

LP gas used to dry grain prior to being sold does not qualify as a farm chemical for purposes of the farm chemical exemption. See 86 Ill. Adm. Code 130.305(f). (This is a GIL.)

January 8, 2009

Dear Xxxxx:

This letter is in response to your letter dated November 6, 2008, 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.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:

We posed this question to your telephone agents and they were unable to respond and suggested that we write you and request a response.

Many farmers dry their own grain in their grain bins once it has been harvested. That is particularly true this year in light of the late harvest. The farmer dries the grain through the use of LP gas purchased from local distributors.

IL ST CH 35 §120/2-5(1) exempts farm chemicals from the sales tax. Similarly the Illinois Administrative Code at 86 Ill. Adm. Code §130.120(p) exempts farm chemicals from the sales tax.

The LP gas would be a petro chemical used in production agriculture.

86 Ill. Adm. Code §130.1955 defines farm chemicals to include *any* (emphasis added) chemical product used in production agriculture. The LP gas is a chemical product used in production agriculture to dry the grain prior to its being marketed.

We would be happy to answer any questions which you might have in this regard. We look forward to hearing from you at your convenience.

DEPARTMENT'S RESPONSE:

The Department's regulation regarding Farm Chemicals, set forth at 86 Ill. Adm. Code 130.1955, describes the exemption for farm chemicals. The regulation provides that "[f]arm chemicals include any chemical product used in production agriculture, the products of which are to be sold, or in the production or care of animals that are to be sold or the products of which are to be sold. Examples of exempted items are stock sprays, disinfectants and the like, stock tonics, serums, vaccines, poultry remedies and other medicinal preparations and conditioners, water purifying products, insecticides, weed killers and the like."

"Production agriculture" means the raising of or the propagation of livestock; crops for sale for human consumption; crops for livestock consumption; and production seed stock grown for the propagation of feed grains and the husbandry of animals or for the purpose of providing a food product, including the husbandry of blood stock as a main source of providing a food product. "Production agriculture" also means animal husbandry, floriculture, aquaculture, horticulture, and viticulture. 35 ILCS 120/2-35.

It is the Department's position that LP gas used to dry crops does not qualify as a farm chemical for purposes of the exemption.

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

Very truly yours,

Richard S. Wolters
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RSW:msk