

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

July 14, 2011

Dear Xxxxx:

This letter is in response to your letter dated May 12, 2011, 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](http://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:

I have read the Illinois sales tax laws. I still have some questions even though I have a good general knowledge of what is a taxable and non taxable [sic] item for a firm engaged in manufacturing activity.

Thank you for answering me [sic] questions below:

My employer is engaged in heavy manufacturing product for resale. They have their exemption certificate.

Pallets, boxes, shrink wrap, packaging agents, identification tags used to ship product to customers and outside processors. This material is used to protect product in route or identify the product to them.

If the above is deemed taxable, if we were to itemize the shipment stating boxes and packaging agents and pallets would that avoid sales tax on the purchase? In other words, we are selling them these items.

Units and replacement parts for air compressors used to operate manufacturing equipment to product.

Gloves used by production employees that protect product from becoming rusted. Touching the product with a bare hand will leave moisture on the part that will create a rust spot. The delivery of a rust free product is a requirement our customers demand.

Pollution control equipment attached to building that must be operating when the plant is producing product.

Hydraulic and machine oils used in manufacturing equipment producing parts.

You may write or email me.

## **DEPARTMENT'S RESPONSE:**

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. See 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See 86 Ill. Adm. Code 150.101. These taxes comprise what is commonly known as "sales" tax in Illinois.

Note, purchases of packaging materials may be purchased tax free for resale as long as they are transferred along with the products contained in them to customers. See 86 Ill. Adm. Code 130.2070(b). Such purchasers must provide their suppliers with Certificates of Resale to document the exemption. The requirements for a valid Certificate of Resale are set forth at 86 Ill. Adm. Code 130.1405(b). Please note further, however, that containers will not qualify for the exemption if, after delivery, the seller of the tangible personal property contained in them retained and reused them or discarded them.

Persons who sell tangible personal property must either pay tax or document an exemption. The Manufacturing Machinery and Equipment Exemption from sales tax is available for sales of machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. The process must meet the requirements of manufacturing or assembling set forth in the Department's rules.

The exemption also applies to repair and replacement parts as long as the parts are incorporated into machinery and equipment that is exempt under the regulation. It is important to note that the product being produced must be for sale or lease for the manufacturing machinery and equipment exemption to apply.

The law exempts only the purchase and use of "machinery" and "equipment" used in manufacturing or assembling. Machinery means major mechanical machines or major components of such machines contributing to a manufacturing or assembling process; including, machinery and equipment used in the general maintenance or repair of such exempt machinery and equipment. See 86 Ill. Adm. Code 130.330(c)(1) and 130.330(c)(2).

Note, the exemption does not include hand tools, supplies (such as rags, sweeping or cleaning compounds), coolants, lubricants (e.g., hydraulic and machine oils), adhesives, or solvents, items of personal apparel (such as gloves, shoes, glasses, goggles, coveralls, aprons, masks), coal, fuel oil, electricity, gas, or water. See 86 Ill. Adm. Code 130.330(c)(3). Usually, oils and lubricants are considered consumable supplies. Consumable supplies, which although necessary in the

manufacturing process, do not qualify for the exemption because they are not machinery, equipment, or replacement parts for such machinery or equipment. Please refer to 86 Ill. Adm. Code 130.330.

When a manufacturer purchases manufacturing machinery and equipment, the State of Illinois provides a Manufacturer's Purchase Credit (MPC) in addition to the exemption for manufacturing machinery and equipment. See 86 Ill. Adm. Code 130.331. A purchaser of manufacturing machinery and equipment that is exempt under the manufacturing machinery and equipment exemption also earns MPC in an amount equal to a fixed percentage of the tax which would have been incurred under the Use Tax or Service Use Tax. 35 ILCS 105/3-85; 35 ILCS 110/3-70.

MPC may be used to satisfy Use Tax or Service Use Tax liability that is incurred on the purchase of production related tangible personal property that does not qualify for the manufacturing machinery and equipment exemption. Please note that the amount of MPC that can be applied to a purchase of production related tangible personal property is limited to the State rate of tax incurred on that property (6.25%). MPC cannot be used to satisfy any local taxes incurred on the purchase of production related tangible personal property.

"Production related tangible personal property" includes all tangible personal property used or consumed in a production related process by a manufacturer in a manufacturing facility in which a manufacturing process described in Section 2-45 of the Retailers' Occupation Tax Act takes place, and all tangible personal property used or consumed by a manufacturer or graphic arts producer in research and development regardless of use within or without a manufacturing or graphic arts production facility. See 35 ILCS 105/3-85.

The Department's regulation for MPC provides examples of tangible personal property that will be considered production related (e.g., supplies and consumables used in a manufacturing facility, including fuels, coolants, solvents, oils, lubricants, cleaners, adhesives, as well as hand tools, protective apparel, and fire and safety equipment used or consumed in a manufacturing facility). See 86 Ill. Adm. Code 130.331(b)(4). This means that MPC may be applied to the State 6.25% tax due for purchases of these items. See 86 Ill. Adm. Code 130.331(b)(1).

A manufacturer or graphic arts producer must provide a Manufacturer's Purchase Credit Certificate (ST-16-C or purchaser's own form) when using MPC on a purchase of production related tangible personal property, unless the same information is included in the manufacturer's or graphic arts producer's purchase order. See subsection (f) of 86 Ill. Adm. Code 130.331. It is the responsibility of the retailer or serviceman making the sale of production related tangible personal property to properly document the receipt of MPC on that sale through the use of MPC certificates. Retailers and servicemen are required to keep those certificates in their books and records. See subsection (f)(1) of Section 130.331. Retailers and servicemen may require that separate MPC certificates be provided for each invoice or purchase in order to properly document those sales.

In order to validate credit earned as the result of a qualifying purchase of exempt manufacturing machinery and equipment or exempt graphic arts machinery and equipment, however, the manufacturer or graphic arts producer must report credit earned to the Department by signing and filing an Annual Report of Manufacturer's Purchase Credit Earned (ST-16) for each calendar year no later than the last day of the sixth month following the calendar year in which the Manufacturer's Purchase Credit is earned. See Section 130.331(e)(1). A purchaser that fails to properly file an Annual Report of Manufacturer's Purchase Credit Earned (ST-16) or an Annual Report of Manufacturer's Purchase Credit Used (ST-17) with the Department by the last day of the sixth month following the end of the calendar year forfeits all Manufacturer's Purchase Credit earned or used for that calendar year, unless the purchaser establishes that the purchaser's failure to file was due to reasonable cause. See Section 130.331(e)(6).

The Retailers' Occupation Tax Act provides that "all tangible personal property to be used or consumed in the operation of pollution control facilities, as defined in Section 1a of this Act, within an enterprise zone established pursuant to the "Illinois Enterprise Zone Act", as amended, shall be exempt from the tax ... ." See 35 ILCS 120/1e and 86 Ill. Adm. Code 130.1951(i). The exemption for the pollution control facility itself was available until July 1, 2003.

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

Very truly yours,

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