

Costs of doing business are an element of the retailer's gross receipts subject to tax even if separately stated on the bill to the customer. See 86 Ill. Adm. Code 130.410. (This is a GIL.)

July 21, 2023

NAME
ADDRESS

Dear NAME:

This letter is in response to your letter dated May 9, 2023, 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 recently started an online sales company. I have spoken with several staff members from the Illinois Department of Revenue in the Springfield and Fairview Heights offices. I am unable to get a consistent answer to my question; therefore, I was referred to write a letter to your department for a legal answer.

I buy overstock, returned, and discontinued merchandise from companies and resell the items through a software company on the internet. I charge sales tax and a "buyer's premium" for each item.

A buyer's premium is a charge in addition to the sale price of an item. The buyer is required to pay both the sale price and a percentage of that price called a buyer's premium. Essentially, a "buyer's premium" is a contribution to the costs of the administrative process. The amount of the buyer's premium is stated in my sale terms and conditions and buyers have to review and accept the terms and conditions prior to purchasing merchandise from my website.

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My question is: Do I need to charge and pay sales tax on the buyer's premium amount? I currently charge sales tax on the buyer's premium. Please clarify if I am supposed to charge and pay sales tax on the buyer's premium.

If you have any questions or concerns, please feel free to contact me at PHONE # or by email at E-MAIL

DEPARTMENT'S RESPONSE:

The Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property at retail 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.

Retailers' Occupation Tax is measured by the seller's gross receipts from such sales made in the course of such business. See 86 Ill. Adm. Code 130.101. "Gross receipts" means all the consideration actually received by the seller, except traded-in tangible personal property. See 86 Ill. Adm. Code 130.401. The term "Selling price" means the consideration for a sale valued in money whether received in money or otherwise, including cash, credits, property, and services. 35 ILCS 120/1. In computing Retailers' Occupation Tax liability, no deductions shall be made by a taxpayer from gross receipts or selling prices on account of the cost of property sold, the cost of materials used, labor or service costs, idle time charges, incoming freight or transportation costs, overhead costs, processing charges, clerk hire or salesmen's commissions, interest paid by the seller, or any other expenses whatsoever. *Id.* Costs of doing business are an element of the retailer's gross receipts subject to tax even if separately stated on the bill to the customer. See 86 Ill. Adm. Code 130.410.

We note from a description of your business that you sell products "through a software company on the internet". Please be advised that beginning on January 1, 2021, certain third-party marketplace platforms ("marketplace facilitator") that meet either of the tax remittance thresholds in 86 Ill. Adm. Code 131.135(a), are considered a retailer engaged in the occupation of selling at retail in Illinois and are liable for all applicable State and local retailers' occupation taxes administered by the Department on all sales to Illinois purchasers made over the marketplace. This would include the marketplace facilitator's own sales and sales made over the marketplace on behalf of marketplace sellers. (For further information on the application of the Act to marketplace facilitators, see 86 Ill. Adm. Code 131.130, 131.135, 131.140, and 131.145.)

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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,

Thomas Grudichak
Associate Counsel

TG:dlb