ST 99-0150-GIL 05/06/1999 FARM MACHINERY AND EQUIPMENT

The farm machinery and equipment exemption can include machinery and equipment used primarily in floriculture or horticulture. See 86 Ill. Adm. Code 130.305(b-d). (This is a GIL).

May 6, 1999

Dear Ms. Xxxxx:

This letter is in response to your letter dated March 30, 1999. 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 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

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

Our company is a wholesale horticultural firm supplying seeds, plants, soil mix, greenhouses and the associated equipment necessary to run a greenhouse to our customers. We are always looking for new ways to improve our products.

To this end, one of our divisions is involved in a joint research project with a firm in COUNTRY to develop an artificial way to germinate tissue culture propagules (somatic embryos) into plants. We are purchasing a bioreactor to help in this research. We estimate that it will take one year to determine if the results indicate that germinating somatic embryos will be a viable operation for plant propagation. If so, then the bioreactor will be used 100% of the time in producing large quantity somatic embryos for plant propagation purposes.

Our question relates to the sales tax involved in the purchase of this bioreator. Do we pay sales tax when we purchase the reactor and then request a refund if the reactor becomes part of a germination process? Should we pay a pro-rated portion of sales tax based on the estimated useful life of the reactor? Or do we not pay sales tax at all until we determine the final use of the bioreactor?

Thank you for your time and effort on our behalf. If I can answer any questions, please feel free to contact me at ####.

In general, persons who sell machinery at retail in Illinois are subject to Retailers' Occupation Tax, unless an exemption can be documented. Machines not directly used in an on-line manufacturing process cannot qualify for the manufacturing machinery and equipment exemption. Agricultural or horticultural and related activities are not manufacturing and, accordingly, machinery used in such activities cannot qualify for the manufacturing machinery and equipment exemption. See 86 Ill. Adm. Code 130.330(b)(6), enclosed.

We have also enclosed 86 Ill. Adm. Code 130.305, the regulation covering the Illinois sales/use tax exemption afforded machinery and equipment used primarily in production agriculture. This exemption can include machinery and equipment used primarily in floriculture or horticulture. See 86 Ill. Adm. Code 130.305(b-d).

However, please note that for the use of machinery to qualify in these businesses, the plants, nursery stock, shrubs, etc. must be produced for sale. Therefore, if the primary usage of machinery or equipment is to produce plants, flowers, trees, etc. that will not be put on the market, such as when used for research and development, then purchasers cannot claim the exemption. Please note that speculation that equipment or machinery may some day be used in production will not qualify the equipment or machinery for the exemption.

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.