

Only persons meeting the definition of “distributor” or “retailer” are required to obtain licenses under the Act. See 35 ILCS 145/10-20 and 10-21. (This is a GIL.)

April 30, 2024

NAME  
ADDRESS1

Dear NAME:

This letter is in response to your letter dated April 15, 2024, 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:

We are requesting a Private Letter Ruling to determine if you [sic] we would need any kind of license or permit for the activity described below, or if we would be able to operate without a license.

Our company name is COMPANY1 and our FEIN is NUMBER.

We currently cross-dock and deliver food products to a national retailer. The retailer is now asking us to expand and include smokeless tobacco products in our distribution network.

The product will ship from VENDOR1 in CITY1 IL to our facility in CITY2 IL for daily distribution to convenience stores. We take physical possession, but do not take product title and do not carry inventory at our facility.

I’ve detailed below come additional background/operational information:

**Background Information:**

COMPANY1 has operated Combined Distribution Centers (CDC) for COMPANY2 since 1994. We now operate 6 centers (CITY3, IL, CITY4, STATE1, CITY5, STATE2, CITY6, STATE3, CITY7, STATE4 & CITY8, STATE4) serving them. Each market has a consolidation center and multiple route trucks for store deliveries, all operated by COMPANY1. 7 days a week, vendors like VENDOR1, VENDOR2, VENDOR3, VENDOR4, etc. drop product in bulk at our centers. COMPANY1 team members then assemble orders by store to be delivered overnight to COMPANY2 stores by our route drivers. COMPANY2 handles procurement and store orders to vendors. They own the product once the vendor (like VENDOR1) drops it off at the consolidation center. COMPANY2 simply pays COMPANY1 to build orders by store and provide the final mile of delivery, limiting the number of deliveries their stores receive daily during peak business hours.

The bulk of CDC operations are fresh food, but we also pick and deliver smokeless tobacco in STATE1 and STATE4. COMPANY2 has requested we add smokeless in Illinois to help improve the throughput of our facility.

**Operational Information:**

- COMPANY1's request applies to smokeless tobacco only, no cigarettes or other tobacco products.
- COMPANY1 does not deliver smokeless singles, only full packs or "rolls".
- Roughly XXX SKU's with annual volume estimated @ XX packs or "rolls" (see attached SKU listing – one day volume from STATE4 center)
- The smokeless product is purchased by COMPANY2 from VENDOR1. ADDRESS2, IL
- VENDOR1 would deliver the smokeless product to COMPANY1's CITY3 consolidation center. ADDRESS3, IL
- COMPANY1 would deliver the smokeless product nightly to roughly XXX COMPANY2 locations in Illinois (see attached store list).
- COMPANY1 does not hold inventory. Everything that comes in is already designated for a specific store and delivered the same night.
- COMPANY2 is the leaseholder on all COMPANY1 consolidation centers, including our CITY2, IL location.
- All COMPANY1 employees @ CITY2 are 18 or older.
- COMPANY1 distributes smokeless in STATE1 via a waiver letter. No permit required.

Please advice at your earliest convenience.

**DEPARTMENT'S RESPONSE:**

The Tobacco Products Tax Act of 1996 (Act) imposes a tax on any person engaged in business as a distributor of tobacco products. 35 ILCS 143/10-10. The impact of the tax levied by the Act is imposed upon distributors engaged in the business of selling tobacco products to retailers or consumers in this State.

“Distributor” means any of the following:

(1) Any manufacturer or wholesaler in this State engaged in the business of selling tobacco products who sells, exchanges, or distributes tobacco products to retailers or consumers in this State.

(2) Any manufacturer or wholesaler engaged in the business of selling tobacco products from without this State who sells, exchanges, distributes, ships, or transports tobacco products to retailers or consumers located in this State, so long as that manufacturer or wholesaler has or maintains within this State, directly or by subsidiary, an office, sales house, or other place of business, or any agent or other representative operating within this State under the authority of the person or subsidiary, irrespective of whether the place of business or agent or other representative is located here permanently or temporarily.

(3) Any retailer who receives tobacco products on which the tax has not been paid. The tax is imposed on the distributors of tobacco products, not the retailer or consumer. At the time the distributor sells the tobacco product to a retailer or consumer, the distributor must determine whether the product meets the definition of “tobacco product.” 35 ILCS 143/10-5.

See 35 ILCS 143/10-5 for the definitions of “manufacturer” and “wholesaler.” Persons engaged in business as a distributor of tobacco products must obtain a license from the Department of Revenue. 35 ILCS 143/10-20.

The Act also requires retailers that sell tobacco products at retail to consumers in this State to obtain a retailer’s license. 35 ILCS 143/10-21. “Retailer” means any person in this State engaged in the business of selling tobacco products to consumers in this State, regardless of quantity or number of sales.

Only persons meeting the definition of “distributor” or “retailer” are required to obtain licenses pursuant to the Act.

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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

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