

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. In Illinois, 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 130.101 and 86 Ill. Adm. Code 150.101. (This is a GIL.)

July 6, 2022

NAME/ADDRESS

Dear Mr. XXX:

This letter is in response to your E-Mail dated September 27, 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:

I am writing requesting a private letter ruling (PLR) for myself, an individual whom is a resident and tax payer within the State of Illinois, in regards to a concern dealing with sales tax on the purchase of a watercraft by a licensed dealer within the State of Illinois.

I affirm that I am not currently under any audit with the department nor is there any pending litigation regarding this matter.

Specifically, the details of the tax matter at hand are as follows:

- On September ##, 20## I completed paperwork to purchase a PRODUCT within the State of Illinois from a registered dealer
- The dealer informed me that the purchase would be subject to the State's Sales Tax and filed on form ST 556
- The State of Illinois law states the following regarding watercraft:

Titled or registered items – Illinois retailers selling items that are of the type that must be titled or registered by an agency of Illinois state government (i.e., vehicles, watercraft, aircraft, trailers, and mobile homes) must register with the Department to report these sales using Form ST 556, Sales Tax Transaction Return. Illinois retailers that sell such items for lease must report these sales for lease using Form ST 556-LSE, Transaction Return for Leases. Forms ST-556 and ST-556-LSE must be filed and taxes paid within 20 days of the date of delivery. Persons who are in the business of leasing or renting motor vehicles, watercraft, aircraft, or trailers that are required to be registered with an agency of Illinois state government and who, in connection with such business, sell any such item to a retailer for the purpose of resale can bulk file these transactions using form ST-556-D.

- Title 86 Chapter I Part 153 specifically deals with watercraft use tax (https://www2.illinois.gov/rev/research/legalinformation/regs/Documents/part_153/153-115.pdf). This act specifically states that “The tax imposed by the watercraft use tax does not apply if. . .” section D “the watercraft is exempted from the numbering provisions of section 3-12 of the boat registration and safety act (625 ILCS 45/3-12) . . . so long as the watercraft is not used upon the waters of this state for over 30 days in a calendar year”.
- 625 ILCS 45/3-12 (<https://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=062500450HArt%2E+III&ActID=1826&ChapterID=49&SeqStart=1300000&SeqEnd=2800000>) states that the watercraft is exempt from state numbering so long as it is not used in this state for a period of more than 60 days in a calendar year AND it is registered with the US Coast Guard.

I do not and will not utilize the watercraft in question within the State of Illinois for more than 30 days in a calendar year and I do intend to register the watercraft upon delivery with the US Coast Guard. The watercraft is exempt by law from being titled or registered within the State of Illinois, and as such, since it is not of the type that must be titled or registered by a state agency, should be exempt from any state sales tax.

Should you have any additional questions regarding this matter please feel free to contact me at the address on this letter. I appreciate your time and look forward to your review of this matter.

DEPARTMENT’S RESPONSE:

NAME
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The Watercraft Use Tax is a privilege tax imposed on the privilege of using, in this State, watercraft acquired by gift, transfer, or non-retail purchase. See 86 Ill. Adm. Code 153.105. Watercraft acquired through a retail transaction is not subject to the Watercraft Use Tax and is instead subject to Retailers' Occupation Tax and Use 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. In Illinois, 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 retain the amount of Use Tax paid to reimburse themselves for their Retailers' Occupation Tax liability incurred on those sales. Please note that where the purchaser takes delivery in Illinois, the sale is taxable even if the purchaser will immediately remove the item from Illinois. See 86 Ill. Adm. Code 130.605(a).

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,

Samuel J. Moore
Associate Counsel