ST 05-0035-GIL 05/24/2005 CDF EXEMPTION

Persons may claim the commercial distribution fee sales tax exemption for a qualifying commercial motor vehicle even if the vehicle does not qualify for the rolling stock exemption. See 86 Ill. Adm. Code 130.341. (This is a GIL.)

May 24, 2005

Dear Xxxxx:

This letter is in response to your letter dated December 21, 2004, 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.ILTAX.com 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:

> As a follow-up to our recent conversation, I write to request written confirmation of the Illinois sales and use tax consequences for certain motor vehicles following the July 1, 2005 repeal of the Commercial Distribution Fee ('CDF') sales and use tax exemption (the 'CDF sales tax exemption'). As you may recall, my question concerned whether motor vehicles currently qualifying for the CDF sales tax exemption remain exempt from sales and use tax in subsequent registration years even if they fail to meet the rolling stock sales and use tax exemption.
>
> It's my understanding the Illinois Department of Revenue (the 'Department') will recognize a sales tax exemption under these facts provided each motor vehicle maintains an appropriate Illinois license plate, if base plated in Illinois, and maintains the current owner in subsequent registration years. You indicated the Department requires each motor vehicle with an Illinois plate to operate on a 'D through Z' plate to remain exempt from sales and use tax. You further indicated that if title to the motor vehicle is transferred to a new owner, the sales tax exemption does not transfer to a new owner. Absent one of these disqualifying factors, a motor vehicle currently qualifying for the CDF sales tax exemption remains exempt from Illinois sales and use tax in all subsequent registration years.

Please provide a written response to confirm my understanding of the Department's position. I thank you in advance for your attention to this matter. If you have any questions, please give me a call.

DEPARTMENT'S RESPONSE:

The commercial distribution fee ("CDF") sales tax exemption found at 86 Ill. Adm. Code 130.341 is separate and apart from the rolling stock sales and use tax exemption. Persons may claim the CDF sales tax exemption for a qualifying commercial motor vehicle even if the vehicle does not qualify for the rolling stock sales and use tax exemption. The CDF sales tax exemption does not apply to purchases of repair or replacement parts.

The CDF use tax exemption expires July 1, 2005. Any commercial vehicles purchased on or after that date will not qualify for the CDF sales tax exemption. Please note, however, that after that date, the vehicle may qualify for the rolling stock exemption provided it meets the appropriate test. For information regarding the rolling stock sales and use tax exemption please see 86 Ill. Adm. Code 130.340.

Persons who purchased vehicles prior to July 1, 1005 and properly claimed the CDF sales tax exemption remain exempt from tax on those purchases. This is true as long as the vehicles continue to be registered by those owners whereby they are subject to payment of Commercial Distribution Fees and those fees are actually paid. See subsections (a)(3) and (b)(3) of Section 130.341.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

EEB:msk