

Retailers of cars, trucks, vans, ATVs, buses, watercraft, aircraft, motor homes, trailers, snowmobiles and mobile homes file Form ST-556, Sales Tax Transaction Reporting Return, with the Department not later than 20 days after the day of delivery of that item. See 35 ILCS 120/3. (This is a GIL.)

May 28, 2008

Dear Xxxxx:

This letter is in response to your letter dated August 9, 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 would have a question regarding the ST-556 Form.

We are a retail store selling farm and home supplies and occasionally we also sell a few ATV's, pedal boats and trailer-kitat [sic] retail.

We are not a vehicle dealer, we only sell the above mentioned items at retail.

We understand that in the State of Illinois for example an ATV has to be titled but not register [sic].

We file every month the Sales and Use Tax Return ST-1 and pay the amounts due. Is it necessary for us to file the ST-556 form or is it the customer's responsibility to ask for the form, fill it out and title the purchased item?

We thank you for your help in advance.

DEPARTMENT'S RESPONSE:

It is the Department's position that a retailer making a sale of an ATV should complete and file a Form ST-556. Treating the sale of an ATV as any other sale of tangible personal property and reporting the sale on a ST-1 may result in the collection and payment of taxes at an incorrect rate.

A number of local retailers' occupation taxes administered by the Department impose taxes upon persons engaged in the business of selling tangible personal property at retail, other than an item of tangible personal property titled or registered with an agency of State government. See, for example 65 ILCS 5/8-11-1-1.1, 65 ILCS 5/8-11-1.3 and 65 ILCS 5/8-11-1.6. The Motor Vehicle Code requires every owner of an ATV purchased on or after January 1, 1998, to make application to the Secretary of State for a certificate of title. 625 ILCS 5/3-101(d).

The Form ST-556 prepared by the Department will reflect the correct retailers' occupation tax rate for the jurisdiction in which the retailer is located and the ATV is sold. As a result, the retailer will collect and remit to the Department the correct retailers' occupation taxes on the sale of the ATV.

The Department recently updated the Illinois Aircraft/Watercraft and Vehicle Tax Information Guide (ST-76). The Guide is available on the Department's website. The Guide is very helpful and addresses issues raised in your letter and many other related issues.

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:mzk