

To claim the exemption at 86 Ill. Adm. Code 130.2075(e), contractors must provide their suppliers with the exemption identification number of the governmental unit to which the public improvements will be transferred upon completion. (This is a GIL.)

May 16, 2007

Dear Xxxxx:

This letter is in response to your letter dated October 27, 2006, 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:

I am writing to ask for a General Information Letter which describes and / or explains the form and information that you require which proves a project is exempt from the Retailers' Occupation Tax and Use Tax. I understand which projects are subject to the tax, but I am unclear of the acceptable forms required for your audits.

I have enclosed a copy of the form I have used for several years and has been accepted in the past by the Department. The form we use asks the community or developer whom we are working for to fill in the information and E" number representing the group into whose real estate that property will be incorporated. Is the manner and form sufficient to verify a project is taxable or non taxable [sic]?

I await your answer so I know we handling [sic] the projects correctly.

If you have questions, please contact me.

DEPARTMENT'S RESPONSE

The information in letter ST 97-0472-GIL that was attached to your request is still correct. The Department's regulation regarding "Sales To Construction Contractors, Real Estate Developers and

Speculative Builders” at 86 Ill. Adm. Code 130.2075(e) provides that tangible personal property which will be physically incorporated into public improvements, the ownership of which is required to be conveyed to a unit of local government pursuant to a pre-development transfer requirement, is exempt from Retailers’ Occupation Tax and Use Tax. To claim the exemption, contractors must provide their suppliers with the exemption identification number of the governmental unit to which the public improvements will be transferred upon completion.

Since the regulation requires that contractors provide their suppliers with the exemption identification number of the governmental unit to which the public improvements will be transferred upon completion, and the form that you use does that (as well as includes other relevant information), we believe that it meets the requirement of the regulation if it is properly filled out.

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