

Chemicals that are required to provide a specific temperature and humidity in order to grow a crop to be sold do not qualify as farm chemicals for purposes of the exemption. See 86 Ill. Adm. Code 130.1955. (This is a GIL.)

May 4, 2007

Dear Xxxxx:

This letter is in response to your letter dated November 22, 2006, 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:

I would like some clarification as to whether or not chemicals purchased by a company that grows and packages mushrooms in Illinois would qualify for the farm chemical/agricultural exemption as stated in the Department of Revenue Regulation Part 130 Section 130.1955.

Various chemicals are being purchased and are used for either the boiler or water cooling system. Both of these systems are used to control the temperature and humidity levels in growing rooms. These rooms are where the trays that the mushrooms are grown in are kept. Since the proper temperature and humidity level must be maintained in order to grow the mushrooms, would these chemicals qualify for the farm chemical/agricultural exemption?

If you could please let me know if these chemicals would be exempt from tax, I would greatly appreciate it. Also, if you have any more questions regarding the use of these chemicals in the mushroom growing process please give me a call, and I will get you any answers that you may need in order to make a determination.

DEPARTMENT'S RESPONSE

The Department's regulation regarding Farm Chemicals, set forth at 86 Ill. Adm. Code 130.1955, describes the exemption for farm chemicals. The regulation provides that "[f]arm chemicals include any chemical product used in production agriculture, the products of which are to be sold, or in the production or care of animals that are to be sold or the products of which are to be sold. Examples of exempted items are stock sprays, disinfectants and the like, stock tonics, serums, vaccines, poultry remedies and other medicinal preparations and conditioners, water purifying products, insecticides, weed killers and the like."

"Production agriculture" means the raising of or the propagation of livestock; crops for sale for human consumption; crops for livestock consumption; and production seed stock grown for the propagation of feed grains and the husbandry of animals or for the purpose of providing a food product, including the husbandry of blood stock as a main source of providing a food product. "Production agriculture" also means animal husbandry, floriculture, aquaculture, horticulture, and viticulture. 35 ILCS 120/2-35.

This exemption is more restricted than it may appear. For example, chemicals such as animal disinfectants can only qualify for the exemption if they are applied directly to livestock, either externally or internally. Chemicals that are required to provide a specific temperature and humidity in order to grow a crop to be sold do not qualify as farm chemicals for purposes of the exemption.

Likewise, chemicals used in conjunction with a boiler or water system do not qualify for the Farm Machinery and Equipment exemption from sales tax. These are consumable supplies and as such do not qualify for the exemption. See 86 Ill. Adm. Code 130.305.

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,

Martha P. Mote
Associate Counsel

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