

This letter responds to a question regarding nexus. See *Quill Corp. v. North Dakota*, 112 S. Ct. 1904 (1992). (This is a GIL.)

May 15, 2018

## **REQUEST FOR GUIDANCE ON TRAILING NEXUS REPORTING REQUIREMENTS**

Dear Xxxxx:

This letter is in response to your letter dated February 7, 2018, 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:

Client is foreign corporation that no longer has nexus in Illinois; consequently, Client plans to close their Illinois sales tax account. Client is a national distributor and manufacturer’s representative of testing equipment. Although Client will no longer have nexus in Illinois, it is possible that some remote sales to Illinois could occur at some point in the future.

We are seeking confirmation on whether Illinois has “trailing nexus” provisions that we were unable to identify during research. In researching this issue for another state, we encountered a “trailing nexus” provision covered in a policy document which was not outlined in statutes or regulations, so we wanted to confirm that Illinois does not have a similar policy that we are not aware of.

To facilitate clear communication, the term “trailing nexus”, as used herein, is defined as the obligation to collect and remit sales/use tax on remote interstate sales transactions for a prescribed period after nexus has ended for the seller. For further clarification of “trailing nexus” as used herein, trailing nexus is only applicable where the seller previously had nexus with a state. (i.e. If a remote seller never had nexus with a given state, then trailing nexus will NOT apply for that state.)

Please confirm whether Illinois has a “trailing nexus” provision. If so, please provide the appropriate guidance in this area, including how long trailing nexus will apply. Please also provide any existing written references or other agency documents where available.

**DEPARTMENT’S RESPONSE:**

The Department of Revenue does not have a rule that addresses “trailing nexus.” The Department cannot provide any guidance on how long nexus would apply. Any nexus determination would depend on the facts of the case.

We would note, however, that the Department is considering promulgating a rule that addresses trailing nexus.

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,

Richard S. Wolters  
Associate Counsel

RSW:bkl