

Organizations that the Department of Revenue has determined to be exclusively religious, educational, or charitable and have been issued an exemption identification number (an "E" number) are allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.2005. (This is a GIL.)

November 18, 2008

Dear Xxxxx:

This letter is in response to your letter dated January 11, 2008, 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](http://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 am requesting a Letter Ruling for a situation that has been brought to our attention, with which we are unclear on the proper handling.

As the food service provider for a downstate convention and civic center, we have many clients that are tax exempt, not for profit organizations. Often times, the client's event is used as a fundraiser for their organization. They host groups, sometimes very large, and purchase meals and/or drinks for their guests. Advance tickets are sold to their members and the general public, at a price above their actual cost. At the conclusion of the event, the client pays us. Although we are provided with an exemption letter showing them as tax exempt, we are unsure if their exemption applies to this situation. We need clarification on whether or not we should be billing them for the retail sales tax on the food and drinks provided.

We look forward to your response and assistance in ensuring that we are collecting the appropriate tax needed. Thank you in advance for your time.

**DEPARTMENT'S RESPONSE:**

Under the Department's regulations for sales by exclusively charitable, educational, and government organizations, some occasional selling is allowed to be done tax-free. See 86 Ill. Adm. Code 130.2005. For purposes of this exemption, "occasional" means not more than twice in any calendar year. Further, the regulations provide that where more than two events are held in any calendar year, the organization or institution may select which two events held within that year will be considered exempt. This "two per year" rule applies to occasional dinners and similar fund-raisers made by an exempt organization that has obtained a tax exemption number (an "E" number) from the Department. Thus, an organization with an "E" number, such as a church or charity, can hold two fund raisers per calendar year without incurring Retailers' Occupation Tax. If exempt organizations make additional sales, the sales are taxable. When this is the case, the exempt organizations must register with the Department as retailers, file returns and remit tax. They should also provide their suppliers with Certificates of Resale when making purchases for resale. Illinois law requires a Certificate of Resale to contain the information set out in 86 Ill. Adm. Code 130.1405.

The exemption is not available unless the selling organization or institution qualifies as an "exclusively" charitable, religious or educational organization or institution. The exemption available for sales by exclusively charitable, religious or educational organizations or institutions is not available in all situation and to all nonprofit organizations, for example, sales by civic clubs, nonprofit social and recreational organizations, patriotic organizations, lodges and their auxiliaries, and trade associations. Even though the latter types of organizations do charitable work, they are not "exclusively" charitable organizations under prior court decisions, so any retail selling which they do would be subject to the Retailers' Occupation Tax.

I recommend that you review Section 130.2005 on the Department's website.

I hope this information is helpful. If you require additional information, please visit our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) or contact the Department's Taxpayer Information Division at (217) 782-3336

Very truly yours,

Richard S. Wolters  
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