

Under Article VII-A of the Liquor Control Act of 1934 (235 ILCS 5/1-1 et seq.), every warehouseman in Illinois who stores any alcoholic liquors for compensation shall make application to the Department for a Certificate of Registration for each location where alcoholic liquors are stored. See 86 Ill. Adm. Code 420.120. (This is a GIL).

February 23, 2022

Dear NAME:

This letter is in response to your letter dated September 23, 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](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:

**Subject:** Request of Legal opinion related to “Warehouseman certificate” as indicated at the Illinois Department of Revenue Regulations Title 86 Part 420 Section 420.120 Warehousing of Liquors.

We are writing this letter to you to address the requirement of a Warehouseman Certificate for our property located at ADDRESS. On DATE an agent for the Illinois Liquor Control Commission performed the inspection of the leased suite per the normal procedure to release a new license. The agent noted that there is an existing tenant in the same suite and with BUSINESS1, there will be now be two distributors in the same business suite. In an email sent DATE, the Illinois Liquor Control Commission communicated that LESSOR (landlord) must obtain a “**warehouse certificate**”: *“The certificate is required for properties where more than one distributor is warehousing alcoholic products. These certificates are only issued by the Illinois Department of Revenue.”*

We as landlords are not aware that a warehouse certificate would be required for having both tenants in the same suite. The company that currently occupies the suite is a wine importer and distribution company

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(BUSINESS2). In the month of DATE LESSOR signed a similar lease contract with another company (BUSINESS1). This lease is for both tenants to occupy the same business suite located in our building. Because of this we as landlords are now required to obtain the Warehouseman Certificate, however we are uncertain on who is required to manage the warehouseman certificate and why this is being required as they are both in the same suite not a large warehouse.

We respectfully disagree with this narrow interpretation of the law that requires us to obtain a warehouseman certificate and file monthly data related to the quantity of wine that is stored (quantity of wines that are received by the two distributors that are renting a shared warehouse space). LESSOR does not check the quantity of the wine that arrives in the warehouse rented by the two distributors; there is no way LESSOR can monitor the product stored by the two distributors sharing a suite. Our building is not a large warehouse, there are individual suites, therefore, we do not do the typical work of a warehousing company (moving, packing, shipping, see Title 86 part 130 section 130.2170 warehousemen of the Illinois Department of Revenue Regulations).

In conclusion, we are asking you to exempt the requirement of the Warehouseman certificate for our property as we as landlords do not have a way of monitoring and regulating what products our tenants are bringing in and taking out of their private business suite. We feel this reporting shall be the sole responsibility of the tenant and not the landlord.

Thank you for considering our request to be categorized as a lessor/lessee relationship and exempt from the requirement of obtaining a Warehouseman certificate. Please feel free to reach out to me if you have any questions or want to discuss this matter further.

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

Under Article VII-A of the Liquor Control Act of 1934 (235 ILCS 5/1-1 et seq.), every warehouseman in Illinois who stores any alcoholic liquors for compensation shall make application to the Department for a Certificate of Registration for each location where alcoholic liquors are stored. See 35 ILCS 5/7A-2; 86 Ill. Adm. Code 420.120(a). The term "alcoholic liquors" is defined under the Act to include wine. See 235 ILCS 5/1-3.05. A warehouseman is "any person, firm, partnership, association or corporation owning, controlling, operating, managing or leasing any warehouse within this State". A warehouse includes "any room, house, structure, building, place, yard or protected enclosure wherein personal property belonging to another is stored for compensation". Providing storage for compensation means "any direct or indirect charge for storage". See Section 420.120(e)(1)-(3). Therefore, a person who stores wine belonging to

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another for a charge in Illinois is considered a warehouseman storing alcoholic liquors for compensation and must be in possession of a Certificate of Registration from the Department.

The certificate must be conspicuously displayed on the premises for which it is issued. Every warehouseman holding a Certificate of Registration issued by the Department is required to file a monthly return with the Department and covering the preceding month which states:

- 1) The name of the warehouseman;
- 2) the number of his Certificate of Registration;
- 3) the address of the warehouse;
- 4) the name and address of each person from whom any alcoholic liquors were actually or constructively received by him as a warehouseman;
- 5) the date or dates on which such alcoholic liquors were so received;
- 6) the number and size of the containers in which any alcoholic liquors were so received;
- 7) the number and size of the containers to the credit of each such person at the end of the preceding calendar month;
- 8) the name and address of each person to whom any alcoholic liquors were actually or constructively delivered by him as a warehouseman;
- 9) the date or dates on which the same were so delivered;
- 10) the number and size of the containers in which any alcoholic liquors were so delivered; and
- 11) from whom any alcoholic liquors so delivered were actually or constructively received.

If no liquors were in storage in any month, the return must still be filed so indicating. See 86 Ill. Adm. Code 420.120(b)(1)-(11).

Your letter indicates that you are currently leasing space to a wine importer and distribution company and another distributor. Based on the limited information you have provided, it appears you fall within the definition of "warehouseman" under the Liquor Control Act of 1934, and you would be required to register with the Department as a warehouseman. If you would like a binding decision in this matter, you may submit a request for a Private Letter Ruling to the Department. See 2 Ill. Adm. Code 1200.110.

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,

NAME  
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AKO/ld