

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption extends to machinery and equipment that is used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. (This is a GIL.)

NOTE: The provisions of this letter incorrectly made the following statement: "Please note that the rules also specifically exempt gases that are consumed in a manufacturing process. See Section 130.330(c)(3)." That statement has been clarified and corrected by General Information Letter dated September 28, 2016, ST 16-0040, which specifically provides that "gases are not generally exempt under Section 130.330(c)(3)."

July 31, 2009

Dear Xxxxx:

This letter is in response to your letter dated April 22, 2009, 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 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 the Controller at a Manufacturing plant that produces equipment and parts for crushing equipment. We have machining, welding, assembly, and shipping departments. We buy raw materials like steel plate and bar stock along with castings, tubing etc... I am inquiring about Sales/Use tax on certain products we use in our manufacturing process. We currently pay sales tax on these items and I believe they may fall under the exemption.

1. We do a lot of welding and purchase a good amount of Welding Wire used to make parts and weld frames together during our manufacturing process. We weld teeth onto rolls used to crush coal/salt/etc. and also to piece our equipment together. Is the weld wire tax exempt?

2. Is the Industrial gas that we purchase in separate canisters to run the welding equipment sales tax exempt?
3. Are the parts & repair work done on our manufacturing equipment that is used to produce our products? Drill Presses, Robotic Welders, Lathes, etc...
4. Are drill bits used to create holes in our metal product that wear down over a short period of time due to the abrasive nature of the fabrication process tax exempt? One example is we drill holes that are later used by assembly to piece the equipment together with fasteners.

Thank you for taking the time to review my inquiry. If you need additional information please contact me directly at XXX-XXX-XXXX or via e-mail at PERSON@COMPANY.com.

DEPARTMENT'S RESPONSE:

MANUFACTURING MACHINERY & EQUIPMENT EXEMPTION

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is extended to machinery and equipment that is used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See the Department's regulation at 86 Ill. Adm. Code 130.330 which can be found on the Department's website. 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 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. See Section 130.330(b)(2). A certificate of exemption must be presented to the seller for each transaction where exempt machinery or equipment is purchased. See Section 130.330(g).

Machinery means major mechanical machines or major components of such machines contributing to a manufacturing or assembling process. Machinery includes machinery and equipment used in the general maintenance or repair of such exempt machinery and equipment or for in-house manufacture of exempt machinery and equipment. See Section 130.330(c)(2). Further, repair and replacement parts for exempt machinery or equipment are exempt when purchased by the owner of the exempt machinery and equipment, as long as the parts are incorporated into the exempt machinery and equipment. See Section 130.330(c)(2). Servicemen making repairs are governed by the Service Occupation Tax Act which provides an exemption for repair and replacement parts when such parts are incorporated into the exempt machinery and equipment by the servicemen. See, 35 ILCS 115/2 and P.A. 87-876 eff. January 1, 1993. The exemption is also available where manufacturers build their own

production machinery. Any machine parts purchased to be incorporated into a machine which qualifies for the Manufacturing Machinery and Equipment Exemption will also qualify for the exemption. See Section 130.330(c)(2) and (c)(4).

Generally, hand tools do not qualify for the exemption afforded manufacturing machinery and equipment. Hand tools include, but are not limited to, wrenches, pliers, hammers, chisels, sanding blocks, and screwdrivers. See 86 Ill. Adm. Code 130.330(c)(3). However, pneumatic hand tools or electric powered hand tools used primarily in manufacturing or assembling may qualify for the exemption. Router bits, drill bits, sand paper, and screw tips can also qualify as long as they are incorporated into manufacturing machinery and equipment that is exempt under the regulation.

Consumable materials, in general, do not qualify for the manufacturing machinery and equipment exemption. See Section 130.330(c)(3). These items, such as maintenance oils, grease, adhesives, cleaning solutions or compounds, and antifreeze, are considered consumable items and would be subject to Retailers' Occupation Tax and Use Tax. The rules specifically exclude items of personal apparel such as goggles, aprons, and masks from the exemption. Items used to protect employees, such as protective face masks or helmets, gloves, coveralls, and protective goggles are excluded from the exemption even if they are required by law. See Section 130.330(d)(4)(G). Please note that the rules also specifically exempt gases that are consumed in a manufacturing process. See Section 130.330(c)(3). Consumable supplies used in a welding process are subject to tax. For example, flux is generally considered to be a consumable manufacturing supply and is fully taxable. However, to the extent that an item, such as solder or welding wire, physically becomes a part of the product being manufactured for sale, it can be purchased for resale.

MANUFACTURER'S PURCHASE CREDIT

The State of Illinois provides a manufacturer's purchase credit in addition to the exemption for manufacturing machinery and equipment. See 86 Ill. Adm. Code 130.331. Purchasers of manufacturing machinery and equipment that qualifies for the manufacturing machinery and equipment exemption earn a credit in an amount equal to a fixed percentage of the tax which would have been incurred under the Use Tax or Service Use Tax. 35 ILCS 105/3-85; 35 ILCS 110/3-70.

The credit may be used to satisfy Use Tax or Service Use Tax liability that is incurred on the purchase of production related tangible personal property that does not qualify for the manufacturing machinery and equipment exemption. Please note that the amount of manufacturer's purchase credit that can be applied to a purchase of production related tangible personal property is limited to the State rate of tax incurred on that property (6.25%). Any local taxes incurred on the purchase of production related tangible personal property remain the responsibility of the purchaser.

"Production related tangible personal property" includes all tangible personal property used or consumed in a production related process by a manufacturer in a manufacturing facility in which a manufacturing process described in Section 2-45 of the Retailers' Occupation Tax Act takes place, and all tangible personal property used or consumed by a manufacturer or graphic arts producer in research and development regardless of use within or without a manufacturing or graphic arts production facility.

See 35 ILCS 105/3-85. The Department's regulation for the credit provides examples of tangible personal property that will be considered production related: supplies and consumables used in a manufacturing facility, including fuels, coolants, solvents, oils, lubricants, cleaners, adhesives, and hand tools, protective apparel, and fire and safety equipment used or consumed in a manufacturing facility. See 86 Ill. Adm. Code 130.331(b)(4). This means that the credit may be applied to the State tax due for purchases of these items. See 86 Ill. Adm. Code 130.331(b)(1).

A manufacturer or graphic arts producer must provide a Manufacturer's Purchase Credit Certificate (ST-16-C or purchaser's own form) when using Manufacturer's Purchase Credit (MPC) on a purchase of production related tangible personal property, unless the same information is included in the manufacturer's or graphic arts producer's purchase order. See subsection (f) of 86 Ill. Adm. Code 130.331.

It is the responsibility of the retailer or serviceman making the sale of production related tangible personal property to properly document the receipt of MPC on that sale through the use of MPC certificates. Retailers and servicemen are required to keep those certificates in their books and records. See subsection (f)(1) of Section 130.331. Retailers and serviceman may require that separate MPC certificates be provided for each invoice or purchase in order to properly document those sales.

Please note that MPC will sunset and no longer be available for purchases after July 29, 2009. The legislature has sent legislation, Senate Bill 1691, to the Governor to extend this credit. We recommend that you monitor this legislation.

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.

Very truly yours,

Debra M. Boggess
Associate Counsel

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