

This letter concerns sales of chemicals for weed control in fields. See 86 Ill. Adm. Code 130.1955. (This is a GIL.)

August 11, 2011

Dear Xxxxx:

This letter is in response to your letter dated July 1, 2011, 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 am a farmer in the CITY, Illinois area with some fields on my farm that are enrolled in the FSA CRP and CREPT programs. In these fields I have to grow both cool season and warm season native prairie grasses.

To maintain weed control in these fields I need to purchase chemicals from my local ABC plants for post spraying. For some reason they are saying I have to pay sales tax on these chemicals but for all other crops they are tax exempt.

Since this is a contract program with the department of Agriculture to grow these grasses as food plots for wildlife my CPA thinks these should be tax exempt.

Will you please give me permission to be tax exempt? Annual purchases will range from \$200-\$500.00.

DEPARTMENT'S RESPONSE:

Although we cannot give you a specific answer in the form of a General Information Letter, we hope you find the following helpful.

In general, the Illinois Retailers' Occupation Tax is imposed upon the total gross receipts received by retailers who make sales of tangible personal property to Illinois end users. Unless the sales are specifically exempted, such retailers must collect and remit the sales tax. See 86 Ill. Adm. Code 130.101.

Farm chemicals are statutorily exempt from Sales and Use Taxes in Illinois. The Department's regulation regarding the farm chemicals exemption may be found at 86 Ill. Adm. Code 130.1955. This regulation describes the kinds of farm chemicals that qualify for the exemption. In general, farm chemicals include chemical products 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.

When persons sell chemicals to purchasers who use the chemicals in raising crops that they will resell, the sale of chemicals is not taxable as a sale for resale. However, when persons sell chemicals to purchasers who use the chemicals in raising grass, crops, or other plants that they do not resell, such vendors are engaged in the business of making retail sales of the chemicals and are required to remit Retailers' Occupation Tax to the Department on their gross receipts from such sales. See 86 Ill. Adm. Code 130.2110.

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,

Debra M. Boggess
Associate Counsel

DMB:msk