

This letter discusses the taxation of seminar materials provided by a serviceman registered pursuant to Section 2a of the Retailers' Occupation Tax. 86 Ill. 140.129. (This is a GIL.)

September 13, 2021

Dear NAME:

This letter is in response to your letter dated September 1, 2021, 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:

Our company has scheduled a customer training class from DATE, at our CITY, STATE location. The attendees will be coming from various states, not just Illinois, to be instructed on the best way to maintain their PRODUCT that we recently worked on.

We understand labor is not taxable in Illinois but need clarification on taxability of customer training classes is this a taxable service.

If additional information is needed, please contact me or E-MAIL BUSINESS.

Thank you for your assistance to clarify our concerns about taxability of customer training classes.

In a separate email dated DATE, in response to an inquiry from the Department, you stated that "there is a per-student charge to attend the class. A training manual is provided to each student, which is included in the price of the class. The training manual is not a separate line item on the invoice."

DEPARTMENT'S RESPONSE:

Retailers' Occupation Tax

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. See 86 Ill. Adm. Code 130.101. 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. See 86 Ill. Adm. Code 150.101. 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 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. See 86 Ill. Adm. Code 150.130.

Service Occupation Tax

Retailers' Occupation Tax and Use Tax do not apply to sales of service. Under the Service Occupation Tax Act, businesses providing services (*i.e.*, servicemen) are taxed on tangible personal property transferred as an incident to sales of service. 86 Ill. Adm. Code 140.101. The transfer of tangible personal property to service customers may result in either Service Occupation Tax liability or Use Tax liability for servicemen, depending upon which tax base they choose to calculate their liability.

Servicemen may calculate their tax base in one of four ways: (1) separately stated selling price; (2) 50% of the entire bill; (3) Service Occupation Tax on cost price if they are registered *de minimis* servicemen; or (4) Use Tax on cost price if the servicemen are *de minimis* and are not otherwise required to be registered under Section 2a of the Retailers' Occupation Tax Act.

Using the first method, servicemen may separately state the selling price of each item transferred as a result of sales of service. The tax is based on the separately stated selling price of the tangible personal property transferred. If servicemen do not wish to separately state the selling price of the tangible personal property transferred, those servicemen must use the second method where they will use 50% of the entire bill to their service customers as the tax base. Both of the above methods provide that in no event may the tax base be less than the cost price of the tangible personal property transferred. Under these methods, servicemen are required to provide their suppliers with Certificates of Resale when purchasing the tangible personal property to be transferred as a part of sales of service. They are required to collect the corresponding Service Use Tax from their customers.

The third way servicemen may account for their tax liability only applies to *de minimis* servicemen who have either chosen to be registered or are required to be registered because they incur Retailers' Occupation Tax liability with respect to a portion of their business. Servicemen may qualify as *de minimis* if they determine that their annual aggregate cost price of tangible personal property transferred incident to sales of service is less than 35% of their annual gross receipts from service transactions

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(75% in the case of pharmacists and persons engaged in graphic arts production). See 86 Ill. Adm. Code 140.101(f). This class of registered de minimis servicemen is authorized to pay Service Occupation Tax (which includes local taxes) based upon the cost price of tangible personal property transferred incident to sales of service. Servicemen that incur Service Occupation Tax collect the Service Use Tax from their customers. They remit tax to the Department by filing returns and do not pay tax to their suppliers. They provide suppliers with Certificates of Resale for the tangible personal property transferred to service customers.

The final method of determining tax liability may be used by de minimis servicemen that are not otherwise required to be registered under Section 2a of the Retailers' Occupation Tax Act. Servicemen may qualify as de minimis if they determine that the annual aggregate cost price of tangible personal property transferred as an incident of sales of service is less than 35% of the servicemen's annual gross receipts from service transactions (75% in the case of pharmacists and persons engaged in graphic arts production). Such de minimis servicemen handle their tax liability by paying Use Tax to their suppliers. If their suppliers are not registered to collect and remit tax, the servicemen must register, self-assess, and remit Use Tax to the Department. The servicemen are considered to be the end-users of the tangible personal property transferred incident to service. Consequently, they are not authorized to collect a "tax" from the service customers. See 86 Ill. Adm. Code 140.108.

Seminar Materials

According to the Department's records, the Company makes retail sales of tangible personal property and is registered with the Department under Section 2a of the Retailers' Occupation Tax Act. However, when a company provides training classes or seminars it is acting as a serviceman. Its tax obligation is determined in part based on whether the Company is registered and whether it is a de minimis serviceman or not.

A registered de minimis serviceman that presents a seminar in Illinois, and as part of the seminar provides the attendees with a seminar materials may remit Service Occupation Tax and any applicable local taxes to the Department on his or her cost price of the materials transferred as part of the seminar. A registered de minimis seminar provider is not authorized to pay tax to his or her suppliers. He or she must instead provide the suppliers (the bookseller and the office supply store) with a Certificate of Resale for the purchase of materials transferred as part of the seminar. The seminar provider must remit Service Occupation Tax to the Department on his or her cost price of the manuals, the paper and the ink. If the seminar provider contracts with a print shop to photocopy the chart and graphs, the seminar provider would provide a Certificate of Resale to the print shop and then remit Service Occupation Tax to the Department on his or her cost price of the materials (i.e., on a lump sum invoice from the print shop, tax would be calculated on 50% of the total print shop bill). 86 Ill. Adm. Code 140.129(b)(3)(B).

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A registered serviceman who is not de minimis who does not separately state a charge for the seminar materials on the invoice to the seminar attendees incurs Service Occupation Tax and any applicable local taxes on 50% of the total invoice charged to the seminar attendees. However, the tax base cannot be less than the serviceman's cost price. See 86 Ill. Adm. Code 140.106. In this situation, the seminar provider is not authorized to pay tax to his or her suppliers. He or she must instead provide the suppliers with a Certificate of Resale for the purchase of the materials that are transferred as part of the seminar. 86 Ill. Adm. Code 140.129(b)(3)(C).

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,

Richard S. Wolters
Associate Counsel

RSW:rkn