

Construction contractors who physically incorporate tangible personal property into real estate owned by exempt organizations or governmental entities that hold tax exempt "E" numbers can purchase such property tax free by providing their suppliers with the certification described in 86 Ill. Adm. Code 130.2075(d). See 86 Ill. Adm. Code Section 130.2075. (This is a GIL.)

March 29, 2011

Dear Xxxxx:

This letter is in response to your letter received by this office November 12, 2010, 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.tax.illinois.gov 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:

We are a for profit contractor that delivers weatherization and rehabilitation services to low income residents on behalf of several Tax Exempt Agencies. These services are comprised of the installation of insulation, replacement windows and doors, HVAC equipment and related products in the homes of Illinois residents. Upon completion of the projects, we invoice the tax exempt agency for 100% of the services delivered.

Over the past year or so we have received opinions from several people within the Department of Revenue's Tax Payer [sic] Systems Division that we are entitled to present the tax exemption id of these agencies to suppliers of windows and doors who would normally charge us sales tax on these items. Where we present these exempt ID's, we are in effect purchasing on behalf of these agencies and as such are able to acquire these materials devoid of sales taxes to our company.

I would like something more formal from the agency in the form of a written opinion from someone in the office in order to assure me that my company is in compliance with the tax laws of the state. It would also re-assure [sic] those who we are requesting the ID's from that this is a legitimate use of their ID.

DEPARTMENT'S RESPONSE:

Sales to exempt organizations (organizations that qualify as exclusively religious, charitable, or educational) and governmental entities are subject to tax unless the exempt organization or governmental entity has obtained an active exemption identification number ("E" number) from the Department. See 86 Ill. Adm. Code 130.2007 and 130.2080. Persons or businesses selling tangible personal property to these organizations or governmental entities must be provided with an "E" number for the sales to be tax exempt, unless another exemption can be documented. It is important to note that only sales of tangible personal property invoiced to the organization or governmental entity itself are exempt. Sales made to an individual member or client of an exempt organization or entity are generally subject to tax.

If a person or business is contractually required to purchase tangible personal property for incorporation into real estate, then that person or business would be acting as a construction contractor. Construction contractors in Illinois are deemed to be the end users of tangible personal property purchased for incorporation into real property and owe Use Tax on those materials. 86 Ill. Adm. Code 130.2075. However, purchases of tangible personal property by a construction contractor for incorporation into the real estate owned by an exempt organization or governmental entity that possesses a valid "E" number at the time of sale may be made free of Illinois Retailers' Occupation Tax and Use Tax under the provisions of 86 Ill. Adm. Code 130.2075(d).

In claiming the exemption from tax, the construction contractor must provide its supplier with a certification stating that its purchases are for conversion into real estate under a contract with an exempt organization or governmental entity, identifying the organization or entity by name and address and stating on what date the contract was entered into. The construction contractor must also provide the "E" number issued by the Department to the organization or entity for which the purchasing contractor is acting. See 86 Ill. Adm. Code 130.2075(d)(4).

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Debra M. Boggess
Associate Counsel

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