

Vendors who accept points in exchange for the transfer of tangible personal property will incur Retailers' Occupation Tax liability on their gross receipts from their sales involving the redemption of points. See 86 Ill. Adm. Code 130.2125. (This is a GIL.)

April 28, 2006

Dear Tax Department:

This letter is in response to your letter received June 23, 2005, 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](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:

This letter is being sent to request a formal ruling on the assessment of sales tax for the state of Illinois. Our business, located in CITY/STATE, makes invoices to companies located in your state on a monthly basis. These invoices are for the sale of 'points' to be used at a later date. These 'points' are directly related to a specific dollar amount. The companies bank these 'points' and can distribute them to their employees as an incentive for the employees to accomplish goals such as decrease the number of work related accidents, increase productivity or sales. The employees are then allowed to use these 'points' at any time they like and in any amount that they wish. 'Points' may be used to acquire clothing, merchandise, vacation arrangements, etc. Once an order by an employee is placed we deduct the price-equivalent number of 'points' from their bank and send their selection to their place of work or individual home.

Our initial inquiries to the state of Illinois, as well as our customers' inquiries, have led to an understanding that the sale of 'points' qualifies as non-tangible asset and are thus not subject to Incentive Services collecting nor remitting sales tax to the state of Illinois.

We are respectfully requesting an official ruling to support and reinforce our business practices.

## DEPARTMENT'S RESPONSE:

The sale of gift certificates, which may be used at a later date to acquire tangible personal property, is not subject to Illinois sales tax. The tax liability of "points" referred to in your request is analogous to gift certificates. The "points" represent an intangible right to purchase merchandise at some future time. They are not subject to Illinois sales tax.

There is no tax at the time a "point" is sold because there is no sale of tangible personal property. These items are an intangible, which is not taxed under the Retailers' Occupation Tax Act. However, when the "points" are redeemed, tax is due on the selling price of the item purchased, whether partially or wholly funded by the "points". See 86 Ill. Adm. Code 130.2125.

In addition, you may wish to view the Department's "Sunshine Letter" rulings regarding the subject of "nexus." These letters may be located on the Department's Internet website under the heading of "Laws/Regs/Rulings." For example, see ST-05-0129.

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. 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,

Edwin E. Boggess  
Associate Counsel

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