

This letter discusses tax liability on the issuance of a gift card and purchases made using the gift card. See 86 Ill. Adm. Code 130.2125(c). (This is a GIL.)

October 21, 2004

Dear Xxxxx:

This letter is in response to your letter dated August 11, 2004, 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.ILTAX.com 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:

Let this serve as confirmation of the information I received from you regarding sales tax on stored value cards. As you may recall, the stored value cards works in the following manner:

1. Similar to a gift card
2. Issuer (ABC) is an agent of a bank that is a member of Visa and MasterCard systems
3. Customer buys card for a fee
4. Customer 'loads' an amount of money on the card at the initial purchase of the card (Ex: Customer buys card for \$305.00, \$300.00 is stored on the card and \$5.00 is the fee for the purchase and loading the card)
5. Customer can mail the stored value card to anyone in the U.S. or Mexico
6. Customer can use the stored value card to obtain cash through an ATM or by going to any ABC location
7. Customer can, at anytime, 'reload' the card in person at a ABC location or through the Internet.

You stated that in the State of Illinois, the sale of the stored value card and the fee to reload funds onto the card is **not** subject to sales tax. Please confirm this information by replying in writing by mail or fax. Thank you.

DEPARTMENT'S RESPONSE:

We are unaware of who you spoke to at the Department, and cannot confirm any information you may have received. However, please refer to general information letter ST 02-0036-GIL which may be found among the Department's sales tax "Sunshine Letter" rulings on the Department's internet website. It is important to note that when a gift card is redeemed, tax is due on the selling price of the item purchased, whether partially or wholly funded by a gift card.

We are without sufficient information on the possible scope of use of the cards sold to confirm your statement that the cards are not subject to sales tax. Persons who are engaged in the business of selling cards or coupons, which entitle purchasers to the right to redeem those cards for tangible personal property, are not engaged in selling tangible personal property. Rather, they are making sales of intangibles. Such sales are not subject to the Retailers' Occupation Tax. However, when those cards or coupons are redeemed for tangible personal property, retailers transferring tangible personal property incur Retailers' Occupation Tax liability based on their gross receipts from sales.

When retailers or other persons issue coupons which entitle the bearer to obtain an item of tangible personal property free of any charge whatsoever and not conditioned upon the purchase of other property, the furnishing of such tangible personal property does not constitute a sale under the Retailers' Occupation Tax and the retailers do not incur Retailers' Occupation Tax liability. However, retailers issuing such coupons, as donors, incur Use Tax liability on their cost price of the tangible personal property actually transferred as a result of such coupons. For purposes of this response, we have assumed that the retailers are making gifts in Illinois.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com 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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