

The Manufacturing Machinery and Equipment Exemption does not apply to lubricants or fuel oil purchased for use in exempt machinery or equipment. See 86 Ill. Adm. 130.330. (This is a GIL.)

December 20, 2004

Dear Xxxxx:

This letter is in response to your letter dated October 12, 2004, 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.ILTAX.com 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:

This letter concerns a customer of ours, ABC. ABC uses heavy duty machines to excavate the dirt and rock to expose the coal for its extraction. Then fills the pit back with the dirt and rock as land reclamation. The Department has a private letter ruling that explains ABC operation in more detail.

I need to know if their IBT Number is for, not only their sales of coal, but also their own use purchases to mine the coal, that would make our sales to them tax exempt, or is it just for manufacturing machinery and equipment.

We are an Illinois Fuel Distributor, that sell diesel fuel, grease and lube oils used in the heavy machines that do the excavating and extraction in thier mining operation. Is our sales of fuel and lube oils to ABC tax exempt?

DEPARTMENT'S RESPONSE:

Enclosed is a copy of 86 Ill. Adm. Code 130.330 concerning the Manufacturing Machinery and Equipment Exemption. In general, the Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease.

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, Section 130.330(b)(2).

Please note that the exemption does not apply to "hand tools, supplies (such as rags, sweeping or cleaning compounds), coolants, *lubricants*, adhesives, or solvents, items of personal apparel (such as gloves, shoes, glasses, goggles, coveralls, aprons, masks, mask air filters, belts, harnesses, or holsters), coal, *fuel oil*, electricity, natural gas, artificial gas, steam, refrigerants or water", Section 130.330(c)(3) (emphasis added). Under Section 130.330(c)(3), the diesel fuel, grease, and lube oils sold to ABC are not exempt from the tax imposed by the Retailers' Occupation Tax as qualifying manufacturing machinery or equipment.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).]

Sincerely,

Samuel J. Moore
Associate Counsel

SJM:msk
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