

October 30, 2013



City of Chicago
Rahm Emanuel,
Mayor

Department of Law

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Re: Opinion Request on Ground Transportation Tax Exemption

[REDACTED]

I am writing in response to your letter of September 17, 2013 (copy attached without attachments). By your letter, you requested that the City of Chicago (the "City") issue a ruling on whether [REDACTED] is subject to the exemptions found in the Chicago Ground Transportation Tax (the "Ground Tax"), chapter 3-46 of the Municipal Code of Chicago (the "Code"). As a preliminary matter, this opinion letter will only focus on exemptions set forth in Code section 3-46-060. Based on the information provided in the letter and our additional investigation, we provide the following opinions.

Code Section 3-46-030(A) provides, in relevant part, as follows:

...[a] tax is imposed on all persons engaged in the occupation of providing ground transportation vehicles for use in the city. The incidence of the tax and the obligation to pay the tax are on the license holder of any ground transportation vehicle which is used in the city or on the person operating a ground transportation vehicle for use in the city who is required to be, but is not, a license holder.

Code Section 3-46-020 provides, in relevant part, as follows:

When any of the following words or terms are used in this chapter, they shall have the meaning set forth below:...

D. "Ground transportation vehicle" means any for-hire vehicle used to provide transportation for a charge or other consideration to passengers, regardless of whether the consideration is paid by the passengers or by any other person. This term includes, but is not limited to,....all automobiles, limousines, buses and other vehicles used to provide transportation to passengers for a charge, whether or not licensed by the city or registered or titled with the State of Illinois.

The term "ground transportation vehicle" does not include vehicles operated by a government transportation agency or on behalf of a government transportation agency pursuant to a contract or a grant, vehicles devoted exclusively to funeral use, or vehicles used as ambulances.



Code Section 3-46-060 provides as follows:

...the following uses of a ground transportation vehicle do not subject the license holder of the vehicle to the tax imposed by this chapter:

C. A ground transportation vehicle that is operated by a not-for-profit organization to the extent that the vehicle is used solely for the purposes for which the organization is dedicated;

D. A ground transportation vehicle that is provided by a person to a not-for-profit organization or to a governmental body to the extent that (1) the vehicle is used solely for the purposes for which the organization is dedicated or for governmental purposes and (2) the applicable consideration is billed to and paid directly by the not-for-profit organization or the governmental body and not by any of the passengers.

1. [REDACTED] is not exempt from the Ground Tax for the services provided to the five companies set forth in the September 17, 2013 letter.

[REDACTED] is not exempt from Ground Tax under Code section 3-46-060 (C) because it is a for-profit organization. A search of the Illinois Secretary of State's website indicates that [REDACTED] is a domestic BCA, a for-profit entity. *See* <http://www.ilsos.gov/corporatellc/CorporateLlcController>.

Additionally, [REDACTED] website, [REDACTED], does not mention not-for-profit status anywhere on the site. Furthermore, the "About us" section provides the explanation of the work that [REDACTED] performs. It states,



Based on the results of the Illinois Secretary of State's Corporation File Detail Report, and the statements on [REDACTED] website, we conclude that [REDACTED] is a for-profit organization and therefore not exempt under 3-46-060(C) of the Code.

[REDACTED] is not exempt under section 3-46-060(D) of the Code because the five companies listed in the September 17, 2013 letter are not not-for-profit organizations. In your letter, you provided a list of five entities with whom you contract to provide transportation services. These

[REDACTED]

entities must be not-for-profit organizations for [REDACTED] to be exempt from Ground Tax under section 3-46-060(D) of the Code. Because you did not provide proof that any of these businesses were not-for profit, the City conducted an investigation into these five organizations and determined that they are all for-profit business entities.

2. [REDACTED] must file tax returns and pay Ground Tax.

[REDACTED] is engaged in the occupation of providing ground transportation vehicles for use in the City of Chicago and is subject to the Ground Tax. [REDACTED] must file tax returns and pay Ground Tax. Unless [REDACTED] applies for the Voluntary Disclosure Program (*See* section 3-4-265 of the Code) [REDACTED] is liable for all Ground Tax, interest, and late penalties from July 1, 2006 to the present. Information on the Voluntary Disclosure Program is attached to this letter, and we encourage [REDACTED] to take advantage of this program.

