

The Manufacturing Machinery and Equipment exemption does not apply to hand tools, supplies, coolants, lubricants, adhesives, or solvents, items of personal apparel, coal, fuel oil, electricity, natural gas, artificial gas, steam, refrigerants or water. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

December 19, 2008

Dear Xxxxx:

This letter is in response to your letter dated August 8, 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 have been requested to exempt an asphalt production plant the sales tax on heating oil used to produce asphalt. I would like to have clarification from the Department of Revenue that this is a valid exemption and what documentation I will need to retain in my files.

Thank you for your help.

Attached to your letter was a copy of the request for exemption from the asphalt company. It states:

ABC purchases heating oil on a regular basis from COMPANY. This fuel is used at the asphalt plant 100% for the manufacturing of asphalt.

We request that on future purchases, you do not charge Illinois sales tax, due to the manufacturing exemption.

Thank you for your consideration and we look forward to purchasing our asphalt heating oil from you in the future.

DEPARTMENT'S RESPONSE:

Based on our understanding of your letter, you are inquiring about the manufacturing machinery and equipment exemption. Without more information, we are unable to provide you with a direct answer to your question. However, we hope the following information is helpful.

In general, Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. The manufacturing process is the production of articles of tangible personal property or assembling different articles of tangible personal property by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some existing material or materials into a material with a different form, use or name. These changes must result from the process in question and be substantial and significant. See Section 130.330(b)(2). The exemption does *not* apply to "hand tools, supplies (such as rags, sweeping or cleaning compounds), coolants, lubricants, adhesives, or solvents, items of personal apparel (such as gloves, shoes, glasses, goggles, coveralls, aprons, masks, mask air filters, belts, harnesses, or holsters), coal, *fuel oil*, electricity, natural gas, artificial gas, steam, refrigerants or water." See Section 130.330(c)(3). Also see 86 Ill. Adm. Code 130.330(g), which explains how to document the exemption.

The State of Illinois provides a manufacturer's purchase credit in addition to the exemption for manufacturing machinery and equipment. See 86 Ill. Adm. Code 130.331. Purchasers of manufacturing machinery and equipment that qualifies for the manufacturing machinery and equipment exemption earn a credit in an amount equal to a fixed percentage of the tax which would have been incurred under the Use Tax or Service Use Tax. 35 ILCS 105/3-85; 35 ILCS 110/3-70. The 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.

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. "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.

The Department's regulation for the manufacturer's purchase credit provides examples of tangible personal property that will be considered production related: supplies and consumables used in a manufacturing facility, including *fuels*, coolants, solvents, oils, lubricants, cleaners, adhesives, and hand tools, protective apparel, and fire and safety equipment used or consumed in a manufacturing facility. See 86 Ill. Adm. Code 130.331(b)(4). This means that the credit may be applied to the State tax due for purchases of these items. See 86 Ill. Adm. Code 130.331(b)(1).

A manufacturer or graphic arts producer must provide a Manufacturer's Purchase Credit Certificate (ST-16-C or purchaser's own form) when using Manufacturer's Purchase Credit (MPC) on a purchase of production related tangible personal property, unless the same information is included in the manufacturer's or graphic arts producer's purchase order. See subsection (f) of 86 Ill. Adm. Code 130.331.

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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