

ST 24-0003-GIL 01/31/2024 MACHINERY AND EQUIPMENT

This letter discusses the manufacturing machinery and equipment exemption. 35 ILCS 120/2-5(14); 35 ILCS 120/2-45; 86 Ill. Adm. Code 130.330. (This is a GIL.)

January 31, 2024

NAME
COMPANY
ADDRESS

Dear Xxxx

This letter is in response to your letter dated September 15, 2023, 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:

COMPANY is a manufacturer of steel framing. We receive our raw materials, master coils, from a steel vendor. We slit master coils into appropriate widths for making various products, we use roll forming equipment to continue processing appropriate slit coil for finished products. We purchase ink and solvent that are mixed thru a machine and then applied inline to the coil strip as it is being formed on the roll former. This is a part of the roll forming process as it creates a string of information on the part that identifies what the part being produced is along with providing traceability information for the material.

My question is on the taxability of the ink and solvent. Would this be considered production related TTP [sic] and be tax exempt under the Illinois Public Act P.A. 101-0009?

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. 35 ILCS 120/2; 86 Ill. Adm. Code 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. 35 ILCS 105/3; 86 Ill. Adm. Code 150.101. These taxes comprise what is commonly known as "sales tax" in Illinois.

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 and assembly machinery and equipment exemption includes machinery and equipment that replaces machinery and equipment in an existing manufacturing facility, as well as machinery and equipment that are for use in an expanded or new manufacturing facility. The machinery and equipment exemption also includes machinery and equipment used in the general maintenance or repair of exempt machinery and equipment or for in-house manufacture of exempt machinery and equipment. 35 ILCS 120/2-45; 86 Ill. Adm. Code 130.330(c)(1). There may be instances however in which items of tangible personal property that do not meet the definition of conventional "machinery and equipment" will meet the definition of "production related tangible personal property" and qualify for the exemption.

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. 35 ILCS 120/2-45(1). These changes must result from the process in question and be substantial and significant. 86 Ill. Adm. Code 130.330(b)(1).

The assembling process is the production of an 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 the combination of existing materials in a manner commonly regarded as assembling that results in an article or material of a different form, use, or name. 35 ILCS 120/2-45(2); 86 Ill. Adm. Code 130.330(b)(2).

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).

Equipment includes an independent device or tool separate from any machinery but essential to an integrated manufacturing or assembly process, including computers used primarily in a manufacturer's computer assisted design, computer assisted manufacturing (CAD/CAM) system; any subunit or assembly comprising a component of any machinery or auxiliary, adjunct, or attachment parts of machinery, such as tools, dies, jigs, fixtures, patterns, and molds; and any parts that require periodic replacement in the course of normal operation. 35 ILCS 120/2-45(4); 86 Ill. Adm. Code 130.330(c)(2). Exempt equipment also 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. 35 ILCS 120/2-45(4); 86 Ill. Adm. Code 130.330(d).

However, effective July 1, 2019, chemicals that do not make a direct and immediate change or act as a catalyst may qualify if they are production related. 86 Ill. Adm. Code 130.330(d). This is due to the passing of P.A. 101-9, which permanently expanded the MM&E exemption to allow items that had previously been eligible for the expired Manufacturer's Purchase Credit ("MPC") (*i.e.*, "production related tangible personal property") to be eligible for the MM&E exemption. See 35 ILCS 120/2-45(5); 86 Ill. Adm Code 130.330, 331. As a result of P.A. 101-9, beginning on July 1, 2019, the manufacturing and assembling machinery and equipment exemption includes production related tangible personal property. 35 ILCS 120/2-45(5). Production related tangible personal property means all tangible personal property used or consumed in a production related process by a manufacturer in a manufacturing facility in which a manufacturing process takes place or by a graphic arts producer in graphic arts production. Production related tangible personal property also means all tangible personal property that is used or consumed in research and development regardless of use within or without a manufacturing or graphic arts production facility. 86 Ill. Adm. Code 130.330(h)(1).

By way of illustration and not limitation, the following uses of tangible personal property by manufacturers, including graphic arts producers, will be considered production related:

- A) Tangible personal property purchased by a manufacturer for incorporation into real estate within a manufacturing facility for use in a production related process, or tangible personal property purchased by a construction contractor for incorporation into real estate within a manufacturing facility for use in a production related process.
- B) Supplies and consumables used in a manufacturing process in a manufacturing facility, including fuels, coolants, solvents, oils, lubricants, and adhesives.
- C) Hand tools, protective apparel, and fire and safety equipment used or consumed within a manufacturing facility.
- D) Tangible personal property used or consumed in a manufacturing facility for purposes of pre-production and post-production material handling,

receiving, quality control, inventory control, storage, staging, and packing for shipping or transportation.

- E) Fuel used in a ready-mix cement truck to rotate the mixing drum in order to manufacture concrete or cement. However, only the amount of fuel used to rotate the drum will qualify. The amount of fuel used or consumed in transportation of the truck will not qualify as production related tangible personal property. The amount of fuel used in a qualifying manner to rotate the drum may be stated as a percentage of the entire amount of fuel used or consumed by the ready-mix truck.

86 Ill. Adm. Code 130.330(h)(2).

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

Very truly yours,

Katarzyna Kowalska
Associate Counsel

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