

A manufacturing process is the production of articles of tangible personal property by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some existing material or materials into a material with a different form, use or name. See 86 Ill. Adm. Code 130.330. (This is a PLR).

September 26, 2008

Dear Xxxxx:

This letter is in response to your letter dated June 4, 2007, in which you requested Private Letter Ruling. 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.

Review of your request disclosed that all the information described in paragraphs 1 through 8 of Section 1200.110 appears to be contained in your request. This Private Letter Ruling will bind the Department only with respect to COMPANY for the issue or issues presented in this ruling, and is subject to the provisions of subsection (e) of Section 1200.110 governing expiration of Private Letter Rulings. Issuance of this ruling is conditioned upon the understanding that neither COMPANY nor a related taxpayer is currently under audit or involved in litigation concerning the issues that are the subject of this ruling request.

In your June 4, 2007, letter you have stated and made inquiry as follows:

Company respectfully requests Private Letter Ruling regarding the applicability of the Manufacturing Machinery and Equipment sales tax exemption to the purchase of an oil filter crushing machine.

The Company collects used oil filters from oil change and auto repair shops throughout the state. The 55 gallon drums that these customers store the used oil filters in are then transported via truck to the Company's warehouse in CITY, Illinois. The oil filter crushing machine essentially is a self-constructed production line containing three contiguous stages. Upon arrival, the filters are placed into a large roll-off box, a large dumpster-like storage container, where any residual used oil drains out of the oil filters and is collected in storage tanks for further processing. Some time is allowed to pass during this stage of the process in order for any remnant oil to drain from the used oil filters. The large

storage bin has a hydraulic lift that tilts the bin upward to empty the used oil filters onto a conveyor belt. Miscellaneous garbage and debris are removed during this stage of the process as the conveyor belt delivers the used oil filters toward the compactor. Finally, the compactor crushes the used oil filters into steel cubes that are sold to customers as raw materials. After further processing, the residual oil drained from the used oil filters is also sold to customers.

It is our belief that the entire used oil crushing machine production line qualifies for the Manufacturing Machinery and Equipment sales tax exemption. 86 Ill. Adm. Code 130.330 defines the manufacturing process as the production of any article of tangible personal property, whether such 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 which changes some existing material or materials into a material with a different use, form, or name and that these changes must result from the process in question and be substantial and significant. The overall process of converting these otherwise useless used oil filters into marketable steel and oil clearly meets this standard.

86 Ill. Adm. Code 130.330 (d)(3)(D) states that the use of machinery or equipment to store, convey, handle or transport the tangible personal property to be sold within production stages on the production line or directly between such production stations or buildings within the same plant will generally qualify for the exemption. We believe this makes the roll-off box container and conveyor belt eligible for the exemption because the production cycle begins when the oil filters are placed in the roll-off box and the residual oil begins to drain. We concede that the storage tanks the used oil drains into will not qualify for the exemption as the oil will have left the production cycle per 86 Ill. Adm. Code 130.330 (d)(4)(D). The production cycle continues during the conveyor stage of the process because the garbage and debris need to be removed before the oil filters enter the compactor.

The Department has stated in ST 06-0075-GIL that paper balers and compactors generally qualify for the exemption because they effect a direct and immediate physical change upon the paper per 86 Ill. Adm. Code 130.330 (d)(3)(A). We believe that the oil filter compactor qualifies for the exemption in a similar fashion because it also effects a direct and immediate physical change upon the form of the tangible personal property to be sold.

We were unable to find any authority contrary to the authorities referred to and cited above.

The Company is not currently engaged in litigation with the Department in regard to this or any other tax matter. The Company is currently under examination by the Department with regard to sales tax years 1999-2005. However, the machinery purchases at issue in this request occurred in 2006. To the best knowledge of the Company's personnel, the Department has not previously ruled regarding this matter for the Company. In addition, the Company has not previously submitted the same or similar issue to the Department.

This PLR is not requested with regard to alternative plans of proposed transactions or hypothetical situations but to determine the Retailer's Occupation Tax and Use Tax consequences of the actual business practices of the Company.

If you have any further questions, please contact our firm. Thank you for your time and consideration.

In your letter of August 19, 2008, you have stated as follows:

COMPANY, respectfully submits the following supporting documentation with regards to our June 4, 2007 request for a Private Letter Ruling to the applicability of the Manufacturing Machinery and Equipment sales tax exemption. (See attached original request letter dated June 4, 2007).

