

ST 16-0020-GIL 05/31/2016 POLLUTION CONTROL FACILITIES

The pollution control exemption expired July 1, 2003. See 86 Ill. Adm. Code 130.335. (This is a GIL.)

May 31, 2016

Ref: Taxes on Air Pollution Control Equipment

Dear Xxxxx:

This letter is in response to your letter dated February 18, 2016, 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:

COMPANY is a manufacturer of industrial air pollution control equipment. We are located in CITY, IL. Tax I.D. XX-XXXXXXX.

Most of our equipment is sold through another manufacturer who then resells this equipment to the end user. It has been our understanding that air pollution control equipment is non taxable in Illinois, but replacement/repair parts are taxable. This information was given to us from the taxpayer assistances department back in 2012 and 2013. They did site section 130.335 that also included air pollution parts. It was our understanding that when section 130.335 ended, parts were no longer tax exempt but equipment was still non taxable.

In recent years, we have sold some equipment as well as spare parts to the end user in Illinois. We have charged sales tax on the parts that were sold, but not the air pollution control equipment.

We know that spare/replacement parts are taxable. Please provide us with a ruling for air pollution control equipment. Is this equipment taxable or non taxable?

DEPARTMENT'S RESPONSE:

Effective July 1, 2003, the Pollution Control Exemption for sales tax was repealed by Public Act 93-24. This repealed exemption is described at 86 Ill. Adm. Code 130.335. However, the expanded Pollution Control Exemption related to enterprise zones was not repealed. Section 1e of the Retailers' Occupation Tax Act provides that all tangible personal property to be used or consumed in the operation of a pollution control facility that is certified, as required under Section 1f of the Retailers' Occupation Tax Act, by the Department of Commerce and Economic Opportunity both as meeting certain investment and job creation or retention criteria and as being located within an enterprise zone shall be exempt from Retailers' Occupation Tax. See 35 ILCS 120/1e. The administrative rules adopted by the Illinois Department of Revenue to implement this exemption provide that if a business enterprise is so certified by the Department of Commerce and Economic Opportunity, all tangible personal property used or consumed by it in the operation of pollution control facilities within an enterprise zone are exempt from Retailers' Occupation Tax. In order to qualify, the items must be used exclusively in the enterprise zone and the pollution control facility must be in the enterprise zone.

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

DMB:bkI