ST 99-0032-GIL 01/11/1999 MANUFACTURING MACHINERY & EQUIPMENT

The 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. (This is a GIL.)

January 11, 1999

Dear Mr. Xxxxx:

This letter is in response to your letter dated December 1, 1998. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

> Would you be so kind as to rule on the following fact situation? Specifically, I am requesting a ruling as to whether my company's sale of an ice-making machine would qualify as a sale of manufacturing material and thus be exempt from sales tax.
>
> > My company sells an ice-making machine to a restaurant. The restaurant will place the ice from the machine into a cup and then dispense a beverage into the cup. The restaurant will then sell the ice and beverage to its customer and charge sales tax on the sale. The restaurant will use the ice for no other purpose (it will not, for example, use the ice to pack food for transport or to line a salad-bar bed).
>
> Thank you very much for your assistance in this matter. Please feel free to contact me if you require anything further.

Enclosed is a copy of 86 Ill. Adm. Code 130.330 concerning the Manufacturing Machinery and Equipment Exemption. The 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. Please note that 86 Ill. Adm. Code 130.330(b)(7) states as follows:

> "The preparation of food and beverages by restaurants, food service establishments, and other retailers is not manufacturing."

Accordingly, ice-making machines used in restaurants to prepare drinks for immediate consumption are generally not exempt. See 86 Ill. Adm. Code 130.330(b)(7).

I hope this information is helpful. The Department of Revenue maintains a Web site which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.