

ST 18-0009-GIL 03/30/2018 MANUFACTURING MACHINERY & EQUIPMENT

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.)

March 30, 2018

RE: Sales & Use Tax – Business – Manufacturing

Dear Xxxxx:

This letter is in response to your letter dated January 3, 2018, 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 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:

Here in Minnesota, electricity consumed in manufacturing can be exempted from state sales tax. That is, the utility company abates some percentage of the sales tax normally due when paying the monthly electricity bill. Moreover, past tax paid in error can be refunded.

My question relates to a large printing operation in Illinois.

- Is commercial printing considered "manufacturing" in Illinois?
- Is there "manufacturer sales tax exemption" for the electricity consumed by the printing machinery? (In this case, over 50% of total facility electricity consumption is used by manufacturing machinery.)

- Is utility bill sales tax abatement available in Illinois? (A percentage sales tax exemption, based on an engineering study that identifies the portion of the facility's electricity that goes into manufacturing?)
- Is a refund of past sales tax paid in error available? Refund from utility or Illinois Department of Revenue?

DEPARTMENT'S RESPONSE:

Sales Tax:

The Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property at retail to purchasers for use or consumption. See 86 Ill. Adm. Code 130.101. 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. Persons who sell tangible personal property must either pay tax or document an exemption. The sale of electricity is not taxed under the sales tax acts. Rather, it is taxed under the Electricity Excise Tax Law, which does not provide a blanket exemption for electricity used in manufacturing.

Manufacturing Machinery and Equipment Exemption:

The Manufacturing Machinery and Equipment exemption ("MM&E") 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 manufacturing process is the production of articles of tangible personal property or assembling different articles of tangible personal property by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some existing material or materials into a material with a different form, use or name. These changes must result from the process in question and be substantial and significant. See Section 130.330(b)(2). The exemption does not include hand tools, supplies, coal, fuel oil, electricity, natural gas, artificial gas, steam, refrigerants or water. See 86 Ill. Adm. Code 130.330(c)(3).

Beginning July 1, 2017, the exemption includes machinery and equipment used primarily in graphic arts production. See 35 ILCS 2-5(14). The Department's regulation at 86 Ill. Adm. Code 130.330, concerning the MM&E exemption, is in the process of being amended to reflect this change. "Graphic arts production" means the production of tangible personal property for wholesale or retail sale or lease by means of printing, including ink jet printing, by one or more of the processes described in Groups 323110 through 323122 of Subsector 323, Groups 511110 through 511199 of Subsector 511, and Group 512230 of Subsector 512 of the North American Industry Classification System ("NAICS") published by the U.S. Office of Management and Budget, 1997 edition. Graphic arts production does not include (i) the transfer of images onto paper or other tangible personal property by means of photocopying or (ii) final printed products in electronic or audio form, including the production of software or audiobooks. Persons engaged primarily in the business of printing or publishing newspapers or magazines that qualify as newsprint and ink, by one or more of the processes described in Groups 511110 through 511199 of subsector 511 of the NAICS published by

the U.S. Office of Management and Budget, 1997 edition, are deemed to be engaged in graphic arts production. See 35 ILCS 120/2-30.

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:bkl