

This letter discusses the Retailers' Occupation Tax and Use Tax liability. See 86 Ill. Adm. Code 150.130. (This is a GIL.)

March 3, 2020

Re: Illinois Use Tax

Dear Xxxx:

This letter is in response to your letter dated November 5, 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](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:

This is a request for a general information letter on the imposition and collection of the Illinois Use Tax by Illinois retailers.

My client is an Illinois retailer that provides food and beverages to its patrons. It pays Illinois and local Retailers' Occupation Tax ("ROT") on its sales of food and beverages. It is our understanding that the Illinois Use Tax also imposes a 6.25% tax on the patron with respect to the sale. It is also our understanding that when our client collects tax from the patron on the sale that it collects both the Illinois Use Tax and the State ROT simultaneously (but only 6.25% collected), along with any local ROT due. See, 86 Ill. Admin Code § 150.515 and § 150.130.

It is our understanding that under Illinois law in the remittance of these taxes collected, our client reduces the amount of Illinois Use Tax it must remit to the State to the extent of the amount of State ROT it pays to the State on the sale. 86 Ill. Admin Code § 150.130.

This General Information Letter request asks that the Illinois Department of Revenue confirm that our above stated understandings of how the Illinois Use Tax and State ROT works is correct.

If you have any questions, please call.

**DEPARTMENT'S RESPONSE:**

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. 86 Ill. Adm. Code 130.101. This tax is imposed on the retailer. 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. 86 Ill. Adm. Code 150.101. Use Tax is imposed on the purchaser. 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 to the Department of Revenue 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. 86 Ill. Adm. Code 150.130.

The legal incidence of local retailers' occupation taxes is on the retailer. Nevertheless, the General Assembly has authorized persons subject to any local retailers' occupation taxes to reimburse themselves for their retailer's occupation tax liability by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax which sellers are required to collect under the Use Tax Act. See, for example, 86 Ill. Adm. Code 270.101(b), Home Rule Municipal Retailers' Occupation Tax; and 86 Ill. Adm. Code 220.101(b), Home Rule County Retailers' Occupation 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,

Richard S. Wolters  
Associate Counsel

RSW:bkl