

The Retailers' Occupation Tax does not apply to farm machinery and equipment that is used or leased for use primarily (over 50% of the time) in production agriculture or for use in State or federal agricultural programs. See 86 Ill. Adm. Code 130.305. (This is a GIL).

July 29, 2021

Dear NAME:

This letter is in response to your letter dated June 25, 2021, 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 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:

On DATE, I purchased a BRAND EQUIPMENT in the state of STATE. I will use this piece of equipment solely for production agriculture in conjunction with Federal agriculture conservation programs.

The seller; COMPANY2, ADDRESS, CITY, STATE collected the tax.

I have received approval for tax exemption via e-mail from the Illinois Department of Revenue. However, the seller is still refusing to refund the tax until I write a formal request for a ruling.

Attached is the e-mail correspondence with the Illinois Department of Revenue, a letter from the USDA, and the ST-587 form.

Please provide a ruling on this matter and directions for obtaining a refund of the tax.

Thank you

DEPARTMENT'S RESPONSE:

We direct your attention to 86 Ill. Adm. Code 130.305, the Department's regulation concerning Farm Machinery and Equipment which can be accessed on the Department's website. The Retailers' Occupation Tax does not apply to farm machinery and equipment that is used or leased for use primarily in production agriculture or for use in State or Federal agricultural programs. Whether a specific item qualifies for the exemption depends also on how the item will be used by the purchaser. Consumable supplies generally do not qualify for the exemption. See subsection (k) of 86 Ill. Adm. Code 130.305.

Purchasers that claim the farm machinery and equipment exemption are required to provide the certification or blanket certification described in Section 130.305. Subsection (m) of 86 Ill. Adm. Code 130.305 states, in part, as follows:

"Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily in production agriculture or in State or Federal agricultural programs. Retailers may accept blanket certificates but have the responsibility to obtain and must maintain the certificates as a part of their books and records. Retailers are required to exercise good faith in accepting exemption certificates. If, however, a retailer reasonably believes that the purchaser will use farm machinery or equipment in production agriculture or in State or Federal agricultural programs and accepts the certificate in good faith and the purchaser does not, in fact, use the machinery or equipment in production agriculture or in State or Federal agricultural programs, the purchaser (not the retailer) will be liable to the Department for the tax."

The Department does not mandate a form that purchasers are required to use in order to claim the exemption. If the certification contains the information required by the regulations, it is acceptable to the Department. The purchaser may provide the seller with a ST-587 rather than creating its own certificate.

Please note that activities such as the clearing of land, mowing of fence rows, and creation of ponds or drainage facilities are not production agriculture. 86 Ill. Adm. Code 130.305(f). Therefore, bull dozers do not necessarily qualify for the 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.

COMPANY1/NAME

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Very truly yours,

Richard S. Wolters
Associate Counsel

RSW:rkn