service Occupation Tax because computer software provided through a cloud-based delivery system – a system in which computer software is never downloaded onto a client’s computer and is only accessed remotely – is not subject to tax. In two situations the User does download computer software: when a User downloads the desktop application or the mobile app. Although there may not be a separate charge to the Users for the desktop application or the mobile app, it is nonetheless subject to tax under one of the four methods discussed above, unless the transfer of software qualifies as a non-taxable license of computer software.

The Terms of Agreement for SOFTWARE PRODUCT 2A, SOFTWARE PRODUCT 3 and SOFTWARE PRODUCT 5 (Exhibit C) state that the User agrees to the terms of the Agreement by clicking “I Agree” or by installing, accessing or using the service. A license agreement in which the customer electronically accepts the terms of the license by clicking “I agree” does not comply with the requirement of a written agreement signed by the licensor and customer set out in (a)(1) of Section 130.1935.

SOFTWARE PRODUCT 3

According to your letter, SOFTWARE PRODUCT 3 is an “online solution for the self-employed to manage and categorize their personal and business finances through an online account.” Users may also obtain other services targeted to the self-employed. SOFTWARE PRODUCT 3 and the other services do not require the transfer or download of any software. SOFTWARE PRODUCT 3 offers a free, downloadable mobile app that allows Users to access their account from a mobile phone or device.

SOFTWARE PRODUCT 3 is not subject to Retailers’ Occupation Tax or Service Occupation Tax because computer software provided through a cloud-based delivery system – a system in which

computer software is never downloaded onto a client's computer and is only accessed remotely – is not subject to tax. Computer software is downloaded when a User downloads the mobile app. Although there may not be a separate charge to the Users for the mobile app, it is nonetheless subject to tax under one of the four methods described above, unless the transfer qualifies as a non-taxable license of computer software. The Department has insufficient information on the other service offerings Users may also be provided to render a decision on the taxability of these services.

SOFTWARE PRODUCT 4

In your letter you state that SOFTWARE PRODUCT 4 is an online tax preparation software service for professional tax preparers. It provides “online/cloud access to Users to prepare income tax returns and manage accounting data.” SOFTWARE PRODUCT 4 is not available in a desktop version and is “accessed solely via the internet and used exclusively through an online account.” Users pay a set fee based on the number of returns that are printed or filed electronically. Users can download a PDF copy of a return. SOFTWARE PRODUCT 4 also offers a conversion service to convert data from other tax software. There is no separate charge for this service but Users must download an executable file from the SOFTWARE PRODUCT 4 and run the executable file on their computers to gather the necessary data to upload to SOFTWARE PRODUCT 4.

Additional services and features may be added to SOFTWARE PRODUCT 4: SOFTWARE PRODUCT 4A, SOFTWARE PRODUCT 4B, SOFTWARE PRODUCT 4C and SOFTWARE SUPPORT. Users may pay for a package of signatures or a set fee per signature. The other features or services are free of charge. None of the features involve or require the transfer or download of any files, code, software, or programs to the Users' computers or devices. SOFTWARE PRODUCT 4 may be accessed through a User's mobile device or other device with internet access. A mobile app or additional software is not necessary.

SOFTWARE PRODUCT 4 and the additional services and features SOFTWARE PRODUCT 4A, SOFTWARE PRODUCT 4B, SOFTWARE PRODUCT 4C and SOFTWARE SUPPORT are not subject to Retailers' Occupation Tax or Service Occupation Tax because computer software provided through a cloud-based delivery system – a system in which computer software is never downloaded onto a client's computer and is only accessed remotely – is not subject to tax. It is our understanding the ability to download a PDF of a return or print a return on a User's device does not involve the transfer of any computer software to the User, and therefore the Company does not incur any tax liability on these options. Computer software is downloaded when a User downloads the executable file. Although there may not be a separate charge to the Users for the executable file used to convert data from other tax software, it is nonetheless subject to tax under one of the four methods described above, unless the transfer of software qualifies as a non-taxable license of computer software.

The Terms of Agreement for SOFTWARE PRODUCT 4 (Exhibit D) state that the User agrees to the terms of the Agreement by clicking “I Agree” or by installing, accessing or using the service. A license agreement in which the customer electronically accepts the terms of the license by clicking “I agree” does not comply with the requirement of a written agreement signed by the licensor and customer set out in (a)(1) of Section 130.1935.

SOFTWARE PRODUCT 5

The Company also offers standalone SOFTWARE PRODUCT 5 that are available only online through an internet connection. The Company offers various versions of this offering; Basic,

enhanced and Full Service. Users may also access other features, including SOFTWARE PRODUCT 5A and SOFTWARE PRODUCT 5B. If a User signs up for the optional poster service, the Company provides the user with updated labor law posters that are required by federal and state labor laws. The use of the SOFTWARE PRODUCT 5 and other features does not require the download of any programs, module, executable file or other application onto the User's computer to utilize the software services and features. COMPANY SOFTWARE PRODUCT 5 and the additional features SOFTWARE PRODUCT 5A, SOFTWARE PRODUCT 5B and optional poster service are not subject to Retailers' Occupation Tax or Service Occupation Tax because computer software provided through a cloud-based delivery system – a system in which computer software is never downloaded onto a client's computer and is only accessed remotely – is not subject to tax. It is not clear if COMPANY is printing the posters or is having them printed by a supplier. If COMPANY prints the posters it is liable for Use Tax on the cost price of the posters (assuming it elects the fourth method of calculating its service tax liability). If the posters are printed for COMPANY by a supplier, COMPANY is in a multi-service situation and tax liability is determined in accordance with 86 Ill. Adm. Code 140.145.

The factual representations upon which this ruling is based are subject to review by the Department during the course of any audit, investigation, or hearing and this ruling shall bind the Department only if the factual representations recited in this ruling are correct and complete. This Private Letter Ruling is revoked and will cease to bind the Department 10 years after the date of this letter under the provisions of 2 Ill. Adm. Code 1200.110(e) or earlier if there is a pertinent change in statutory law, case law, rules or in the factual representations recited in this ruling.

I hope this information is helpful. If you have further questions related to the Illinois sales tax laws, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Richard S. Wolters
Chairman, Private Letter Ruling Committee

RSW:bkl