The opinions contained herein are expressly intended to constitute written advice that may be relied upon pursuant to Code section 3-46-325. If we may be of further assistance, please call me at (312) 744-0325 or email me.

Very truly yours,



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Encl.

cc: Weston W. Hanscom
Department of Finance

Starting the
OFFICIAL APPEAL


Date: **SEP 17 2013**

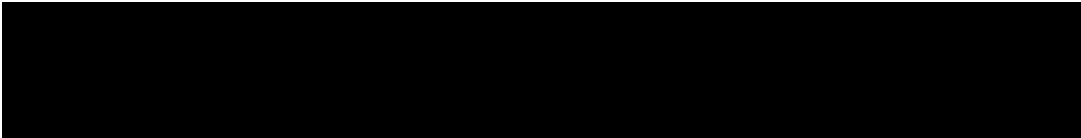



V.

City of Chicago
Department of Finance - Tax
333 S. State Street Suite 300
Chicago, IL. 60604-3977
Request a private letter ruling.
Subject: Ground Tax, Employers Expense Tax, Parking Tax.

Objective: To become EXEMPT

 responded to a letter received from the Department of Finance - Tax office here in Chicago by way of (2) two in person visits. The first visit was in late July where as I spoke with a person introduced to me as Christopher (chris) known as my go between. Our conversation centered around the questions that were asked and they were did I pick up & drop off at either of our air ports (O'Hare or Midway). Which I do not. The other question was, Exactly what it is that I do.



At that time I submitted a list of companies that I am contracted with, then I was asked to get letters from them to support what I do. And that  would be exempt from having to pay ground tax.

However upon my second in person visit on August 15th 2013 I presented affidavits from All companies that I am contracted with. At that visit along with Christopher I met Raul Medina (Auditor) where as a verbal decision was given by company employee's of that Chicago office. To say that they (employee's) felt that the companies are not non-for profit. At that point I ask to appeal and was told that I had to write a letter to their law office but the letter had to go through the finance office first and that they would forward it to the law office (you). However I am not being audited nor am I under audit.

State Facts.

Fact # 1

I should never have gotten a letter from the Department of Finance - Tax office. This office got this account [REDACTED] from the Department of Consumers office whereas their investigators issued me (4) tickets for being (human) I was loading [REDACTED]

[REDACTED] So I got closer. The tickets were for a cab and I am clearly not a cab I have a [REDACTED]

I was forced to buy a sticker from the Department of Consumer because the investigator told me if they saw [REDACTED] down there again they would have it towed. So I had a hearing in a room of the court house where I paid \$500.00 and a few days later paid another \$500.00 for a sticker from their office. Out of that here comes this department wanting me to pay ground tax. Out of the other (50) or so [REDACTED] that work on the same job as I do, non of them are required to have this extra sticker. Why me?? Wrong place at the wrong time.

Fact # 2

[REDACTED] by the U.S Department of Transportation (DOT)

Fact # 3

[REDACTED] has a Certificate from [REDACTED] as a Certified operator certificate # [REDACTED] the Americans with Disabilities Act (ADA).

(Comment) This service in itself should qualify [REDACTED] to be exempt entirely from the Department of Finance - Tax as first stated by Christopher (chris) known as the go between from the office of the Department of Finance - Tax located at 333 S. State st. Suite 300 in Chicago. Christopher also stated that all I had to do was have the companies that I am contracted to send letters to state my [REDACTED] duties with them, the (companies).

Fact # 4

[REDACTED] is also a provider with the State of Illinois Healthcare and Family Services. [REDACTED]

Attached to give credibility to all facts stated.

Fact # 1 Is the letter that was received by [REDACTED] plus the account # [REDACTED] provided to this company [REDACTED] by the Department of Consumer here in Chicago.

Fact # 2 A copy of my business being enrolled with the Department of Transportation. (DOT)

Fact # 3 A copy of my certificate by [REDACTED] Inc showing acknowledgment and ability to perform my duties under the Americans with Disabilities Act.

Fact # 4 A list of the companies that I am contracted with that was given to Christopher of the Department of Finance - Tax office in our first meeting. And copy from each of those companies stating my duties with each of them, five (5) companies and five letters are attached.

