

The purchase of telecommunications cannot be made tax-free as being purchase for resale unless a valid resale number is provided at the time of purchase. See 35 ILCS 630/8. (This is a GIL.)

December 23, 2004

Dear Xxxxx:

This letter is in response to your letter dated October 1, 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:

The purpose of this letter is to seek written confirmation from your office on the following issue:

Where a reseller of telecommunications services (the 'Reseller') has registered with Illinois for telecommunications excise taxes as a reseller of a taxable service for the period from September 3, 2003 through September 3, 2006 (the 'Period'), the Reseller's supplier which has been providing underlying telecommunications service to the Reseller (the 'Supplier') may accept, in good faith, from the Reseller a Certificate of Registration - Reseller (issued by the Illinois Department of Revenue) after the service was commenced, allowing the Reseller a resale exemption from these taxes on the past sales that occurred during the Period.

Facts

The Reseller has been purchasing telecommunications services from the Supplier for resale to other service providers since September of 2003. At the time the Reseller began purchasing the Supplier's service in September of 2003, the Reseller was not registered with Illinois for telecommunications excise taxes as a reseller of telecommunications services and did not provide a valid resale certificate to the Supplier. However, recently the Reseller registered with the Illinois Department of

Revenue for these taxes and obtained a Certificate of Registration – Reseller that is effective September 3, 2003 (the time when the Supplier's service to the Reseller started).

The Supplier has taken a position that any resale certificate must be presented at the time of (and not after) the sale and may not be accepted for past sales. In our subsequent negotiation with the Supplier, however, the Supplier agreed to accept a resale certificate from the Reseller for the Reseller's previous purchases and treat these purchases as exempt from Illinois telecommunications excise taxes, if the Illinois Department of Revenue responds favorably to this request.

Please let me know if you have any questions or require additional information.

DEPARTMENT'S RESPONSE:

A person who originates or receives telecommunications in the State of Illinois must apply to the Department for a resale number. The act of privilege or originating or receiving telecommunications in the State of Illinois shall not be made tax-free on the ground of being a sale for resale unless the person has an active resale number from the Department and furnishes that number to the retailer in connection with certifying to the retailer that any sale to such person is nontaxable because of being a sale for resale. See 35 ILCS 630/8.

The purchase of telecommunications cannot be made tax-free as being purchase for resale unless a valid resale number is provided at the time of purchase. Telecommunications Excise Tax liability would be incurred on all purchases of telecommunications originating or received in Illinois prior to the resale number being issued and presented by the purchaser. See 35 ILCS 630/8.

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

EEB:msk