

ST 01-0223-GIL 10/26/2001 EXEMPT ORGANIZATIONS

Organizations that qualify as exclusively religious, charitable, or educational can apply to the Illinois Department of Revenue to obtain tax exemption identification numbers. These numbers establish that the organizations are exempt from incurring Use Tax when purchasing tangible personal property in furtherance of their organizational purposes. See 86 Ill. Adm. Code 130.2007. (This is a GIL).

October 26, 2001

Dear Xxxxx:

This letter is in response to your letter that we received on July 17, 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 accessed at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

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

I am on the Board of Directors for the AAA and much discussion has been brought forth regarding a tax situation that we would like to have cleared.

The society hired a publisher in STATE to print and guide us in our project of production of a County History update. We were told by the representative that we would be required to charge our patrons tax. Is this correct? We have your Regulations but to be quite frank we can make many things out of it.

Can you please tell us either yes we charge or no we do not.

This book was completed with the information given by our society.

We will make very little profit, if any, on this book as this was not our goal in the publication of it but do hope to break at least even on it.

please advise.

Without further information we cannot make a definitive determination of the tax status of the book sales. You may want to consider obtaining a binding Private Letter Ruling, as explained below. We recognize that the Illinois Department of Revenue has issued the Society tax exemption identification number #####. This means the Department recognizes your organization as exempt from Use Tax when purchasing tangible personal property for use in furtherance of organizational purposes, and retailers do not incur Retailers' Occupation Tax on such sales.

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 the enclosed copy of 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) without incurring Retailers' Occupation Tax liability.

We are not sure that books sold to the public could qualify for any of these exempt sales activities. In regard 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.

Please note that if an organization otherwise qualifies to make the noncompetitive sales described at Section 130.2005(a)(3), such sales must be infrequent and the dominant motive of the purchase must be the making of a donation to the charitable or religious organization which conducts the sale, rather than the acquisition of property. We suspect the dominant motive of purchasers of your book will be to acquire the book for use as a reference source. However, if the dominant motive of the purchase of the book is the making of a donation to your organization, then it could qualify as exempt so long as all other required conditions are met.

With respect to occasional dinners and similar activities, please note this exemption can apply if such fundraisers by exempt organizations occur not more than twice in any calendar year, 86 Ill. Adm. Code 130.2005(a)(4)(B). However, continuous selling activity would constitute retail sales subject to tax.

Assuming that the selling activity qualifies as an exempt sale, an organization could use its E number to purchase items for such limited exempt sales. However, if an 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 also register with the Department as a retailer, file returns and remit tax. For these types of ongoing sales, the organizations would provide their suppliers with Certificates of Resale for the items they purchase to resell and remit Retailers' Occupation Tax on their gross receipts from sales. See 86 Ill. Adm. Code 130.1405, enclosed, which describes the requirements for validly executed Certificates of Resale.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://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,

Karl W. Betz  
Associate Counsel

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Enc.