

The exemption contained in the Retailers' Occupation Tax Act for vehicles sold to purchasers that will rent the vehicles for a period of one year or less was revoked from September 1, 2007, through January 10, 2008. See 35 ILCS 120/2-5(5). (This is a GIL.)

April 17, 2008

Dear Xxxxx:

This letter is in response to your letter dated August 28, 2007, in which you request 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:

We have just received notification that our tax exemption could possibly end on units for our rental department.

Our dealership has a rental department and we transfer vehicles from our inventory into rental inventory for time periods of less than a year.

Question, do we have to pay taxes on form ST-556 for our own vehicles?

DEPARTMENT'S RESPONSE:

Effective September 1, 2007, Public Act 95-233 eliminated the exemption contained in the Retailers' Occupation Tax Act for vehicles sold to purchasers that will use the vehicle for automobile renting as defined in the Automobile Renting and Occupation Use Tax Act. 35 ILCS 155. See Information Bulletin FY 2008-1. Retailers were required to file a ST-556 and were no longer entitled to mark Exemption 5E, sold for rental use, on the Form. Accordingly, retailers were liable for Retailers' Occupation Tax on the sales.

Public Act 95-233 did not eliminate the exemption contained in the Use Tax Act for vehicles used for automobile renting as defined in the Automobile Renting and Occupation Use Tax Act.

Therefore, if a dealer had taken a vehicle out of inventory to use for renting as defined in that Act without transferring the vehicle to another legal entity, the Retailers' Occupation Tax would not apply and the dealer could claim the Use Tax exemption on the use of the vehicle. However, if the dealer had taken the vehicle out of inventory and transferred it to another legal entity, the dealer would incur Retailers' Occupation Tax liability.

Public Act 95-707 reinstated the exemption for rental vehicles in the Retailers' Occupation Tax Act for purchases beginning on January 11, 2008. See Information Bulletin FY 2008-12. As noted in the Bulletin, the reinstatement of the exemption was not retroactive, and for the period of September 1, 2007, through January 10, 2008, the exemption in the Retailers' Occupation Tax Act was not available.

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. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Richard S. Wolters
Associate Counsel

RSW:msk