

ST 17-0020-GIL 06/09/2017 MOTOR VEHICLES

Lessors of tangible personal property, including motor vehicles, under true leases in Illinois are deemed end users of the property to be leased. As end users of tangible personal property located in Illinois, lessors owe Use Tax on their cost price of such property. See 86 Ill. Adm. Code 130.220 and 86 Ill. Adm. Code 130.2013. (This is a GIL.)

June 9, 2017

Dear Xxxxx:

This letter is in response to your letter dated February 6, 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.

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:

My wife NAME and I are the owners of a 20XX VEHICLE (VIN ###). We originally leased the vehicle from COMPANY (COMPANY). The original vehicle value when we leased it on April 18, 2015, was \$\$\$\$. The Illinois sales/use tax on that amount would have been \$\$\$. In connection with the lease, we prepaid sales/use tax of \$\$\$ on May 21, 2015. On September 4, 2015 we terminated our lease and purchased the vehicle from COMPANY for \$\$\$. At that time 34 additional lease payments, for which the sales tax already had been paid, still remained. In registering the title in our name, we were charged an additional amount of \$\$ in sales/use tax. We were not given any credit for the prior unused lease payments. The total amount paid has been \$\$\$. This is \$\$ more than what should have been the total sales/use tax paid.

Please reimburse us for this amount. I enclose copies of our lease, verification of purchase and proof of sales/use tax payments. Thank you for your assistance. You can contact us at the address above, by email (EMAILADDRESS) or by telephone ###.

DEPARTMENT'S RESPONSE:

Please note that the State of Illinois taxes leases differently for Retailers' Occupation Tax and Use Tax purposes than the majority of other states. For Illinois sales tax purposes, there are two types of leasing situations: conditional sales and true leases. A conditional sale is usually characterized by a nominal or one dollar purchase option at the close of the lease term. Stated otherwise, if lessors are guaranteed at the time of the lease that the leased property will be sold, this transaction is considered to be a conditional sale at the outset of the transaction, thus making all receipts subject to Retailers' Occupation Tax. A true lease generally has no buyout provision at the close of the lease. If a buyout provision does exist, it must be a fair market value buyout option in order to maintain the character of the true lease.

Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased. See 86 Ill. Adm. Code 130.220. As end users of tangible personal property located in Illinois, lessors owe Use Tax on their cost price of such property. The State of Illinois imposes no tax on lease receipts. Consequently, a lessee of a motor vehicle in Illinois for a lease term of greater than one year is not subject to tax. However, while the legal incidence of the tax is imposed only on the lessor, it is common for leasing companies to require reimbursement of their Illinois tax liability from the lessee by contract. A review of your motor vehicle leasing contract will likely reflect this reimbursement requirement. It is the lessor's Illinois Use Tax liability (borne contractually by the lessee) that is reported on the RUT-25-LSE.

If a lessee decides to purchase a motor vehicle that he or she is leasing for a lease term of greater than one year, then this is a separate, taxable transaction and the lessor/seller incurs Retailers' Occupation Tax liability on this sale and the lessee/buyer incurs Use Tax liability on this sale. See 86 Ill. Adm. Code 130.2013, which addresses this issue. A lessee may not apply the lessor's prior Use Tax payment on the initial sale of the motor vehicle against the lessee's Use Tax liability for the subsequent sale of the vehicle to the lessee.

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,

Samuel J. Moore
Associate Counsel

SJM:bkl