

Beginning January 1, 2024, the exemption for materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft is expanded to include aircraft engines and power plants and no longer requires persons claiming the exemption to (i) hold an Air Agency Certificate and be empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. See 35 ILCS 120/2-5(40). (This is a GIL.)

July 05, 2023

NAME
ADDRESS

Dear NAME:

This letter is in response to your letter dated June 7, 2023, 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:

I am following up on a question I had last month.

COMPANY, our sales tax provider stands by their default setting that parts used for repair are not taxable in IL. Should sellers of parts be getting an exemption certificate? What if parts are sold to certified technicians working for PART 91 operator?

I am writing to get more clarity on the criteria needed for a sales tax exemption on aircraft parts. Does the below pertain to a PART 91 operators who have aircraft technicians who are FAA A&P Certificate

holders? Is the intent of the law to exempt aircraft parts that are sold for repair to FAA approved technicians with the qualifications or does it need to be a repair station?

The exemption applies only to the use of qualifying tangible personal property by persons who modify, refurbish, complete, repair, replace, or maintain aircraft and who meet each of the following criteria:

- The person holds an Air Agency Certificate and is empowered to operate an approved repair station by the Federal Aviation Administration.
- The person must have a Class IV Rating.
- The person must conduct operations in accordance with Part 145 of the Federal Aviation Regulations.

I appreciate any guidance and assistance

DEPARTMENT'S RESPONSE:

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.

Both the Retailers' Occupation Tax Act and the Use Tax Act provide for specific exemptions for the sale and use of certain tangible personal property.

Beginning January 1, 2010 and continuing through December 31, 2024, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. . . . This exemption applies only to the sale of qualifying tangible personal property to persons who modify, refurbish, complete, repair, replace, or maintain aircraft and who (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations.

35 ILCS 120/2-5(40). See also 35 ILCS 105/3-5(35) and 86 Ill. Adm. Code 130.120(rr).

COMPANY/ NAME

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The legislative history of this aircraft maintenance exemption as provided in the Retailers' Occupation Tax and Use Tax demonstrates it was first enacted to assist facilities in Illinois that refurbish aircraft to compete with similar facilities in neighboring states. S.B. 450, 96th Gen. Assem., 35th Reg. Sess. 188-90 (Ill. 2009) (statements made by Senator Clayborne). Additionally, in August 2013, Public Act 98-0534 was enacted to amend this exemption to provide that the exemption applied only to "the sale of qualifying tangible personal property to persons who modify, refurbish, complete, repair, replace, or maintain aircraft" and who also meet the requirements of (i)-(iii), which includes the requirement that the person must be empowered to operate an approved repair station by the Federal Aviation Administration.

Please note that Public Act 103-0009 amends this exemption effective January 1, 2024, by extending the exemption to December 31, 2029, expanding it to include "the modification, replacement, repair, and maintenance of aircraft engines or power plants, and providing that the exemption applies without regard to whether or not those claiming the exemption (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations.

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,

Kimberly A. Rossini
Associate Counsel

KAR:dlb