

A "rental purchase agreement" is an agreement for the use of merchandise by a consumer for personal, family, or household purposes for an initial period of 4 months or less that is automatically renewable with each payment after the initial period and that permits the consumer to become the owner of the merchandise. See 35 ILCS 180/5. (This is a GIL.)

September 13, 2018

Dear Xxxxx:

This letter is in response to your email dated July 10, 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:

It was suggested we reach out to you with our questions regarding the application of the Illinois Rental Purchase Agreement Occupation Tax to a specific client situation. We have a client that leases consumer household goods. The lease agreements with the end consumer are structured as an operating lease. The lease agreement contains an initial period of 5 months where the customer pays a set monthly amount. After the initial period, the customer is given the options to

- 1) continue leasing the goods,
- 2) return the goods,

or

- 3) purchase the goods at a fair market value price.

Based on our client facts above, and our reading/understanding of how the IL Rental Purchase Agreement Occupation tax applies, we have the following clarification/confirmation questions:

1. The standard terms for their operating lease agreement states that the initial period is five months. Pursuant to 35 ILCS 180/1, a rental purchase agreement means an agreement for the use of merchandise by a consumer for personal, family, or household purposes for an initial period of 4 months or less that is automatically renewable with each payment after the initial period and that permits the consumer to become the owner of the merchandise. Does the fact it is not less than 4 months impact whether or not it will be deemed a rental purchase agreement? In other words, does the 5 month initial period fall outside the statute or is that too close to the 4 months and could in fact be deemed a rental purchase agreement?
2. At the end of the initial period the consumer has an option to purchase the item, continue to rent it or give it back to the lessor. The consumer could elect to own the merchandise but also has an election not to. Does that impact whether the agreement will be deemed a "Rental Purchase Agreement?"
3. Based upon a reading of the statute and the local statutes [sic], our understanding is that the Illinois Rental Purchase Agreement Occupation Tax is imposed at only the 6.25% state rate. No local taxes are applied. Can you confirm?

If you would like more information or to talk live, please let me know and we can set up a call/get you additional information.

Thank you in advance for your assistance in helping us confirm how this would apply to our client's fact pattern.

#### **DEPARTMENT'S RESPONSE:**

Effective January 1, 2018, the Rental Purchase Agreement Occupation and Use Tax took effect in Illinois. See 35 ILCS 180/1 et seq. The Rental Purchase Agreement Occupation Tax is imposed upon persons engaged in this State in the business of renting merchandise under a rental-purchase agreement in Illinois at the rate of 6.25% of the gross receipts received from the business. A complementary Rental Purchase Agreement Use Tax is imposed upon the privilege of using, in this State, merchandise which is rented from a merchant at the rate of 6.25% of the rental price paid to the merchant under any rental purchase agreement. A "rental purchase agreement" is an agreement for the use of merchandise by a consumer for personal, family, or household purposes for an initial period of 4 months or less that is automatically renewable with each payment after the initial period and that permits the consumer to become the owner of the merchandise. See 35 ILCS 180/5. Illinois provides an exemption from Retailers' Occupation Tax and Use Tax at the time of purchase of merchandise that is subject to the Rental Purchase Agreement Occupation and Use Tax. See 35 ILCS 120/2-5(43).

An agreement to rent tangible personal property for an initial period that exceeds 4 months does not qualify as a rental purchase agreement for purposes of the Rental Purchase Agreement Occupation and Use Tax Act.

A rental agreement that allows the consumer, at the end of the initial rental period, to continue renting, purchase, or return the merchandise is consistent with the definition of "rental purchase agreement" under the Rental Purchase Agreement Occupation and Use Tax Act. However, the agreement must meet all requirements of the Act to qualify as a rental purchase agreement subject to the Act. For the tax treatment of rental agreements that are not "rental purchase agreements," please see 86 Ill. Adm. Code 130.2010 and letters previously issued by the Department to determine whether the transaction is a true lease or a conditional sale.

The Rental Purchase Agreement Occupation Tax and the Rental Purchase Agreement Use Tax are imposed at the rate of 6.25%. See 35 ILCS 180/10 and 15, respectively. There is no authority under the Rental Purchase Agreement Occupation and Use Tax Act to impose a local Rental Purchase Agreement 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,

Samuel J. Moore  
Associate Counsel

SJM:bkl