

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for chemicals used in the manufacturing process that are production related. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

January 15, 2021

Dear NAME:

This letter is in response to your letter dated May 14, 2020, 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](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 like to give you details of our Business and our processes and the materials and chemicals we use in our plating process  
Currently we do not claim tax exemption for anything

I own a zinc plating and stainless steel passivation business it is a service industry to metal manufacturers and uses chemicals to clean customers parts before zinc plate or passivation our factory also has waste water effluent treatment plant that uses chemicals

We do not make the parts nor do we own any of the parts.

Our customers make the parts and own the parts

We offer a service to our customers

The chemicals and materials that we use in the business can be split into four different areas of our facility

We use chemicals to clean the parts prior to plating or passivation This process removes material contaminants on the surface of our customers parts being grease metal oxides

We use grease removers and acid cleaning,

For the plating process we buy zinc which is deposited on the customers parts by electrolysis

The next step is to protect the zinc coating with a liquid chromate coating and improve rust proofing adding a sealing coat chemical and or wax coating

So the customers parts have zinc, chromate, and sealer / wax deposited on them after our processing

These chemicals bond to the metal and change its physical response to the atmosphere improving protection from rusting

In another process involving stainless steel parts

We clean the parts as previously but this time use acids to change the chemical structure of the surface of the stainless steel making the stainless steel grow a rust proof surface. The acid is washed off and is not incorporated in the stainless part from our customers

But having been treated the stainless steel has improved protection from rusting the aid acts as a catalyst

The last area that we use chemicals and materials is in treating our effluent. We use materials filters and Chemicals to treat our water before we discharge to the sewer

Can you advise if any or all the chemicals and materials we use in our manufacturing business are tax exempt in Illinois

And if so how do we proceed

How would we register as Tax Exempt if this is appropriate

Your Help Please

#### **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. Cod 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. Purchases of tangible personal property are subject to Illinois sales tax unless a purchase qualifies for an exemption under Illinois tax law.

Notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax does not apply to sales of machinery and equipment that will be used by the purchaser, or a lessee of the purchaser, primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease, whether the sale or lease is made directly by the manufacturer or by some other person. 35 ILCS 120/2-5(14); 86 Ill. Adm. Code 130.330(a). The Manufacturing Machinery and Equipment exemption requires that the product produced as a result of the manufacturing or assembling process be tangible personal property for wholesale or retail sale or lease. 130.330(a)(7). You have mentioned in your letter that some chemicals are used primarily for the treatment of effluent prior to disposal. Generally, machinery and equipment used primarily in nonproduction, nonoperational activities, such as the disposal of waste, will not be considered exempt. 130.330(c)(4)(B).

The manufacturing process is the production of any article of tangible personal property, whether the 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. 86 Ill. Adm. Code 130.330(b)(1). The process or activity

must be commonly regarded as manufacturing. To be so regarded, it must be thought of as manufacturing by the general public. Generally, the scale, scope and character of a process or operation will be considered to determine if the process or operation is commonly regarded as manufacturing. Manufacturing includes such activities as processing, fabricating and refining. 86 Ill. Adm. Code 130.330(b)(3).

The exemption includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a product being manufactured or assembled for sale or lease. Beginning on July 1, 2019, chemicals that do not make a direct and immediate change or act as a catalyst may qualify if they are used in a production related process. 86 Ill. Adm. Code 130.330(d).

A vendor that makes sales of machinery and equipment to a manufacturer or lessor of a manufacturer incurs Retailers' Occupation Tax on that sale and must collect Use Tax unless the purchaser certifies the exempt nature of the purchase to the vendor as set out in 86 Ill. Adm. Code 130.330(j). The use of blanket certificates of exemption will be permitted. The user of qualifying machinery and equipment shall prepare a certificate of exemption for each transaction stating facts establishing the exemption for that transaction and submit the certificate to the vendor. If the user has an active registration or resale number, that number may be given in lieu of the prescribed certificate. Certificates shall be retained by the vendor and shall be made available to the Department for inspection or audit. If a manufacturer or lessor purchases at retail from a vendor who is not registered to collect Illinois Use Tax, the purchaser must prepare the completed exemption certificate and retain it in its files. The exemption certificate shall be available to the Department for inspection or audit. 86 Ill. Adm. Code 130.330(j). Illinois Form ST-587, Exemption Certificate (for Manufacturing, Production Agriculture, and Coal and Aggregate Mining), may be used for this purpose.

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,

Alexis K. Overstreet  
Associate Counsel

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