

ST 20-0006-GIL 02/10/2020 LEASING

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.)

February 10, 2020

Dear Xxxx:

This letter is in response to your letter dated September 18, 2019, 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:

RE: Sales & Use Tax Applicability on a Product Leased from Out of State

To whom it may concern,

One of our US Divisions manufactures portable buildings in STATE/STATE 1 and will be leasing to a customer portable buildings with no buy out option in CITY, Illinois for a 2 year term. The revenue stream for the lease will be in excess of \$\$\$\$ for the year. The portable buildings are placed on blocking and are not permanently affixed to the [sic] the ground.

As the lessor of the property we understand we do not charge the lessee sales tax. However, it is unclear whether or not we are required to self assess use tax on the cost of the property going into the state. We have registered to do business in Illinois but we currently do not have people or place only product in the state. The only form of presence we have in the state is through our product we lease in the state.

The question we have is do we owe any use tax in the state? If we do owe use tax, can we use our cost price and will we be able to claim a rebate at the end of the lease for any value of the property after the lease?

DEPARTMENT'S RESPONSE:

In Illinois, persons who rent or lease the use of tangible personal property under true leases owe Use Tax "up-front" on the cost price of the tangible personal property which is rented. See 86 Ill. Adm. Code 130.2010(b). True leases are those leases in which persons may "walk away" from the lease at the end of the lease term or purchase the leased item at fair market value. As a result, the lessor owes Use Tax up-front on the cost price of the tangible personal property. The lessor cannot charge the lessee a "tax", but many times lessors will require, in the lease agreement, that the lessee "reimburse" the lessor for the taxes which the lessor incurs on the leased tangible personal property. There are no rebate provisions to claim at the end of the lease.

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:rkn