

If tender trailers are used primarily to transport fertilizer to the field and are then attached to equipment that applies the fertilizer to the field, they would qualify for the farm equipment and machinery exemption pursuant to 86 Ill. Adm. Code 130.305(h). (This is a GIL.)

April 13, 2006

Dear Xxxxx:

This letter is in response to your letter dated October 25, 2004, in which you request information. We apologize for the delay in getting a response to you regarding this issue. 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:

Thank you, as always, for being available to answer questions about the agricultural sales tax exceptions.

Could you please provide me with a written ruling on tender trailers and whether or not they qualify for the sales tax exemption. Fertilizer and chemical dealers commonly utilize a type of semi-trailer and mount dry and/or liquid tanks on the trailers. We call them 'tenders' in the industry. The dealers fill these tenders with dry or liquid fertilizer at the retail plant, then transport the product to the application equipment in the farm field and 'nurse' the application equipment. That is the sole purpose of these trailers. The trailers are required to be registered with the Secretary of State based on their size and weight.

In 130.305(h) it states 'Registered vehicles other than motor vehicles may qualify for the exemption if they are used primarily in production agriculture rather than in transportation or other nonexempt activities. Examples of this include implements of husbandry used primarily to supply and apply farm chemicals; trailers and nurse tanks used primarily to supply spreaders in the fields;.... '

Could you please indicate in writing whether or not you agree with our interpretation that these trailers, when used primarily in production agriculture to supply spreaders in the field, are exempt from sales tax?

Thank you. You can reply to me.

DEPARTMENT'S RESPONSE:

If tender trailers are used primarily to transport fertilizer to the field and are then attached to application equipment that applies fertilizer to the field, they would qualify for the farm equipment and machinery exemption pursuant to 86 Ill. Adm. Code 130.305(h).

However, if the tender trailer is used primarily in such a manner as to only bring the fertilizer to the field to transfer the fertilizer to a nurse tank, which is then attached to equipment used to apply the fertilizer to the field, then the tender trailer would not qualify for the exemption because the tender trailer in that situation would only be used as means of transportation of getting the fertilizer to the farm.

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,

Edwin E. Boggess
Associate Counsel

EEB:msk