

Persons who are engaged in the business of renting automobiles in Illinois under rental terms of one year or less are subject to the Automobile Renting Occupation and Use Tax set forth at 35 ILCS 155/1 *et seq.* See 86 Ill. Adm. Code 180.101. (This is a GIL.)

January 7, 2011

Dear Xxxxx:

This letter is in response to your letter dated June 24, 2010, 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 represent several clients who provide rental car services within your taxing jurisdiction. The following is a list of charges that may be included on the rental car billing. If any of the below items is included it would be separately stated on the billing. So that I may be certain that my clients are correctly taxing their customers, I ask that the State indicate the taxability of the following items.

1. Airport concession fees and facilities fees that are pasted [sic] on to the customer.
3. A fee charged for returning the vehicle to a city other than the renting city. Also know [sic] as a Drop Charge.
4. Charge for child seat.
5. Charge for ski rack.
6. Charge for in car navigational (GPS) system.
7. Charge for an additional driver.
8. Charge for drivers 24 years or younger.

9. Charge for exceeded mileage.
10. Up charge for nonstandard vehicles, ie; minivans, convertibles.
11. Charge for in car satellite radio.
12. Frequent Flyer Surcharge – excise taxes paid on customer awarded frequent flyer miles that are passed onto [sic] customer.
13. Fuel and Service Charge – Company will refill the tank and charge the customer for the fuel required to fill the tank and for the service of refilling the tank.
14. Fuel Purchase Option – Purchase of the gas that is in the tank at the start of the rental. Customers do not need to refill the tank prior to return, regardless of tank level.
15. Loss Damage Waiver – Optional service that relieves the customer of all financial responsibility for the loss of or damage to the rental car provided the car is used in accordance with the rental agreement terms and conditions.
16. Energy surcharges.
17. Liability Insurance Supplement – Optional protection that provides additional liability protection for the Customer, Authorized Operator(s), or Additional Authorized Operator(s) if an accident occurs. Includes un/under insured motorist coverage.
18. Personal Accident Insurance and Personal Effects Coverage – Provides coverage to the renter and passengers in case of accidental death and/or accidental medical expenses during the rental period. Provides for loss of or damage for most types of personal belongings owned and carried by the renter during the rental.
19. Premium Emergency Roadside Service – Covers costs for services required to remedy the following customer induced problems: Keys Locked in the Car – Lost Key Service – Left Lights On / Dead Battery – Out of Gas Service (includes delivery of 2 to 3 gallons of gasoline) – Spare Tire Mounting Service - \$1,000 Travel Interruption Cost Reimbursements.
20. Vehicle licensing fees passed onto [sic] customer.
22. \$ per day or rental tax surcharges.
23. Discounts for promo coupons.

Thank you for your time and cooperation.

**DEPARTMENT'S RESPONSE:**

Please note that the Department cannot give a definitive ruling in the context of a General Information Letter. Furthermore, without reviewing the rental contracts, the Department's response must be qualified.

Persons who are engaged in the business of renting automobiles in Illinois under rental terms of one year or less are subject to the Automobile Renting Occupation and Use Tax. 35 ILCS 155/1 *et seq.* See 86 Ill. Adm. Code 180.101. This tax is imposed at the rate of 5% of the gross receipts from such business. "Gross receipts" from the renting of tangible personal property or "rent," means all consideration received by a rentor as the rental price for the rental of automobiles under lease terms of one year or less. See also, 86 Ill. Adm. Code 180.120 and 180.125. Certain separately stated charges, though, are not subject to tax and are listed in Section 180.125 of the Department's regulations. Note, however, leases are not subject to liability under the Automobile Renting Occupation and Use Tax Act if the minimum lease term is for a period greater than one year (greater than 365 days). See 86 Ill. Adm. Code 180.101.

It appears many of the items involve charges for the use of the vehicle or tangible personal property used by the lessee in connection with the rental of a vehicle. "Gross receipts" from the renting of tangible personal property means all consideration received for the rental of automobiles. 86 Ill. Adm. Code 180.120. Refueling charges are not included in gross receipts if they are separately stated on the bill or invoice. 86 Ill. Adm. Code 180.125(a)(4). Insurance charges are not included in gross receipts if separately stated on the bill or invoice. 86 Ill. Adm. Code 180.125(a)(3). In general, if a charge falls within one of the authorized deductions provided in Section 180.125 it is not included within gross receipts if the charge is separately stated on the bill or invoice.

Please note, discounts, as a general proposition, are not subject to the tax. This is so because a "discount" results in no gross rental receipts. That is, when a customer is given 10% off the rental price of an automobile, the amount of the 10% discount results in a 10% reduction in gross rental receipts and is, therefore, not subject to tax. Consequently, a discount given to a customer at the time of rental does not become included in gross receipts. However, where some sort of refund is given to an agent or a tour operator subsequent to a rental, no discount has been given. These refunds to agents or tour operators subsequent to rental constitute costs of doing business which are never deductible from gross receipts. See 86 Ill. Adm. Code 180.120(c). Where a rentee has been given a credit for future rentals because that rentee has not been satisfied with service, that credit is not deductible from gross receipts. However, when the rentee uses that credit at a subsequent rental, the gross receipts from that subsequent rental would be reduced by the amount of the credit used by the rentee. Where an immediate refund of the rental price is given to a rentee dissatisfied with the rentor's service, this situation constitutes a "no rental" situation and the money refunded would not be included in gross rental receipts. However, where a refund is given to a dissatisfied rentee after the tax on the transaction has been paid to the Department, the rentor must file a claim for credit with the Department.

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.

Sincerely,

Richard S. Wolters  
Associate Counsel