

This letter concerns the rolling stock exemption. See 86 Ill. Adm. Code Section 130.340. (This is a PLR.)

November 2, 2009

Dear Xxxxx:

This letter is in response to your letter dated April 20, 2009, in which you requested a Private Letter Ruling on behalf of COMPANY. 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.

Review of your request disclosed that all the information described in paragraphs 1 through 8 of Section 1200.110 appears to be contained in your request. This Private Letter Ruling will bind the Department only with respect to COMPANY for the issue or issues presented in this ruling, and is subject to the provisions of subsection (e) of Section 1200.110 governing expiration of Private Letter Rulings. Issuance of this ruling is conditioned upon the understanding that neither COMPANY nor a related taxpayer is currently under audit or involved in litigation concerning the issues that are the subject of this ruling request. In your letter you have stated and made inquiry as follows:

Please be advised that I represent COMPANY in its request, pursuant to Title 2, part 1200.110(b) of the Illinois Administrative Code, for a private letter ruling. The request is prospectively. No audit or litigation is pending. The facts are as follows:

COMPANY is an organization organized and existing under and by virtue of the laws of the State of Illinois, having been formed in December of 2007. The entity, (Referred to herein as 'COMPANY'), operates an interstate trucking operation hauling bulk liquids. Its home office is in CITY, Illinois. COMPANY owns or leases approximately # Tractors and # tanker trailers. COMPANY also maintains truck/trailer terminals in several states, and repair shops at several locations. The repair shops perform general maintenance and repairs the company trucks and trailers. No vehicles are used by persons to transport officers, employees, customers or others not for hire or to transport property that the company owns or is selling and delivering to customers. During the course of operations the company expends money on parts for the shop and general repairs and replacements for its vehicles. One component of the trailers consists of hoses. These

hoses are used as an integral part of the deliveries in that they are used to pump the load from the storage facility into the trailer and from the trailer into storage tanks. The hoses travel with the trailer and are required to meet certain specifications for each type of product hauled. Without the hoses it is impossible to deliver the product. COMPANY purchases tens of thousands of dollars worth of hoses each year in Illinois for its trailers.

COMPANY seeks a ruling that the purchase of the hoses are exempt from Illinois sales tax by virtue of section 130.340 of the Illinois Administrative Code as repairs and replacements to qualified rolling stock. The code defines The term 'Rolling Stock as '...transportation vehicles of any kind of interstate transportation company for hire (railroad, bus line, air line, trucking company, etc.), but not vehicles that are being used by a person to transport its officers, employees, customers or others not for hire (even if they cross State lines) or to transport property that the person owns or is selling and delivering to customers (even if the transportation crosses State lines.' (130.340(a)) Clearly COMPANY's trailers fit this definition.

Furthermore, the code states that 'The rolling stock exemption may be claimed for purchases of repair and replacement parts that are incorporated into motor vehicles and trailers that meet the rolling stock test that is applicable for the 12-month qualifying period in which the purchase of the repair or replacement parts occurred and each consecutive 12-month qualifying period thereafter.' The only limitation appears to be as follows: 'The exemption does not apply to fuel nor to jacks or flares or other items that are used by interstate carriers for hire servicing the transportation vehicles, but that do not become a part of the vehicles, and that do not participate directly in some way in the transportation process.' (130.340(b))

Clearly the hoses participate directly in the transportation process. Without them the act of transporting cannot occur. The question is whether they are part of the vehicle. COMPANY asserts that they are. The hoses are adaptable for no other purpose than attaching from the trailer to the storage receptacle. They are as worthless without the trailer as the trailer is without the hose. They have essentially become a physical component of the vehicle. They travel with the trailers and are firmly attached to the trailer in the same manner as all the spare tires, battery, hazard placards, license plates, etc.

For these reasons COMPANY believes them to be part of the vehicle and exempt Sales tax.

To the best of our knowledge the Department has not ruled on the same or a similar issue for the taxpayer or a predecessor, and the taxpayer has not previously submitted the issue and later withdrew it. That to the best of our knowledge, no contrary authorities exist.

DEPARTMENT RULING:

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. See 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See 86 Ill. Adm. Code 150.101. These taxes comprise what is commonly known as "sales" tax in Illinois.

Under the rolling stock exemption, the Retailers' Occupation Tax does not apply to sales of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce or lessors under leases of one year or longer executed or in effect at the time of purchase to interstate carriers for hire for use as rolling stock moving in interstate commerce. In addition, notwithstanding the fact that the sale is at retail, the Retailers' Occupation Tax does not apply to sales of tangible personal property to owners, lessors, or shippers of tangible personal property that is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce as long as so used by the interstate carriers for hire. See 86 Ill. Adm. Code 130.340. For parts and equipment purchased for qualifying trucks and trailers, please see subsection (b) and subpart (2) of subsection (j) of 86 Ill. Adm. Code 130.340.

In order to claim the exemption, retailers and servicemen must obtain a properly executed exemption certification from the purchaser and retain this certification in their books and records. Exemption certifications must comply with the requirements of subsection (e) of Section 130.340. Form RUT-7, Rolling Stock Certification, which can be found on the Department's website, may be used to provide the required certification to document the rolling stock exemption.

Please note that it is not the type of item that determines whether or not it qualifies as rolling stock, rather how the item is used by a qualifying interstate carrier. Not all items of tangible personal property used by an interstate carrier for hire qualify for the rolling stock exemption. The exemption is applicable to equipment or parts only if they become a component part of qualifying rolling stock and to equipment which, though not physically incorporated, is dedicated to a particular qualifying item or items of rolling stock and participates directly in the transportation process. For example, a hand cart used by an interstate carrier for hire that travels with a particular qualifying tractor or trailer and is used for loading and unloading cargo carried by that tractor or trailer will qualify for the exemption.

Based on the manner in which you described how the hoses are used, the hoses are dedicated to a specific trailer and they participate directly in the transportation process. Accordingly, the hoses described in your letter will qualify for the rolling stock exemption if the trailers for which they are dedicated and used qualify for the rolling stock exemption.

The factual representations upon which this ruling is based are subject to review by the Department during the course of any audit, investigation, or hearing and this ruling shall bind the Department only if the factual representations recited in this ruling are correct and complete. This Private Letter Ruling is revoked and will cease to bind the Department 10 years after the date of this letter under the provisions of 2 Ill. Adm. Code 1200.110(e) or earlier if there is a pertinent change in statutory law, case law, rules or in the factual representations recited in this ruling.

I hope this information is helpful. If you have further questions concerning this Private Letter ruling, you may contact me at 782-2844. If you have further questions related to the Illinois sales tax laws, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Terry D. Charlton
Chairman, PLR Committee

TDC:msk