

ST 01-0209-GIL 10/02/2001 EXEMPT ORGANIZATIONS

Organizations that have exemption identification numbers are allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. These limited amounts of selling are described in 86 Ill. Adm. Code 130.2005(a)(2) through (a)(4). (This is a GIL).

October 2, 2001

Dear Xxxx:

This letter is in response to your letter dated August 20, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which 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), which can be found on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

Please issue an Illinois state tax ruling on the following scenarios:

ISSUE#1

CHURCH is a not-for-profit church located in CITY. One of our ministries at the church is called NAME. Our Pastor has written a book on behalf of the church and NAME that will be sold to our members and to the general public (in Illinois and outside of Illinois). After expenses, the proceeds of the book, if any, will be retained by the church to further our ministries. Are we obligated to pay sales tax on the books sold?

If the church is obligated to pay sales tax on the books sold, could you send us information that explains the process?

ISSUE #2

NAME, a ministry of CHURCH, a not-for-profit church in CITY, may plan to sell subscriptions to a newsletter. Are we obligated to collect Illinois sales tax on each subscription sold? These subscriptions would be sold to Illinois residents and to those outside of Illinois.

If the church is obligated to pay sales tax on the newsletter subscriptions, could you send us information that explains the process?

Thank you in advance for providing us with a timely response and ruling.

Nonprofit organizations do not automatically qualify for exemption from sales tax for organizational purchases. Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, or charitable, receive an exemption identification number (an "E" number). See 86 Ill. Adm. Code 130.2007. This number evidences that the Department recognizes the organizations as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of their organizational purposes. If an organization does not have an E number, then its purchases are subject to tax. Please be aware that only sales to organizations holding the E number are exempt, not sales to individual members of the organization.

Organizations that have E numbers are also allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. These limited amounts of selling are described in 86 Ill. Adm. Code 130.2005(a)(2) through (a)(4). An exempt organization may engage in sales to members, noncompetitive sales, and certain occasional dinners and similar activities (two fundraisers a year, which could include a book sale fundraiser) without incurring Retailers' Occupation Tax liability. However, if the organization engages in ongoing selling activities (such as Little League concession stands or sales of items in a thrift shop run by a church), it must register with the Department as a retailer and provide its suppliers with Certificates of Resale for the items it sells.

The Sales to Members exemption found at 86 Ill. Adm. Code 130.2005(a)(2) is limited to sales by an exclusively religious, educational or charitable organization that are made *primarily for the purposes of the selling organization* to its members. In determining whether the sales are for the primary purpose of the selling organization depends on the nature of the tangible personal property sold and how that tangible personal property is used. For example, sales of choir robes or like tangible personal property to church members would generally be primarily for the purpose of the selling organization. See 86 Ill. Adm. Code 130.2005(a)(2)(B). In regards to sales to members, please note that the population to which sales are made is limited to persons specifically associated with that exempt organization and must be for the primary purpose of the selling organization. If such sales are made to the public, the selling activity is subject to the Retailers' Occupation Tax. See section 130.2005(a)(2) through (a)(4). Generally, if a religious organization makes ongoing sales of a book to the public, all sales are subject to tax.

Please find enclosed a copy of 86 Ill. Adm. Code 130.2105, Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers; Transfers of Data Downloaded Electronically. Sellers of books incur Retailers' Occupation Tax liability when they sell books to purchasers for use or consumption and not for resale. Sales of newspapers and magazines are not subject to tax.

In making the determination as to whether a publication qualifies as a magazine for purposes of exemption from Retailers' Occupation Tax, there is one test that must be met and several other factors that will be considered. To qualify as a magazine, the publication must be published periodically; it must be published at least 2 times per year. It must also possess at least one characteristic of a magazine. The additional characteristics to be considered would include whether the publication can be subscribed to, whether it contains articles or items of general interest, whether it contains general advertising, and whether it has the format of a magazine such as a soft cover, individual pages, and indexed articles.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.