

Mold release agents do not generally qualify for the manufacturing machinery and equipment exemption. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

October 22, 2007

Dear Xxxxx:

This letter is in response to your letter received in Legal Service on January 30, 2007, 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:

After review of the material used to produce the products we sale [sic], the ABC would like to appeal the payment of sales tax on the mold release product we use in the manufacturing of molded polyurethane foam for furniture and automotive seating at our CITY, Illinois location. We have been paying sales tax on this product for a number of years, and would like to stop future payments and be reimbursed for past payments to the extent possible based on the following explanations.

The mold release we use is basically a wax, dissolved in a liquid, for spray application. The mold release is applied to aluminum molds to prevent the polyurethane from sticking to the metal. The mold release is applied before every part is made and is included in our bill of materials costing system for each part produced. Some of the mold release is transferred to the foam pad, and some of the mold release stays on the aluminum tool after each pour. We try to maximize the amount transferred to the parts in order to prevent build up on the molds.

The urethane molding process is very similar to an automated cake baking operation. The mold release in our case serves an identical purpose to "greasing the pan" in a baking operation.

We believe the mold release meets the criteria to be excluded from sales tax because:

- 1) The mold release is critical part of molded urethane manufacturing.
- 2) The mold release is applied to every part produced.
- 3) The mold release becomes part of the finished product.

I would be happy to answer any additional questions you may have.

DEPARTMENT'S RESPONSE

In general, tangible personal property that will become a component part of a product that is subsequently sold will qualify for the resale exemption. See 86 Ill. Adm. Code 130.210. Persons selling tangible personal property for resale should obtain a Certificate of Resale from purchasers of this tangible personal property. The requirements for Certificates of Resale are explained in Section 130.1405. Tangible personal property that will be used to manufacture products, but will not be incorporated into the product to be resold is taxable. Tangible personal property that will be used in both capacities, may be sold partly taxable and partly tax-free if the customer gives vendors certificates of resale specifying what percentage can be bought tax-free and what percentage is taxable.

Please note that this question has been asked before in the context of the Manufacturing Machinery and Equipment exemption. See 86 Ill. Adm. Code 130.330. The Department generally considers mold parting substances fully taxable as supply items. See General Information Letter, ST 85-0912-GIL. Normally, these substances do not become a part of the item being manufactured. In many instances, the mold release that is transferred to the part is subsequently washed off or otherwise removed and does not become a part of the item being manufactured.

We refer you to the Department's regulation at 86 Ill. Adm. Code 130.1501 concerning Claims for Credit. Claims for credit and refunds are available when a person shows that he paid tax to the Department as a result of a mistake of fact or law. Only the remitter of the tax erroneously paid to the Department is authorized to obtain a refund. In order to obtain a credit, one must first demonstrate that he or she has borne the burden of the tax erroneously paid. Claims for credit shall state the requirements that are contained in subpart (b) of the regulation. The repayment of the tax to the customer will satisfy the requirement of Section 130.1501(a)(2).

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,

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