

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption extends to machinery and equipment that is used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

September 29, 2009

Dear Xxxxx:

This letter is in response to your undated letter which was received in this office on April 27, 2009, 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](http://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 represent a client (Company A) that manufactures biodiesel fuel. In order to produce biodiesel fuel Company A purchases methanol and other raw materials from suppliers. Company A combines the methanol and other raw materials together to produce biodiesel fuel.

100% of the biodiesel fuel produced by Company A is used by Company A.

Are the raw materials purchased by Company A to manufacture biodiesel exempt from Illinois sales tax?

Is the machinery and equipment used by Company A to manufacture biodiesel fuel exempt from Illinois sales tax?

If you need additional information regarding this matter, please feel free to contact me.

I appreciate your prompt attention to this request.

**DEPARTMENT'S RESPONSE:**

**Use Tax**

This response concerns the tax implications of the Use Tax Act only as applied to an end-user of fuel and does not address any tax liabilities under the Motor Fuel Tax law. 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. Raw materials purchased to manufacture biodiesel are considered tangible personal property and are subject to Use Tax.

Please note that for any Motor Fuel Tax liability, please see the Department's Motor Fuel Tax regulations, specifically 86 Ill. Adm. 500.203(b), which can be found on the Department's website.

### **Manufacturing Machinery & Equipment Exemption**

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is extended to machinery and equipment that is used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property **for wholesale or retail sale or lease**. See the Department's regulation at 86 Ill. Adm. Code 130.330 which can be found on the Department's website. Accordingly, the manufacturing machinery and equipment exemption is not available when the tangible personal property is not for wholesale or retail sale or lease but, rather, is consumed by the manufacturer.

I hope this information is helpful. If you require additional information, please visit our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

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