ST 99-0335-GIL 11/08/1999 MISCELLANEOUS

This letter describes the requirements for Certificates of Resale and for farm machinery and equipment exemption certificates. See 86 Ill. Adm. Code 130.1405 and 86 Ill. Adm. Code 130.305. (This is a GIL).

November 8, 1999

Dear Mr. Xxxxx:

This letter is in response to your letter dated June 18, 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:

We respectfully request a private letter ruling upon the following matter.

Over 95% of our sales are consummated with farmers or grain terminals and most transactions with those persons are exempt from sales tax under the regulations.

In the course of our business, the pre-designed forms [CRT-61 & ST-587] will be difficult to maintain and enforce. CRT-61 may be furnished as a 'blanket' certificate but does require the purchaser describe the property that is being purchased under Step 3. Many of our patrons would not understand what products or categories of products should be included in that section without more definitive explanation.

Step 4 requests the purchaser certify all their purchases are for resale or determine a percentage of non-exempt purchases. In the case of our farmer patrons, it would be likely most purchases would be for resale but not 100%. However, selecting a percentage of total purchases would not be accurate either as taxable purchases on items usually exempt but occasionally taxable due to personal use might vary significantly from time to time.

Form ST-587 requires execution for each transaction. Our firm operates a service garage which performs basic repair and replacement of parts on farm machinery as well as auto's and trucks. In addition, we sell parts of many kinds which are used on farm machinery and are exempt under the regulations. In many instances the person picking up the parts is not the farmer himself but the hired man, neighbor or friend. In some cases the products will be delivered to the farm

operator's residence or shop and no one will be present to receive the merchandise and therefore cannot sign an exemption certificate.

We submit our SALES AND USE TAX – CERTIFICATE of EXEMPTION [Exhibit 1] for your approval. We believe it meets the requirement of the regulations and is well adapted for our transactions. The top portion allows the customer to check the appropriate box for the products he would be purchasing from our firm. It further states in the last paragraph that should the product(s) be purchased for other than exempt purposes the patron will so state and the tax can be charged.

The second part [below the black demarcation line] provides for the customer to indicate that purchases of farm machinery and equipment (parts) will be exempt based upon their usage. Coupled with Exhibit 2 (our standard garage sales ticket) which would be checked in the appropriate box at the time the order is received or sale of the merchandise is made provides for an adequate determination of the exempt status at that time, therefore not requiring a farmer actually be present to sign the certificate upon delivery of the merchandise.

I trust you will expedite the ruling on this matter. Should you require additional information or clarification please do not hesitate to contact PERSON1 or PERSON2 at the above address or phone number.

Please find enclosed a copy of 86 Ill. Adm. Code 130.1405, which describes the requirements for validly executed Certificates of Resale. In order for a sale for resale to qualify for exemption from Retailers' Occupation Tax, the seller must keep on file a valid Certificate of Resale as set forth in the regulation. Acceptance of a valid Certificate of Resale relieves the seller of liability with respect to the purchaser's use of the property purchased.

A blanket Certificate of Resale can be used to document a sale for resale as long as the requirements for a valid Certificate of Resale are met. A seller may accept a blanket Certificate of Resale from a purchaser if all of a particular customer's purchases are made for resale. The information on a blanket Certificate of Resale should be updated no less than every three years.

If a purchaser knows that a certain percentage of all purchases from a given seller will be made for purposes of resale, a seller may accept a percentage Certificate of Resale specifying that a certain portion of the sales made by such seller to such purchaser will be made for purposes of resale.

The Department does not pre-approve Certificates of Resale. However, applying the above principles, your company will not be liable for Retailers' Occupation Tax on the receipts from a sale when it accepts a Certificate of Resale that contains a valid registration number or resale number and that complies with the requirements of Section 130.1405.

The Retailers' Occupation Tax does not apply to farm machinery and equipment that is used or leased for use primarily (over 50% of the time) in production agriculture or for use in State or Federal agricultural programs. For your information, we have enclosed a copy of 86 Ill. Adm. Code 130.305 which are the Department's regulations for "Farm Machinery and Equipment." Please note that purchasers that claim the farm machinery and equipment exemption are required to provide the certification or blanket certification described in subsection (m) of Section 130.305. Please also note that the type of item is not the only consideration in determining whether or not it will qualify for the exemption. Whether a specific item qualifies for the exemption depends also on how the item will be used by the purchaser. As stated above, for an exemption certificate to qualify as a valid exemption certificate, it must contain all of the information required in the regulation to be on a certificate.

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,

Martha P. Mote
Associate Counsel

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Enc.