At this time I would like to thank you for allowing [REDACTED] Service Inc. to present facts that are credible under your standards to be exempt. Under your ruling on the private letter ruling found in the uniform revenue procedures ruling # 3. These rulings and guide lines became effective June 1, 2004. And were written for the city of Chicago department of revenue, you as peers and lawyers for the city of Chicago department of revenue wrote the procedures & rulings and I [REDACTED] Inc. just happen to fall under the category to be exempt.

Thank You
[REDACTED]

Attachments are included total number of pages are sixteen (16).

Pursuant to Section 3-4-265 of the Municipal Code of Chicago, Business Taxpayers Assistance Ordinance, taxpayers and tax collectors may disclose any taxes, fees or surcharges due the City, provided certain minimal qualifications are met. The program is designed to encourage self-compliance by allowing taxpayers and tax collectors an opportunity to resolve undisclosed tax and certain non-tax debts without penalty.

Taxpayer & Tax Collector Duties

Under this program a taxpayer or tax collector must calculate and remit the amounts due for any of the tax or non-tax debts that is to be paid or remitted to the Department of Revenue. The discloser must determine the amount it owes for the four-year period immediately prior to the date on which it applies to participate in the program. The discloser must remit, or enter a payment agreement to pay, the full amount of tax and interest it computes to be due. The discloser must also register with the Department and pay all previous deficiencies and/or delinquencies that may have existed before its disclosure. The discloser waives its right to an administrative hearing and to claims for refund or credit, and agrees not to initiate or join any lawsuits for the payments made under the program.

Department Obligations & Duties

In exchange for voluntarily disclosing and paying or remitting the tax and non-tax debts, the

Department agrees to waive all penalties that would otherwise apply. The Department also agrees not to assess the discloser for periods prior to the disclosed four-year period for the taxes disclosed. The Department further agrees that if it subsequently audits the discloser for the periods, and less than a 10% variation is determined in what the discloser remitted, the discloser will still receive the advantages of its voluntary disclosure. However, if said variation exceeds 10%, the Department may revoke the terms and conditions of the agreement, assess all applicable penalties, and extend the audit to include all periods open under the statute of limitations.

Qualified Discloser

To qualify for this program, a discloser must not be under audit or investigation. If a discloser has received a written notice relating to an audit or investigation for a tax or taxes, it is prohibited from participating in the program for those taxes. The discloser must also warrant that the taxes being disclosed are not the subject of an audit or investigation by the Department involving a person or entity involved in a prior bulk sale with the discloser, and also that it has not received a Delinquency Notice with respect to the disclosed taxes. The discloser cannot disclose for the tax and period for which it has been issued a Deficiency Notice by the City, but must pay such amounts as part of its disclosure for other periods or taxes.

Disclosure Process

If a taxpayer or tax collector is interested in applying under this program, contact Ms. Cynthia Rivera of the Chicago Department of Revenue at (312) 747-1327 to obtain an application. Forward your completed application to Ms. Villalona at 333 South Street, Suite 300 Chicago, Illinois 60604. Applications may also be faxed to her attention at (312) 747-1890. The initial application should include the discloser's business name, address, name of business representative, and phone number, as well as the tax being disclosed. Once that application has been approved, the discloser will have 30 days in which to register, compute, and pay the amounts due to initiate a payment agreement, unless granted an extension. The Department will verify the accuracy of the interest calculations to insure that amounts due have been computed correctly. After the amounts have been calculated, an agreement will be prepared for the discloser's signature. Once fully executed, a copy of the agreement will be provided to the discloser.

Feb 2008

Voluntary Disclosure Application

Application for participation in the City of Chicago's Voluntary Disclosure Program. Please complete all information below. Please print legibly. Applications may be either mailed or faxed to Ms. Cynthia Rivera at the Chicago Department of Revenue, 333 S. State, Suite #300, Chicago, Illinois 60604, Fax number (312) 747-1890. When this application has been received, Department records will be reviewed to ensure that you are eligible. Once approved, you will have thirty days to calculate liability and remit the payment or initiate a payment agreement.

Business Name

Business Address

City State Zip code

IRIS number (if registered)

Tax Types (list each individually)

Business Representative

Title Phone Number

Signature

Date

Department of
REVENUE



VOLUNTARY DISCLOSURE PROGRAM

Chicago Department of Revenue

Tax Division

333 S. State St.

DePaul Center, Suite 300

Chicago, Illinois 60604

(312) 747-1327

(312) 747-1890 / FAX