

The manufacturing machinery and equipment exemption can be documented by using Illinois Department of Revenue Form "ST-587 Equipment Exemption Certificate", which can be found on the Department's website. See 86 Ill. Adm. 130.330. (This is a GIL.)

March 21, 2012

Dear Xxxxx:

This letter is in response to your letter dated March 7, 2012, 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:

I am writing in hopes of getting a valid opinion on an issue that we are having with one of our customers. I will try and list the facts as simply as possible.

- 1 We are a custom metal fabricator
- 2 Our customer (located in IL) contracts us to build an item that they in turn include in a project for their customer (located in IL).
- 3 Our customer has an IL Business number, but not a resale certificate.
- 4 They have dropped sales tax payment from their payments to us, based on the fact that they have a Machinery and Equipment Exemption (ST-587) from their customer.
- 5 When we asked for an exemption certificate, they provided us with a copy of the certificate with their name on it that they received from their customer.

I have been looking into the IL Regulations, specifically Section 130.330 (g) (4), but remain confused and was advised to get an opinion from the Legal Services Dept.

Can we sell to this customer tax exempt? If so, what documentation should they provide us in case of an audit?

If we can sell to them tax exempt, do we need the documentation for every purchase?

I can be reached if you need any further clarification.

Thank you in advance for your help.

DEPARTMENT'S RESPONSE:

The manufacturing machinery and equipment exemption is extended to machinery and equipment that is used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. 86 Ill. Adm. Code 130.330. The manufacturing process is the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating, or refining that 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). A certificate of exemption must be presented to the seller for each transaction where exempt machinery or equipment is purchased. See Section 130.330(g).

The requirements to certify eligibility for the exemption are described in subsection (g) of Section 130.330. A form "ST-587 - Equipment Exemption Certificate" or other certification containing the information required on that form must be submitted to the seller by the purchaser for each transaction on which the exemption is claimed.

A vendor who provides items to a retailer or serviceman that will incorporate the items into machinery or equipment that qualifies for the exemption should obtain a form ST-587 or a certificate prepared by the retailer or serviceman that the items sold to the retailer or serviceman are exempt. A form ST-587 or a certificate prepared by the customer of a retailer or serviceman without further documentation will not generally support an exemption from tax liability on a sale of tangible personal property sold by a vendor to that retailer or serviceman.

An item that is exempt from the Retailers' Occupation Tax as exempt manufacturing machinery and equipment as provided in 35 ILCS 120/2-5(14) and 86 Ill. Adm. Code 130.330, is also exempt from the Use Tax, as provided by the corollary exemption provisions in the Use Tax Act (35 ILCS 105/3-5(18)). See 86 Ill. Adm. Code 150.301(b). Therefore, neither Retailers' Occupation Tax nor Use Tax is owed on exempt manufacturing machinery and equipment.

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,

Richard S. Wolters
Associate Counsel

RSW:mks