

An aircraft used primarily in production agriculture may qualify for the farm machinery and equipment exemption. See 86 Ill. Adm. Code 130.305. (This is a GIL.)

November 2, 2016

Dear Xxxxx:

This letter is in response to your letter, in which you requested 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 am a farmer who recently purchased an aircraft. My intentions are to use it for crop scouting and field maintenance operations. It will have cameras attached so I can keep detailed records of crop progress and land conditions. This will be the airplane’s primary use. I decided to go this route instead of drone because I am a private pilot.

I spoke with PERSON. (ref. XXXXX). He thought this would be O.K. after hearing my explanation intention for the use of the aircraft.

I am nearing the time when this tax will be due so a prompt reply will be appreciated.

**DEPARTMENT’S RESPONSE:**

In general, the Illinois Retailers’ Occupation Tax is imposed upon the total gross receipts received by retailers who make sales of tangible personal property to Illinois end users. Unless the sales are specifically exempted, such retailers incur Retailers’ Occupation Tax on those sales. See 86 Ill. Adm. Code 130.101.

In certain cases, the sale of tangible personal property used in production agriculture is not subject to Illinois Retailers’ Occupation Tax and Use Tax. Under 86 Ill. Adm. Code 130.305 “Farm Machinery and Equipment,” Illinois sales tax does not apply to the sale of machinery and equipment, both new and used and including that manufactured on special

order, used or leased for use primarily in production agriculture or for use in State or Federal agricultural programs. The sale of individual replacement parts for such machinery and equipment is also exempt. In order to obtain the exemption, the purchaser must certify to the use primarily in production agriculture of the equipment or machinery. See Section 130.305(a).

Production agriculture is defined under the Retailers' Occupation Tax Act as "the raising of or 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." See 35 ILCS 120/2-35. Further, production agriculture, with respect to crops, includes mapping fields, applying farm chemicals, as well as activities necessary in tilling the soil, planting, irrigating, cultivating, applying herbicide, insecticide, or fertilizer, as well as, harvesting and drying of crops. Activities such as the clearing of land, mowing of fence rows or ditches, creation of ponds or drainage facilities, scouting crops and tile mapping are not included, nor are the operations involved in the storing or transporting of crops and produce, Section 130.305(f).

An aircraft used in production agriculture may qualify for the farm machinery and equipment exemption if the aircraft is used primarily in a qualifying manner, as described above. However, if it were used, for example, primarily for crop scouting and field maintenance activities, it would not qualify. Please see Compliance Alert 2007-03 regarding the use of other equipment to perform these activities.

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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