

ST 16-0022-GIL-06/02/2016 FARM MACHINERY AND EQUIPMENT

Off-road equipment used primarily in forestry harvesting and timber operations can qualify for the exemption afforded farm machinery and equipment used primarily in production agriculture, or in State or Federal agricultural programs. See 86 Ill. Adm. Code 130.305. (This is a GIL.)

June 2, 2016

Dear Xxxxx:

This letter is in response to your letter dated March 27, 2016 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](http://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 an owner/operator of a timber harvesting operation and am contacting you in regards to a question concerning sales tax. Is the harvesting of timber as a crop considered production agriculture, and therefore qualify for sales tax exempt status under Illinois tax code 130.305 Farm Machinery and Equipment?

Timber harvesting operations primarily consist of felling of trees, extraction, processing, and loading of timber. Other necessary operations include site reclamation and implementation of Forestry Best Management practices. Timber is harvested to improve overall forest health, timber production and provide wood to be used to make countless finished products. The equipment that used on a daily basis to harvest timber as a crop includes; log skidder, bull dozer, knuckleboom log loader, wheeled front end loader, skid steer loader, chainsaws, a side-by-side utv, and a service truck. The log skidder is used to extract the logs from the forest where they are harvested to a staging area for processing and loading as well as implementing Forestry Best Management Practices. The bull dozer is also used for extraction of logs, as well as site reclamation and implementation of Forestry Best Management Practices. The knuckleboom log loader is used to process the logs to appropriate lengths and load them onto a road going truck. The wheel loader and skid steer are also used to transport logs for the

loading of trucks, conditions dictate which machine is better suited for the job. Chainsaws are used for the felling of timber as well of the processing of logs. The side-by-side utv is used for the cruising of timber, the carrying of tools for day to day operations, carrying tools and supplies in the event of a breakdown in a remote location, carrying debris in the cleanup from operations and many other tasks. The service truck is used as primary transport to and from the worksite, carrying tools, equipment, supplies and parts necessary to the timber harvesting operation. Although some of these machines are specific to the timber harvesting industry, they are necessary and vital for the day to day operations of harvesting timber as a crop. There is a direct correlation between the machines used in timber harvesting as to the machines used in conventional row crop production agriculture.

This question has been presented to the Legal Services Bureau in the past, at that time it was determined that timber harvesting does qualify as production agriculture. A copy of the response from the Legal Services Bureau is attached for your viewing. Timber harvesting is not included in the Farm Machinery and Equipment (130.305) tax code, therefor causing confusion and misinformation amongst the industry and business transactions. I greatly appreciate your consideration of the matter at hand, and if timber harvesting is determined to qualify for sales tax exemption it would be beneficial if it was added to the Farm Machinery and Equipment exemption. Thank you and I look forward to hearing back from this department concerning this issue.

#### **DEPARTMENT'S RESPONSE:**

The Department's regulations governing "Farm Machinery and Equipment" can be found at 86 Ill. Adm. Code 130.305. This regulation explains that the Retailers' Occupation Tax does not apply to sales of machinery and equipment used or leased for use primarily (over 50%) in production agriculture.

Generally, off-road equipment used primarily (over 50%) in forestry harvesting may qualify for the exemption extended to farm machinery and equipment used primarily (over 50%) in production agriculture, or in State or Federal agricultural programs. Understand, though, that not all equipment used in forestry harvesting may qualify for the exemption. It depends upon the nature of the activity for which the equipment is being used. In order to claim this exemption, you must provide the seller with an exemption certificate stating the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily (over 50%) in production agriculture, or in State or Federal agricultural programs. You may want to visit the Department's website and look at the Compliance Alert the Department put out in June 2007 concerning the taxation of ATVs.

I hope this information is helpful. If you require additional information, please visit our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Debra M. Boggess  
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