

Tangible personal property that merely “stores/houses” items until they are needed in a manufacturing process does not qualify for the Manufacturing Machinery and Equipment Exemption. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

July 6, 2009

Dear Xxxxx:

This letter is in response to your letter dated May 20, 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:

The purpose of this letter is to request a General Information Letter giving guidance, ruling or confirmation that COMPANY qualifies for the Manufacturing, Machinery and Equipment exemption (MM&E) given the information below, and as such is exempt from sales and use tax in the State of Illinois.

General Information: COMPANY, CITY, Illinois plant, produces a variety of low, medium and medium-high voltage aluminum and copper underground distribution cables sold to electrical utilities and electrical distributors. As part of the production process we purchase compounds in large volume and store/house it in large silo's [sic] outside of the main plant building. The silos are not attached to the building, but within 4 feet, and have piping that run from the silos through the building wall into hoppers that deliver the compound directly to the extrusion equipment. The extrusion equipment is key component within our production cycle. This is an automated continuous process. We use a full silo worth of compound in a two-three month period.

Specifics in Question: We are replacing existing silo with a new purchased silo having dimensions 12' diameter by 56' high. Our supplier is purchasing the silo from a third party, not constructing it themselves. Our supplier will be delivering and installing the new silo. Purchased along with the silo are monitoring systems and additional accessory equipment used to deliver the compound to the extrusion equipment. The

supplier has provided us with an ST-587 Equipment Exemption Certificate. We have filled this out and returned to the supplier.

We have been reviewing Title 86 Part 130 Section 130.330 Manufacturing Machinery and Equipment under the Illinois Department of Revenue Regulations, but are unsure if we qualify as tax exempt on the purchase of the silo and its related items. Any assistance you can provide will be much appreciated. You can reach me at the address and phone numbers listed below.

DEPARTMENT'S RESPONSE:

The Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily (over 50%) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. When determining whether a piece of equipment qualifies for the manufacturing machinery and equipment exemption, the requirements of 86 Ill. Adm. Code 130.330 must be met.

"Manufacturing", as defined in this regulation, is the production of articles of tangible personal property, whether such articles are finished products or articles for use in the process of manufacturing or assembling different 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. These changes must result from the process in question and be substantial and significant. See 86 Ill. Adm. Code 130.330(b)(2).

The Illinois Supreme Court has determined that "whenever labor is bestowed upon an article which results in its assuming a new form, possessing new qualities or new combinations, the process of manufacturing has taken place." *Van's Material Co. v. Department of Revenue*, 131 Ill. 2d 196, 207-208 (1989), citing *Dolese & Shepard Co. v. O'Connell*, 257 Ill. 43, 45, 100 N.E. 235 (1912).

Accordingly, tangible personal property that merely "stores/houses" items until they are needed in a manufacturing process does not qualify for the Manufacturing Machinery and Equipment 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.

Very truly yours,

Debra M. Boggess
Associate Counsel

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