

This letter discusses the requirements for Certificates of Resale. 86 Ill. Adm. Code 130.1405.
(This is a GIL.)

February 21, 2008

Dear Xxxxx:

This letter is in response to your letter dated June 21, 2007, 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 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:

I respectfully request a written ruling with respect to your states [sic] sales and use tax considerations arising from the facts set forth below in regards to exemption certificates. Specifically, please address the issues included herein.

ABC operates approximately 900 retail stores throughout the country. Customers at POS (Point of Sale) routinely make purchases at our store locations free of sales tax because they are an exempt organization or they are making purchases for resale.

Our current procedure for these types of transactions is to have the customer complete a paper generic exemption / resale certificate at the register. They are required to supply the following information and sign this paper certificate:

Name of Organization
Address of Organization
Registration / Permit Number/Tax exempt #
Name of Person & Title
Drivers License Number
Phone Number

In order to streamline this process, avoid lost paper certificates, and hopefully save some trees (paperless environment), we have implemented an electronic tax exemption certificate program. Our new system will capture all the information as above, including

the signature in an electronic version. At the register, the customer will need to supply this information to the cashier who will key it into the system. Once keyed in, the cashier will ask the customer to review and approve the information that they supplied on the display of the Pin Pad. Once approved, they will be asked to sign the Pin Pad. This information will be captured with the signature in an electronic version and not actual paper copy or form designated by the state. Attached is an example of the electronic exemption certificate with the electronic signature.

Questions

1. Will your state accept an electronic version of the exemption / resale certificate which also includes an electronic signature of the customer as adequate documentation for these types of transactions upon audit?
2. Does your state accept out of state exemption or resale certificates?
3. Is there any other information your state requires us to ask the customer that we may have overlooked?

If you have any questions, please contact me at the above address or by telephone.

DEPARTMENT'S RESPONSE

We are unable to provide you with the specific response you request in the context of a General Information Letter. Provided below is information that we hope you find helpful regarding your exemption/resale certificate.

For general information regarding resale certificates, the Department's regulation for resale certificates, "Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale" is found at 86 Ill. Adm. Code 130.1405. If an electronic resale certificate is kept, it should contain all of the information required under 86 Ill. Adm. Code 130.1405.

A Certificate of Resale is a statement signed by the purchaser that the property purchased by him is purchased for purposes of resale. Provided that this statement is correct, the Department will accept Certificates of Resale as prima facie proof that sales covered thereby were made for resale. In addition to the statement, a Certificate of Resale must contain:

- 1) The seller's name and address;
- 2) the purchaser's name and address;
- 3) a description of the items being purchased for resale;
- 4) purchaser's signature, or the signature of an authorized employee or agent of the purchaser, and date of signing;
- 5) Registration Number, Resale Number, or Certification of Resale to out-of-State Purchaser.

In regards to the signature requirement, a digital signature would be acceptable. The law allows the Department to look at other evidence in determining the sufficiency of a certificate of resale. Therefore, if a signature is not kept in accordance with the statute, a sale is presumed to be a sale at retail; however, other evidence can rebut this presumption in proving that the sale was in fact for resale. The risk run by companies in accepting such a certification and the risk run by purchasers in providing such a certification is that an Illinois auditor is more likely to go behind a certificate of resale that does not contain a signature and require that more information be provided as evidence that the particular sale was, in fact, a sale for resale.

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

Debra M. Boggess
Associate Counsel

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