

Sellers of containers to purchasers who sell tangible personal property contained in such containers to others are deemed to make sales of such containers to purchasers for purposes of resale if the purchasers of such containers transfer the ownership of the containers to their customers together with the ownership of the tangible personal property contained in such containers. See 86 Ill. Adm. Code 130.2070. (This is a GIL.)

December 15, 1998

Dear Mr. Xxxxx:

This letter is in response to your letter dated October 27, 1998. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

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

COMPANY may be developing sales customers in your state in the near future. We sell packaging supplies to various industries, who for the most part, are exempt from sales tax because the products we sell become an integral part of an article produced for resale. But because this is not always true, we need to know your state's rules & regulations regarding sale & use tax collection.

Would you please send us this information so we can proceed accordingly?

Sellers of containers, as defined in 86 Ill. Adm. Code 130.2070, enclosed, to purchasers who sell tangible personal property contained in such containers to others are deemed to make sales of such containers to purchasers for purposes of resale, the receipts from which sales are not subject to the Retailers' Occupation Tax, if the purchasers of such containers transfer the ownership of the containers to their customers together with the ownership of the tangible personal property contained in such containers.

Conversely, sellers of containers to purchasers who do not transfer the ownership thereof to others, but who intend such containers merely to provide a means of containing tangible personal property while in the process of being delivered to their customers, retaining and reusing or discarding the containers after such delivery is completed, and sellers of containers to purchasers who use such containers as a means of storing tangible personal property, are making sales for use or consumption, and their receipts from such sales are subject to the Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.2070(c)(1).

Providers of packaging supplies must receive Certificates of Resale from their customers that meet the requirements of 86 Ill. Adm. Code 130.1405 in order to document that the purchases are tax-free.

Please note that 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, enclosed. 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.

"Production related tangible personal property" means (i) all tangible personal property used or consumed by the purchaser in a manufacturing facility in which a manufacturing process takes place, including tangible personal property purchased for incorporation into real estate within a manufacturing facility and including, but not limited to, tangible personal property used or consumed in activities such as preproduction material handling, receiving, quality control, inventory control, storage, staging, and packaging for shipping and transportation purposes; and (ii) all tangible personal property used or consumed by the purchaser for research and development.

"Production related tangible personal property" does not include (i) tangible personal property used, within or without a manufacturing facility, in sales, purchasing, accounting, fiscal management, marketing, personnel recruitment or selection, or landscaping or (ii) tangible personal property required to be titled or registered with a department, agency, or unit of federal, state, or local government.

I hope this information is helpful. The Department of Revenue maintains a Web site which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

MAJ:mSk  
Enc.