

Sales of fuel used in the operation of ships which are used primarily in transportation of property or the conveyance of persons for hire on rivers bordering on this State are exempt from Retailers' Occupation Tax if such fuel is delivered by the seller to the purchaser's ship while it is afloat upon such bordering river. See 86 Ill. Adm. Code 130.315. (This is a GIL.)

April 14, 2006

Dear Xxxxx:

This letter is in response to your letter dated September 27, 2005, in which you request information. We apologize for the delay in responding to you. 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:

We are a barge line operating in interstate commerce, purchasing supplies on rivers boarding Illinois. According to our vendors, not all of the supplies are exempt.

I am requesting a legal opinion on what is a taxable supply and what is an exempt supply. Please be specific.

If you need to reach me by phone, I may be reached at #.

DEPARTMENT'S RESPONSE

Illinois sales tax applies to retail sales and use of tangible personal property within the Illinois border. However, with regard to the purchase of fuel consumed or used in the operation of ships, barges, or vessels, 86 Ill. Adm. Code 130.315, provides that "[e]ffective July 26, 1967, notwithstanding the fact that such sales are at retail, the Retailers' Occupation Tax does not apply to sales of fuel consumed or used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering on this State if such fuel is delivered by the seller to the purchaser's barge, ship, or vessel while it is afloat upon such bordering river." This language mirrors the statutory

provision, 35 ILCS 120/2-5(24). The exemption is only available for fuel sold and delivered to vessels afloat on rivers that border on Illinois.

Please note, the phrase "rivers bordering on this State" includes the Mississippi River, the Ohio River, and the Wabash River. The phrase "rivers bordering on this State" does not include rivers that do not border Illinois, such as the Illinois River and the Calumet River. The phrase "rivers bordering on this State" also does not include any portion of Lake Michigan.

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,

Martha P. Mote
Associate Counsel

MPM:msk