

This letter rescinds letter ST 00-0084-GIL regarding the taxation of SO₂ allowance sales. Determinations regarding the taxability of sales of SO₂ allowances will require a review of the contract and billing documents. (This is a GIL.)

July 31, 2006

Dear Xxxxx:

This General Information Letter is being sent to you to rescind a General Information Letter that was sent to you dated April 12, 2000 (see ST 00-0084-GIL, enclosed). A General Information Letter is designed to provide general information, is not a statement of Department policy, and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c).

In April 2000, the Department of Revenue issued the above mentioned General Information Letter to ABC regarding the taxation of SO₂ allowance sales. Based upon the information provided to us at the time, we told you that “[s]ales of emission allowances are generally not subject to Retailers’ Occupation Tax because their sale usually involves no transfer of tangible personal property. The sale of intangibles is not subject to Retailers’ Occupation Tax.” While this information is not necessarily incorrect, it has come to our attention that how the sale is transacted may make a difference in whether or not the “allowance” is taxable.

The Department recently reviewed another letter regarding the sale of what were referred to as SO₂ allowances. Based upon the contract and billing documentation presented, it was apparent that the allowances, as described in the letter as price concessions or premiums, were simply adjustments to the selling price of the coal based upon the quality (sulfur content) of the coal being sold. As a result, we determined that the premiums or quality adjustments paid by the taxpayer were part of the selling price of the coal and that the taxpayer incurred Use Tax on those payments.

Determinations regarding the taxability of sales of SO₂ allowances will require a review of the contract and billing documents.

Very truly yours,

Martha P. Mote
Associate Counsel

MPM:msk