

Manufacturer's Purchase Credit may be used to satisfy Use Tax or Service Use Tax liability that is incurred on the purchase of production related tangible personal property that does not qualify for the manufacturing machinery and equipment exemption. See 86 Ill. Admin. Code 130.331. (This is a GIL.)

January 8, 2009

Dear Xxxxx:

This letter is in response to your letter dated May 22, 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:

I had recently sent a request for clarification on the regulation regarding the Manufacturing Machinery and Equipment exemption. My question was originally related to 35 ILCS 105/3-50 in general. I received a copy of Title 86 Part 130 Section 130.330. I actually became more confused when I compared this regulation with 35 ILCS 305/3-50 paragraphs 4 and 5. These seem to be contradictory regulations.

Would you please provide clarification on the conditions where 'production related tangible personal property' would be considered exempt from sales tax? Please send the response to the following address:

NAME/ADDRESS

Thank you for your help.

DEPARTMENT'S RESPONSE:

Your letter goes to the difference between the manufacturing machinery and equipment exemption (See 86 Ill. Adm. Code 130.330) and the manufacturer's purchase credit (See 86 Ill. Adm.

Code 130.331). The State of Illinois provides a manufacturer's purchase credit in addition to the exemption for manufacturing machinery and equipment. Purchasers of manufacturing machinery and equipment that qualifies for the manufacturing machinery and equipment exemption earn a credit in an amount equal to 50% of the tax that would have been incurred under the Use Tax or Service Use Tax on the purchase of the manufacturing machinery and equipment if it were not exempt. 35 ILCS 105/3-85; 35 ILCS 110/3-70. Manufacturer's purchase credit, in turn, may be used to satisfy Use Tax or Service Use Tax liability that is incurred on the purchase of "production related tangible personal property." The amount of manufacturer's purchase credit that can be applied to a purchase of production related tangible personal property is limited to the state rate of tax incurred on that property (6.25%). Any local taxes incurred on the purchase of production related tangible personal property remain the responsibility of the purchaser.

Generally, "production related tangible personal property" is the term used in Section 3-85 of the Use Tax Act to refer to those items that, while they are production related, are not eligible for the manufacturing machinery and equipment exemption but may be purchased using manufacturer's purchase credit. For purposes of the manufacturer's purchase credit, "production related tangible personal property" includes all tangible personal property used or consumed in a production related process by a manufacturer in a manufacturing facility in which a manufacturing process described in Section 2-45 of the Retailers' Occupation Tax Act takes place, and all tangible personal property used or consumed by a manufacturer or graphic arts producer in research and development regardless of use within or without a manufacturing or graphic arts production facility. (See 35 ILCS 105/3-85). For further information on what items are eligible for manufacturer's purchase credit and how to claim the credit, please see the Department's administrative rules on this subject. (See 86 Ill. Adm. Code 130.331).

Part of your confusion may arise from the existence of a one-year expansion of the manufacturing machinery and equipment exemption to include production related tangible personal property. It is our understanding that the goal of the one-year expansion was to provide an exemption for smaller manufacturers with limited opportunity to make exempt purchases of manufacturing machinery and equipment and therefore a limited ability to earn manufacturer's purchase credit. The manufacturing machinery and equipment exemption was expanded for a one-year period from July 1, 2007 through June 30, 2008 to include production related tangible personal property. The exemption was equal to 5% of the purchase price of the production related tangible personal property, and was only available in the form of a credit memorandum issued by the Illinois Department of Revenue after filing an exemption report with the Department. Please see Informational Bulletin FY 2008-19 for more information on that program (enclosed). This program was enacted by Public Act 95-707 and is reflected in paragraph (5) of Section 3-50 of the Use Tax Act, 35 ILCS 105/3-50(5). It is further explained in administrative rules adopted by the Department at 86 Ill. Adm. Code 150.340 and 130.330(c)(1).

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.

Sincerely,

Samuel J. Moore
Associate Counsel

SJM:msk
Enc.