Photo(s)

- 1: The oil filter-crushing machine essentially is a self-constructed production line containing three contiguous stages.
- 2 & 3: Upon arrival at the processing facility, the filters are placed into a large watertight roll-off container where any residual used oil drains out of the filters prior to being transferred into storage tanks for further processing.
- 4: The roll-off container is placed onto a hydraulic lift bed that tilts the container upward to empty the used oil filters onto a conveyor belt.
- 5, 6 & 7: The conveyor belts transfers the used oil filters to a sorting table where the operator removes miscellaneous garbage and debris prior to moving into the used oil filter crusher.
- 8: The used oil filters enter the crusher.
- 9, 10 & 11: The used oil filters are compacted into cubes and conveyed into final drainage storage bins where any residual oil is allowed to continue to drain into storage tanks for further processing.
- 12 & 13: Following a complete draining, the compacted used oil filter cubes are loaded into a transport vehicle and sold to customers as a raw material for the production of new steel products. The residual oil collected during the used oil filter crushing is also sold to customers for the production of energy in lieu of a new unused fuel source.

If you have any further questions, please contact me.

DEPARTMENT'S RESPONSE:

Based on the Department's review of your letter dated June 4, 2007, the letter dated August 19, 2008, along with the color pictures provided with the latest letter, it is the opinion of the Department that the oil crushing machine production equipment subsequently identified by the Department in this ruling is used by COMPANY in a manner that qualifies for the Manufacturing Machinery and Equipment exemption.

The manufacturing machinery and equipment exemption exempts from tax only machinery and equipment used primarily (over 50% of the time) in manufacturing or assembling tangible personal property for sale or lease. Thus, the use of machinery and equipment in any industrial, commercial or

business activity which may be distinguished from manufacturing or assembling will not be an exempt use and such machinery and equipment will be subject to tax. See 86 Ill. Adm. Code 130.330.

The manufacturing process is the production of any article of tangible personal property, whether such 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 which 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.

The law requires that machinery and equipment be used primarily (over 50% of the time) in manufacturing or assembling of an article of tangible personal property for wholesale or retail sale or lease. The fact that particular machinery or equipment may be considered essential to the conduct of the business of manufacturing or assembling of tangible personal property because its use is required by law or practical necessity does not, by itself, mean that machinery or equipment is used primarily in manufacturing or assembling. For example, the use of machinery or equipment in managerial, sales, or other nonproduction or nonoperational activities, including disposal of waste, scrap or residue, inventory control, production scheduling, work routing, purchasing, receiving, accounting, fiscal management, general communications, plant security, sales, marketing, product exhibition and promotion, or personnel recruitment, selection or training does not qualify for the exemption.

The manufacturing machinery and equipment exemption does not apply to machinery or equipment used primarily in pre-production activities. Machinery or equipment used primarily to store, convey, handle, or transport materials or parts or sub-assemblies prior to their entrance into the production cycle do not qualify for the manufacturing machinery and equipment exemption. See part (4)(C) of subsection (d) of Section 130.330.

In addition, the manufacturing machinery and equipment exemption does not apply to machinery or equipment used primarily in post-production activities. Machinery and equipment used primarily to store, convey, handle, or transport finished articles of tangible personal property to be sold or leased after the production cycle do not qualify for the manufacturing machinery and equipment exemption. Machinery and equipment, such as loaders, conveyors, and transport vehicles used primarily to move finished a product do not qualify for the manufacturing machinery and equipment exemption.

For purposes of the request and this ruling, the oil crushing machine production equipment that qualifies for the exemption includes the roll-off containers, the hydraulic lift, the integral in-bound conveyor that connects the hydraulic lift to the sorting table, the sorting table, the crusher, the outbound conveyor attached to the crusher that transports the crushed oil filters from the crusher to the final drain storage bins and the final drain storage bins. Furthermore, it is the Department's understanding that COMPANY's request for a ruling does not include the storage tanks used to store the recovered oil or the containers used to store the debris removed from the production line at the sorting table; and, accordingly, this ruling does not cover these items.

The inclusion of the roll-off containers as part of the manufacturing process is based on COMPANY's representations and the pictures provided that show that the roll-off containers are not used solely to store used oil filters upon their arrival prior to crushing but are also used to collect and recover oil from the used oil filters that is subsequently sold by COMPANY. The inclusion of the conveyor that transports the crushed oil filters from the crusher to the final drain storage bins and the final drain storage bins as part of the manufacturing process is based on COMPANY's representations and the pictures provided showing that that the final drain storage bins are not used

solely to store the crushed filters prior to sale but are also used to collect and recover used oil from the crushed oil filters that is subsequently sold by COMPANY.

The factual representations upon which this ruling is based are subject to review by the Department during the course of any audit, investigation, or hearing and this ruling shall bind the Department only if the factual representations recited in this ruling are correct and complete. This Private Letter Ruling is revoked and will cease to bind the Department 10 years after the date of this letter under the provisions of 2 Ill. Adm. Code 1200.110(e) or earlier if there is a pertinent change in statutory law, case law, rules or in the factual representations recited in this ruling.

If you have questions concerning this Private Letter Ruling, you may contact me at (217) 782-2844. If you have further questions related to the Illinois sales tax laws, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Terry D. Charlton
Chairman, Private Letter Ruling Committee

TDC/RW:mks