

This letter discusses diesel exhaust fluid (DEF) and the rolling stock exemption. See 86 Ill. Adm. Code Section 130.340. (This is a GIL.)

January 18, 2013

Dear:

This letter is in response to your letter dated September 20, 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:

As per our previous discussion, may this letter serve as a request for the determination of sales tax applicability for diesel exhaust fluid (DEF). DEF is a relatively new product that has come to use in the last three years by diesel truck operators. DEF is injected into the exhaust to ultimately reduce emissions.

There have been many questions arising as to whether DEF qualifies for the Rolling Stock Sales Tax Exemption. We would appreciate a determination from the Department.

If you should need additional information, feel free to contact me.

DEPARTMENT'S RESPONSE:

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. See 86 Ill. Adm. Code 130.101. In Illinois, 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.

Under the rolling stock exemption, the Retailers' Occupation Tax does not apply to sales of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce or lessors under leases of one year or longer executed or in effect at the time of purchase to interstate carriers for hire for use as rolling stock moving in interstate commerce. In addition, notwithstanding the fact that the sale is at retail, the Retailers' Occupation Tax does not apply to sales of tangible personal property to owners, lessors, or shippers of tangible personal property that is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce as long as so used by the interstate carriers for hire. See 86 Ill. Adm. Code 130.340. For parts and equipment

purchased for qualifying trucks and trailers, please see subsections (b) and subpart (2) of subsection (j) of Section 130.340.

It is not the type of item that determines whether or not it qualifies as rolling stock, rather how the item is used by a qualifying interstate carrier. Not all items of tangible personal property used by an interstate carrier for hire qualify for the rolling stock exemption. The exemption is applicable to equipment or parts only if they become a component part of qualifying rolling stock and to equipment which, though not physically incorporated, is dedicated to a particular qualifying item or items of rolling stock and participates directly in the transportation process.

The exemption does not apply to fuel nor to jacks or flares or other items that are used by interstate carriers for hire in servicing the transportation vehicles, but that do not become a part of the vehicles, and that do not participate directly in some way in the transportation process. 86 Ill. Adm. Code 130.340(b)

Thus, oil, grease, parts, belts, lights, transmission fluids, paint, anti-freeze, filters, hoses, and seats generally qualify for the exemption since these products become a physical component part of the qualifying rolling stock. Fuel, flares, cleaners, paint supplies, and tools do not generally qualify for the exemption because they do not become a part of such vehicles and do not participate directly in some way in the transportation process." See Section 130.340(b). Consumables such as fuel and window washing fluid or solvents are also taxable.

Based on the information provided in your letter and additional research conducted by the Department, it appears that DEF does not become a physical component part of the qualifying rolling stock, is a consumable and does not qualify for the rolling stock exemption.

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